



**UNITED STATES BANKRUPTCY COURT
Eastern District of California
Honorable René Lastreto II
Department B – Courtroom #13
Fresno, California
Hearing Date: Tuesday, April 23, 2024**

Unless otherwise ordered, all matters before the Honorable René Lastreto II, shall be simultaneously: (1) **In Person** at, Courtroom #13 (Fresno hearings only), (2) via **ZoomGov Video**, (3) via **ZoomGov Telephone**, and (4) via **CourtCall**. You may choose any of these options unless otherwise ordered or stated below.

All parties or their attorneys who wish to appear at a hearing remotely must sign up by **4:00 p.m. one business day** prior to the hearing. Information regarding how to sign up can be found on the **Remote Appearances** page of our website at <https://www.caeb.uscourts.gov/Calendar/RemoteAppearances>. Each party/attorney who has signed up will receive a Zoom link or phone number, meeting I.D., and password via e-mail.

If the deadline to sign up has passed, parties and their attorneys who wish to appear remotely must contact the Courtroom Deputy for the Department holding the hearing.

Please also note the following:

- Parties in interest and/or their attorneys may connect to the video or audio feed free of charge and should select which method they will use to appear when signing up.
- Members of the public and the press who wish to attend by ZoomGov may only listen in to the hearing using the Zoom telephone number. Video participation or observing are not permitted.
- Members of the public and the press may not listen in to trials or evidentiary hearings, though they may attend in person unless otherwise ordered.

To appear remotely for law and motion or status conference proceedings, you must comply with the following guidelines and procedures:

1. Review the [Pre-Hearing Dispositions](#) prior to appearing at the hearing.
2. Parties appearing via CourtCall are encouraged to review the [CourtCall Appearance Information](#). If you are appearing by ZoomGov phone or video, please join at least 10 minutes prior to the start of the calendar and wait with your microphone muted until the matter is called.

Unauthorized Recording is Prohibited: Any recording of a court proceeding held by video or teleconference, including "screen shots" or other audio or visual copying of a hearing is prohibited. Violation may result in sanctions, including removal of court-issued media credentials, denial of entry to future hearings, or any other sanctions deemed necessary by the court. For more information on photographing, recording, or broadcasting Judicial Proceedings, please refer to Local Rule 173(a) of the United States District Court for the Eastern District of California.

INSTRUCTIONS FOR PRE-HEARING DISPOSITIONS

Each matter on this calendar will have one of three possible designations: No Ruling, Tentative Ruling, or Final Ruling. These instructions apply to those designations.

No Ruling: All parties will need to appear at the hearing unless otherwise ordered.

Tentative Ruling: If a matter has been designated as a tentative ruling it will be called, and all parties will need to appear at the hearing unless otherwise ordered. The court may continue the hearing on the matter, set a briefing schedule, or enter other orders appropriate for efficient and proper resolution of the matter. The original moving or objecting party shall give notice of the continued hearing date and the deadlines. The minutes of the hearing will be the court's findings and conclusions.

Final Ruling: Unless otherwise ordered, there will be no hearing on these matters. The final disposition of the matter is set forth in the ruling and it will appear in the minutes. The final ruling may or may not finally adjudicate the matter. If it is finally adjudicated, the minutes constitute the court's findings and conclusions.

Orders: Unless the court specifies in the tentative or final ruling that it will issue an order, the prevailing party shall lodge an order within 14 days of the final hearing on the matter.

Post-Publication Changes: The court endeavors to publish its rulings as soon as possible. However, calendar preparation is ongoing, and these rulings may be revised or updated at any time prior to 4:00 p.m. the day before the scheduled hearings. Please check at that time for any possible updates.

9:30 AM

1. [23-10224](#)-B-11 IN RE: WILLIAM MILLER
[FW-10](#)

CONTINUED HEARING RE: MOTION FOR COMPENSATION FOR TOP HOOK
REALTY, BROKER(S)
3-14-2024 [[165](#)]

WILLIAM MILLER/MV
PETER FEAR/ATTY. FOR DBT.

TENTATIVE RULING: This matter will proceed for higher and better
bids only.

DISPOSITION: Granted.

ORDER: The minutes of the hearing will be the court's
findings and conclusions. The Moving Party shall
submit a proposed order after hearing.

William Jacob Miller ("Debtor") moves for authority to sell, pursuant to
11 U.S.C. § 363(f), a tract of real property located at 1408 N. East
Street; Hanford, CA 93230 (the "Property") free and clear of liens. Doc.
#165.

This matter was originally heard on April 11, 2024. Doc. #173. It was
continued to April 23, 2024, to give Debtor additional time to present
evidence that the lien of Nextwave Enterprises, LLC ("Nextwave") which
encumbers the Property is subject to a bona fide dispute and thus not an
impediment to selling the Property under § 363. *Id.*

This motion was set for hearing on 28 days' notice as required by Local
Rule of Practice ("LBR") 9014-1(f)(1). The failure of the creditors, the
U.S. Trustee, or any other party in interest to file written opposition
at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B)
may be deemed a waiver of any opposition to the granting of the motion.
Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Therefore, the
defaults of the above-mentioned parties in interest are entered and the
matter will proceed for higher and better bids only. Upon default,
factual allegations will be taken as true (except those relating to
amounts of damages). *Televideo Systems, Inc. v. Heidenthal*, 826 F.2d
915, 917 (9th Cir. 1987). Constitutional due process requires that a
plaintiff make a prima facie showing that they are entitled to the
relief sought, which the movant has done here.

This motion will be GRANTED.

Under 11 U.S.C. § 363(f), the Debtor is authorized to sell the Property
free and clear of an interest in property of the estate if the holder of
such interest consents, if such interest is in bona fide dispute, or the
holder of such interest could be compelled, in a legal or equitable
proceeding, to accept a money satisfaction of such interest. 11 U.S.C.
§ 363(f)(2), (f)(4), and (f)(5).

The confirmed plan identifies the Property and its encumbrances and
states that the Property will be sold pursuant to the plan, with the
proceeds from the sale used to pay creditors. Doc. #165; Doc. #146

(Articles II & IV). The plan further states that the Property would be sold free and clear of liens, with some of the proceeds going to pay secured creditor BMO Harris Bank, N.A. ("BMO"). Id. (Article VI). The docket reflects a Stipulation for Plan Payment executed by BMO consenting to the plan of reorganization and, consequently, the sale of the Property free and clear of liens provided BMO received the "net proceeds.". Doc. #135.

The motion identifies the remaining encumbrances on the Property as follows:

- a. Outstanding taxes owed on the Property which will apparently be paid off by the sale.
- b. A pending court action recorded on July 29, 2019, from Bank of the West (predecessor to BMO) which will apparently be paid off by the sale or BMO, the successor, has consented.
- c. A judgment in favor of K&M Press, Inc. which, by order of the court entered July 25, 2023 (Doc. #123), has a value of \$0.00.
- d. A judgment in favor of Nextwave which Debtor avers did not include this debtor, which means that the interest is in bona fide dispute. Furthermore, Nextwave has not filed a claim in this case and does not appear to assert any status as creditor. Attached to the certificate of service is the first page of the abstract of judgment for this lien. The abstract states that other judgment creditors are listed on the next page; the next page is missing. Nextwave was apparently served with notice of this motion but not the confirmed Plan. The interest may be in bona fide dispute, but such dispute is not going to be resolved in this motion.
- e. A judgment in favor of Rollin Duty, which, by order of the court entered July 25, 2023 (Doc. #124), has a value of \$0.00.
- f. A judgment in favor of Ironwood Finance, Inc., the abstract for which was not recorded until after the filing of the petition and which is thus void in violation of the automatic stay and in bona fide dispute. Ironwood also did not file a proof of claim in this case.

Docs. #165, 167. At the April 11 hearing, the court expressed reservations as to whether Debtor had fully demonstrated the existence of a bona fide dispute vis a vis the Nextwave lien and continued the hearing to April 23, 2024, to give Debtor an opportunity to provide additional information which was apparently omitted inadvertently from prior filings. Doc. #173. On April 18, 2024, Debtor submitted a Declaration averring that the Nextwave judgment has apparently been fully satisfied by Miller Hay & Trucking, as demonstrated by a copy of the unrecorded but fully executed satisfaction of judgment, which Debtor also submitted as an Exhibit. Docs. ##178-79. With this new information, the court concludes that, if the Nextwave lien still exists at all in any capacity, it is certainly the subject of a bona fide dispute.

Debtor wishes to sell the Property for \$170,000.00 to Travis and Brooke Lopes ("Buyers"). Id. Trustee's entire prayer for relief, which is too lengthy to reproduce here, is GRANTED. This matter will proceed for higher and better bids only, with any such bids subject to the overbid procedures contained in Debtor's Notice of Hearing. Doc. #166.

The order granting the motion will make no findings concerning the validity of the interests which have not consented, been satisfied, or previously been valued at \$0.00.

2. [24-10546](#)-B-12 **IN RE: MAXIMINIO/MARIE SILVEIRA**
[FW-3](#)

MOTION TO SELL
4-15-2024 [[46](#)]

MARIE SILVEIRA/MV
PETER FEAR/ATTY. FOR DBT.
OST 4/16/24

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Conditionally granted.

ORDER: The minutes of the hearing will be the court's findings and conclusions. The Moving Party will submit a proposed order after hearing.

Maximinio Manuel Silveira and Marie Madelena Silveira ("Debtors") move for an order authorizing them to sell an estimated 2,500 tons of green chop forage at \$20.00 per ton for a total price of \$40,000.00 to Mike Viera of Viera Ranch and Hay ("Viera"), subject to higher and better bids. Doc. #46. According to Debtors' Declaration:

Green chop forage is forage that is cut when the moisture level of the plant is relatively high. If the moisture level of the forage drops below 70%, it must be conditioned, which adds additional cost, and thereby lessens its value. Therefore, the forage would become less valuable than \$20 per ton if it loses too much moisture.

Doc. #50 (*Declaration of Maximinio Manuel Silveira*). Debtors declare that time is of the essence to sell the forage before it diminishes in value, Debtors do not need the green chop for their operations *Id.* Debtors further declare that the sale proposal was made through a written offer presented to Debtors' son by Viera, a copy of which is attached as Exhibit A. *Id.*; Doc. #47 (*Exhib. A*). The court has some doubt as to whether the written proposal constitutes a valid offer since Viera specifically states that "This offer is good only if we don't find something else. If we find something else, the deal off [sic]" Doc. #47 (*Exhib. A*). However, the court finds it adequate to support Debtors' claim that time is of the essence. Debtors propose to pay the proceeds of the sale over to their primary secured creditor, Bank of the Sierra, which has a lien on all crops grown on the land, including the forage at issue. Doc. #50.

This motion was set for hearing on shortened notice with an OST under the procedure specified in Local Rule of Practice ("LBR") 9014-1(f)(3). The order approving the shortened notice time was entered on April 16, 2024. Doc. #52. Consequently, the creditors, the U.S. Trustee, and any other parties in interest were not required to file a written response or opposition to the motion. If any of these potential respondents appear at the hearing and offer opposition to the motion, the court will set a briefing schedule and a final hearing unless there is no need to develop the record further. If no opposition is offered at the hearing, the court will take up the merits of the motion. Oral argument may be

presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter.

11 U.S.C. § 363(b)(1) allows the trustee to "sell, or lease, other than in the ordinary course of business, property of the estate." Proposed sales under 11 U.S.C. § 363(b) are reviewed to determine whether they are: (1) in the best interests of the estate resulting from a fair and reasonable price; (2) supported by a valid business judgment; and (3) proposed in good faith. *In re Alaska Fishing Adventure, LLC*, 594 B.R. 883, 887 (Bankr. D. Alaska 2018) citing *240 N. Brand Partners v. Colony GFP Partners, Ltd. P'ship (In re 240 N. Brand Partners)*, 200 B.R. 653, 659 (B.A.P. 9th Cir. 1996); *In re Wilde Horse Enters., Inc.*, 136 B.R. 830, 841 (Bankr. C.D. Cal. 1991). In the context of sales of estate property under § 363, a bankruptcy court "should determine only whether the trustee's judgment was reasonable and whether a sound business justification exists supporting the sale and its terms." *Alaska Fishing*, 594 B.R. at 889, quoting 3 *Collier on Bankruptcy* ¶ 363.02[4] (Richard Levin & Henry J. Sommer, 16th ed.). "[T]he trustee's business judgment is to be given 'great judicial deference.'" *Id.*, citing *In re Psychometric Sys., Inc.*, 367 B.R. 670, 674 (Bankr. D. Colo. 2007); *In re Bakalis*, 220 B.R. 525, 531-32 (Bankr. E.D.N.Y. 1998).

Sales to an insider are subject to heightened scrutiny. *Alaska Fishing Adventure, LLC*, 594 B.R. at 887 citing *Mission Product Holdings, Inc. v. Old Cold, LLC (In re Old Cold LLC)*, 558 B.R. 500, 516 (B.A.P. 1st Cir. 2016). There is nothing in the record suggesting that Viera is an insider with respect to Debtor. Viera is neither listed in the schedules nor the master address list. Docs. #3,15.

The forage is not listed independently in the Schedules. It appears to be encumbered by Bank of the Sierra's lien on all crops grown on Debtors' land. Doc. #49 (*Exhib. B*). A UCC Financing Statement for this creditor was filed on March 3, 2016, continued, and appears to be perfected. *Id.* United Ag filed an Abstract of Judgement on January 31, 2024, which potentially includes the forage, but its lien appears to be junior to that of Bank of the Sierra. Doc. #49 (*Exhib. E*). Further, abstracts of judgment in California attach to all interests in real property in the county where recorded. Cal. Code Civ. Proc. § 697.340(a). Green chop is severable from the land.

Because of the nature of the sale, there will be no costs associated with the sale, which means the sale at the agreed upon price will result in an estimated gain of \$50,000.00 (subject to the final weight of the forage after it is cut) for the estate.

The sale under these circumstances should maximize potential recovery for the estate. The sale of the Property appears to be in the best interests of the estate. The moving papers indicate an intention to earmark the proceeds for the benefit of Bank of the Sierra, which is Debtors' largest secured creditor. The sale appears to be supported by a valid business judgment and proposed in good faith. Therefore, this sale is an appropriate exercise of the debtor-in-possession's business judgment and will be given deference.

Though Debtors propose to pay the "net proceeds" to Bank of the Sierra, the motion was filed on shortened notice, and written responses were not

required in advance of the hearing. If any creditors wish to present arguments that they hold priority over Bank of the Sierra, they may present such arguments at the hearing.

In the absence of any opposition at the hearing, this motion will be GRANTED. Debtors will be authorized: (1) to sell the green cut forage to Viera or to the prevailing bidder at the hearing, as determined at the hearing and (2) to execute all documents necessary to effectuate the sale of the green chop. The 14-day stay of Rule 6004(h) will be ORDERED WAIVED.

11:00 AM

1. [23-12934](#)-B-7 **IN RE: ANGELA REGO**

REAFFIRMATION AGREEMENT WITH EDUCATIONAL EMPLOYEES CREDIT
UNION - - 2022 LOOK 261GNITE 10K TRAILER
3-26-2024 [\[23\]](#)

MARK ZIMMERMAN/ATTY. FOR DBT.

FINAL RULING: There will be no hearing on this matter.

DISPOSITION: Rescinded; taken off calendar.

NO ORDER REQUIRED.

Angela Rego ("Debtor") has rescinded this reaffirmation agreement with Educational Employees Credit Union on April 19, 2024. Doc. #39. Accordingly, this matter will be taken off calendar.

2. [23-12934](#)-B-7 **IN RE: ANGELA REGO**

REAFFIRMATION AGREEMENT WITH EDUCATIONAL EMPLOYEES CREDIT
UNION - - 2005 HOLIDAY RAMBLER 40DST RV
3-26-2024 [\[25\]](#)

MARK ZIMMERMAN/ATTY. FOR DBT.

FINAL RULING: There will be no hearing on this matter.

DISPOSITION: Rescinded; taken off calendar.

NO ORDER REQUIRED.

Angela Rego ("Debtor") has rescinded this reaffirmation agreement with Educational Employees Credit Union on April 19, 2024. Doc. #41. Accordingly, this matter will be taken off calendar.

3. [23-12934](#)-B-7 **IN RE: ANGELA REGO**

REAFFIRMATION AGREEMENT WITH EDUCATIONAL EMPLOYEES CREDIT
UNION - - 2016 CHEVROLET SILVERADO 3500 HD CREW CAB
3-26-2024 [\[27\]](#)

MARK ZIMMERMAN/ATTY. FOR DBT.

FINAL RULING: There will be no hearing on this matter.

DISPOSITION: Rescinded; taken off calendar.

NO ORDER REQUIRED.

Angela Rego ("Debtor") has rescinded this reaffirmation agreement with Educational Employees Credit Union on April 19, 2024. Doc. #43. Accordingly, this matter will be taken off calendar.

4. [24-10446](#)-B-7 **IN RE: RODNEY/TINA JOHNSTON**

PRO SE REAFFIRMATION AGREEMENT WITH FORD MOTOR CREDIT
COMPANY, LLC
3-27-2024 [[14](#)]

SIMRAN HUNDAL/ATTY. FOR DBT.

FINAL RULING: There will be no hearing on this matter.

DISPOSITION: Denied.

ORDER: The court will issue an order.

Debtor's counsel will inform debtor that no appearance is necessary.

A Reaffirmation Agreement between Rodney and Tina Johnston ("Debtors") and Ford Motor Credit Company, LLC for a 2017 Ford Mustang Coupe was filed on March 27, 2024. Doc. #14.

Debtors were represented by counsel when they entered into the reaffirmation agreement. Pursuant to 11 U.S.C. § 524(c)(3), if the debtor is represented by counsel, the agreement must be accompanied by an affidavit of the debtor's attorney attesting to the referenced items before the agreement will have legal effect. *In re Minardi*, 399 B.R. 841, 846 (Bankr. N.D. Ok, 2009) (emphasis in original). The reaffirmation agreement, in the absence of a declaration by Debtors' counsel, does not meet the requirements of 11 U.S.C. § 524(c) and is not enforceable.

Both the reaffirmation agreement and the bankruptcy schedules show that reaffirmation of this debt creates a presumption of undue hardship that has not been rebutted in the reaffirmation agreement. No evidence has been presented to the court to indicate how the Debtors can afford to make the payment. The agreement does not meet the requirements of 11 U.S.C. § 524(c) and is not enforceable. Therefore, the reaffirmation agreement with Ford Motor Credit Company, LLC will be DENIED.

5. [24-10399](#)-B-7 **IN RE: ISMAEL/JERILYN SOLIS**

CONTINUED REAFFIRMATION AGREEMENT
3-21-2024 [[21](#)]

NO RULING.

1:30 PM

1. [22-10005](#)-B-7 **IN RE: PATRICIA TESSENDORE**
[ADJ-7](#)

MOTION TO SELL
3-26-2024 [[140](#)]

IRMA EDMONDS/MV
TIMOTHY SPRINGER/ATTY. FOR DBT.
ANTHONY JOHNSTON/ATTY. FOR MV.

TENTATIVE RULING: This matter will proceed for higher and better bids, only.

DISPOSITION: Granted.

ORDER: The Moving Party shall submit a proposed order after hearing.

Chapter 7 trustee Irma C. Edmonds ("Trustee") seeks authorization to sell the estate's interest in residential real property located at 909 E. Dartmouth Drive, Fresno, California ("Property") to Shirley Hacker ("Buyer") for \$707,000.00 pursuant to 11 U.S.C. § 363, consisting of a downpayment of \$166,750.00, an initial \$10,000.00 escrow deposit, and a balance of \$530,250.00 to be paid with a loan at close of escrow. Doc. #140. The sale is subject to higher and better bids at the hearing. *Id.* Trustee also requests to pay a six percent (6%) commission to be split evenly between the Trustee's Broker, Stephanie Davis of Coldwell Banker Realty ("Trustee's Broker"), and the buyer's broker, Help U Sell Real Estate ("Buyer's Broker") provided Buyer purchases the Property. *Id.* Trustee also seeks authorization to pay sale expenses and to execute all documents necessary or convenient to complete the transaction. *Id.*

No party in interest timely filed written opposition. This motion will be GRANTED, and the hearing will proceed for bid solicitations only.

This motion was set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1) and Rule 2002(a)(2) and (a)(6). The failure of the creditors, the debtor, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will proceed for higher and better bids only. Upon default, factual allegations will be taken as true (except those relating to amounts of damages). *Televideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires that a plaintiff make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

BACKGROUND

Patricia Marie Tessendore ("Debtor") filed chapter 13 bankruptcy on January 3, 2022. Doc. #1. On April 26, 2022, the case was converted to Chapter 7. Doc. #47. Trustee was appointed as interim trustee on that same day and has retained that position ever since. Doc. #48; docket

generally. While administering the estate, Trustee investigated the estate's assets, which included Property.

On October 12, 2023, the court granted Trustee's motion to retain Trustee's Broker as real estate agent for purposes of selling the Property. Doc. #132. Trustee has secured an offer from and executed a Purchase Agreement with Buyer to sell Property to Buyer for \$707,000.00, and now requests approval under 11 U.S.C. § 363(b) to complete the sale. Doc. #140 *et seq.*

DISCUSSION

Sale of Property

11 U.S.C. § 363(b)(1) allows the trustee to "sell, or lease, other than in the ordinary course of business, property of the estate." Proposed sales under 11 U.S.C. § 363(b) are reviewed to determine whether they are: (1) in the best interests of the estate resulting from a fair and reasonable price; (2) supported by a valid business judgment; and (3) proposed in good faith. *In re Alaska Fishing Adventure, LLC*, 594 B.R. 883, 887 (Bankr. D. Alaska 2018) citing *240 N. Brand Partners v. Colony GFP Partners, Ltd. P'ship (In re 240 N. Brand Partners)*, 200 B.R. 653, 659 (B.A.P. 9th Cir. 1996); *In re Wilde Horse Enters., Inc.*, 136 B.R. 830, 841 (Bankr. C.D. Cal. 1991). In the context of sales of estate property under § 363, a bankruptcy court "should determine only whether the trustee's judgment was reasonable and whether a sound business justification exists supporting the sale and its terms." *Alaska Fishing*, 594 B.R. at 889, quoting 3 Collier on Bankruptcy ¶ 363.02[4] (Richard Levin & Henry J. Sommer, 16th ed.). "[T]he trustee's business judgment is to be given 'great judicial deference.'" *Id.*, citing *In re Psychometric Sys., Inc.*, 367 B.R. 670, 674 (Bankr. D. Colo. 2007); *In re Bakalis*, 220 B.R. 525, 531-32 (Bankr. E.D.N.Y. 1998).

Sales to an insider are subject to heightened scrutiny. *Alaska Fishing Adventure, LLC*, 594 B.R. at 887 citing *Mission Product Holdings, Inc. v. Old Cold, LLC (In re Old Cold LLC)*, 558 B.R. 500, 516 (B.A.P. 1st Cir. 2016). There is nothing in the record suggesting that Buyer is an insider with respect to Debtor. Buyer is neither listed in the schedules nor the master address list. Docs. ##8,10.

Property is listed in *Schedule A/B* with a value of \$694,900.00. Doc. #8. Debtor exempted Property in *Schedule C* up to a maximum of \$350,000.00 pursuant to C.C.P.704.730. *Id.*

Trustee entered into a contract ("Purchase Agreement") with Buyer to sell Property for \$707,000.00, subject to a number of relevant terms and conditions outlined in Addendum No. 1 to the Purchase Agreement, including the condition that the sale is AS IS, WHERE IS, WITH ALL FAULTS and without representation of warranty. See Doc. #143 (*Exhib. A, p. 2*).

Trustee did not include a copy of the preliminary title report as an exhibit, but Trustee declares that the Property is encumbered by a deed of trust. Doc. #140. According to Schedule D, this would appear to be a first mortgage held by PHH Mortgage Services in the amount of \$236,780.00 at the time of filing. Doc. #10 (*Sched. D*). The mortgage will be paid off through escrow. Doc. #140. There is no indication of any unpaid taxes or other encumbrances on the Property.

There is insufficient information in the moving papers for the court to calculate the estimated net proceeds to the estate, but the Trustee declares that after payment of the deed of trust, Debtor's homestead exemption, payment of commissions, and payment of escrow and title costs, the estimated net sale proceeds will be approximately \$8,000.00 for the benefit of creditors. Doc. #142.

The sale under these circumstances should maximize potential recovery for the estate. The sale of the Property appears to be in the best interests of the estate because it will pay off the deed of trust and provide liquidity that can be distributed for the benefit of unsecured claims. The sale appears to be supported by a valid business judgment and proposed in good faith. There are no objections to the motion. Therefore, this sale is an appropriate exercise of Trustee's business judgment and will be given deference.

Real Estate Brokers' Compensation

This motion affects the proposed disposition of estate assets and the Broker. Under Fed. R. Civ. P. ("Civ. Rule") 21 (Rule 7021 incorporated in contested matters under Rule 9014(c)), the court will exercise its discretion to add Broker as a party.

LBR 9014-1(d)(5)(B)(ii) permits joinder of claims for authorization for the sale of real property and allowance of fees and expenses for such professional under 11 U.S.C. §§ 327, 328, 330, 363, and Rule 6004.

On October 4, 2022, Trustee moved to employ Trustee's Broker to assist in carrying out the trustee's duties by selling property of the estate. Doc. #128. The court authorized Trustee's Broker's employment on October 12, 2022, under 11 U.S.C. §§ 327 and 328. Doc. #132.

Pursuant to the employment order, Trustee requests to compensate Trustee's Broker with a commission of 6%, which will be split equally between Trustee's Broker and Buyer's Broker. Doc. #142. The two brokers would each receive 3% commission, or \$21,210.00 each, if there are no overbidders and Property is sold at the proposed sale price. The court will authorize Trustee to pay broker commissions as prayed.

Overbid Procedure

Any party wishing to overbid shall, prior to the hearing, shall comply with the overbid procedures as outlined in paragraph 3 of the Notice accompanying this motion. See Doc. #141, ¶3.

Waiver of 14-day Stay

The Trustee has not requested waiver of the 14-day stay of Rule 6004(h), and no such relief shall be granted.

Conclusion

No party in interest timely filed written opposition. This motion will be GRANTED. Trustee will be authorized: (1) to sell the Property to the prevailing bidder at the hearing, as determined at the hearing; (2) to execute all documents necessary to effectuate the sale of the Property; (3) to pay broker commission in the amount of 6% of the total sale price

to be split evenly between Trustee's Broker and the Buyer's Broker, as determined at the hearing; and (4) to pay all costs, commissions, and real property taxes directly from escrow. The 14-day stay of Rule 6004(h) will not be waived.

2. [22-11907](#)-B-7 **IN RE: FREON LOGISTICS**

MOTION FOR RELIEF FROM AUTOMATIC STAY
3-13-2024 [\[1178\]](#)

DION GRAVINO/MV
LEONARD WELSH/ATTY. FOR DBT.
WILLIAM IRELAND/ATTY. FOR MV.

FINAL RULING: There will be no hearing on this matter.

DISPOSITION: Denied without prejudice.

ORDER: The court will issue an order.

Nicholas Bousquet, Scott Lee, and Dion Grivino ("Movants") seek to modify the automatic stay pursuant to 11 U.S.C. §§ 362(d)(1) and 362(d)(2) to proceed to final judgment in a state court personal injury lawsuit against Freon Logistics ("Debtor") currently pending in Connecticut County Superior Court, Case No. HHD-CV 22-615879-S. Doc. #1178. Movants also requests waiver of the 14-day stay of any stay relief order under Federal Rule of Bankruptcy Procedure ("Rule") 4001(a)(3). *Id.*

This motion will be DENIED WITHOUT PREJUDICE because it does not comply with the Local Rules of Practice ("LBR").

First, Movants failed to comply with LBR 9004-2(a)(6), (b)(5), (b)(6), (e)(3), and LBR 9014-1(c), (e)(3) the rules about Docket Control Numbers ("DCN"). These rules require the DCN to be in the caption page on all documents filed in every matter with the court and each new motion requires a new DCN.

Here, the motion and supporting documents entirely omit the use of a DCN. Docs. ##1178 - 1184. This is incorrect. Each new matter filed with the court requires all pleadings in that matter to be linked together with a unique DCN.

Second, the notice did not contain the language required under LBR 9014-1(d)(3)(B):

(i), which provides, "[t]he notice of hearing shall advise potential respondents whether and when written opposition must be filed, the deadline for filing and serving it, and the names and addresses of the persons who must be served with any opposition."

(ii), which provides, "[i]f written opposition is required, the notice of hearing shall advise potential respondents that the failure to file timely written opposition may result in the motion being resolved without oral argument and the striking of untimely written opposition."

(iii), which requires movants to notify respondents that they can determine whether the matter has been resolved without oral argument or if the court has issued a tentative ruling by checking the Court's website at www.caeb.uscourts.gov after 4:00 p.m. the day before the hearing.

Third, LBR 9004-2(c)(1) requires all motions, certificates of service, and other specified pleadings to be filed as separate documents. LBR 9004-2(e)(1), (e)(2), and LBR 9014-1(e)(3) require the proof of service for any documents to be itself filed as a separate document, and copies of the pleadings and documents served SHALL NOT be attached to the proof of service filed with the court. Here, certificates of service were attached to each document. Docs. ##1178-1184. Movants may use one certificate of service if it includes only documents related to a single matter. See LBR 9004-2(e)(3).

LBR 7005-1 requires service of pleadings and other documents in adversary proceedings, contested matters in the bankruptcy case, and all other pleadings in the Eastern District of California Bankruptcy Court by attorneys, trustees, or other Registered Electronic Filing System Users using the *Official Certificate of Service Form*, EDC 007-005. Unless six or fewer parties in interest are served, the form shall have attached to it the Clerk of the Court's official matrix, as appropriate: (1) for the case or adversary proceeding; (2) list of ECF Registered Users; (3) list of persons who have filed Requests for Special Notice; and/or (4) list of Equity Security Holders. LBR 7005-1(a). The Clerk's Matrix of Creditors shall be downloaded not more than seven days prior to the date of serving the pleadings and other documents and shall reflect the date of download. LBR 7005-1(d).

Movants' certificates of service did not use Form EDC 007-05 and did not include an Official Matrix from the Clerk of the Court.

Lastly, LBR 9004-2(d) requires exhibits to be filed as a separate exhibit document, requires an exhibit index stating the page number at which each exhibit is found within the exhibit document, and requires use of consecutively numbered exhibit pages throughout the exhibit document, including any separator, cover, or divider sheets. Here, the exhibits are filed as separate documents, omit exhibit indices and consecutively numbered pages. Docs. ##1182 - 1184.

For the foregoing reasons, this motion will be DENIED WITHOUT PREJUDICE.

3. [22-11907](#)-B-7 **IN RE: FREON LOGISTICS**
[DMG-1](#)

MOTION TO COMPROMISE CONTROVERSY/APPROVE SETTLEMENT
AGREEMENT WITH KALPESHBHAI PATEL AND BUNITAKUMAR PATEL
3-15-2024 [[1187](#)]

JEFFREY VETTER/MV
LEONARD WELSH/ATTY. FOR DBT.
D. GARDNER/ATTY. FOR MV.

FINAL RULING: There will be no hearing on this matter.

DISPOSITION: Denied without prejudice.

ORDER: The court will issue an order.

This motion will be DENIED WITHOUT PREJUDICE for failure to comply with the Local Rules of Practice ("LBR").

LBR 9004-2(a)(6), (b)(5), (b)(6), (e)(3), LBR 9014-1(c), and (e)(3) are the rules about Docket Control Numbers ("DCN"). These rules require a DCN to be in the caption page on all documents filed in every matter with the court and each new motion requires a new DCN. The DCN shall consist of not more than three letters, which may be the initials of the attorney for the moving party (e.g., first, middle, and last name) or the first three initials of the law firm for the moving party, and the number that is one number higher than the number of motions previously filed by said attorney or law firm in connection with that specific bankruptcy case. Each separate matter must have a unique DCN linking it to all other related pleadings.

Here, Jeffrey Vetter ("Trustee") filed a *Motion/Application to Employ* on December 20, 2022, under the DCN DMG-1. Doc. #340. The instant motion is a *Motion/Application to Approve Settlement*, which is also listed under DCN DMG-1.

Therefore, the instant motion does not comply with the local rules. Each separate matter filed with the court must have a different DCN.

For the above reason, this motion will be DENIED WITHOUT PREJUDICE.

4. [23-12407](#)-B-7 **IN RE: CLAYTON/JENNIFER BLANKENSHIP**
[DMG-1](#)

MOTION TO SELL AND/OR MOTION TO COMPEL ABANDONMENT
4-2-2024 [[20](#)]

JENNIFER BLANKENSHIP/MV
D. GARDNER/ATTY. FOR DBT.
RESPONSIVE PLEADING

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Granted.

ORDER: The minutes of the hearing will be the court's findings and conclusions. The Moving Party shall submit a proposed order after hearing.

Clayton and Jennifer Blankenship ("Debtors") move for an order authorizing the sale of real property located at 6405 Duck Pond Lake, Bakersfield, CA ("the Property") or, in the alternative, compelling chapter 7 trustee Jeffrey ("Trustee") to abandon the estate's interest in the Property consistent with the provisions of 11 U.S.C. § 554(b). Doc. #20. Trustee has filed a non-opposition stating that he has no objection either to abandonment or sale of the Property. Doc. #25. The court is inclined to treat the motion as a motion to compel abandonment and GRANT the motion on that basis. Debtors are not among those authorized to sell property in a Chapter 7 case under § 363.

Written opposition was not required and may be presented at the hearing. In the absence of opposition, the court is inclined to GRANT this motion.

This motion was filed and served pursuant to Local Rule of Practice ("LBR") 9014-1(f)(2) and will proceed as scheduled. Unless opposition is presented at the hearing, the court intends to enter the respondents' defaults and grant the motion. If opposition is presented at the hearing, the court will consider the opposition and whether further hearing is proper pursuant to LBR 9014-1(f)(2). The court will issue an order if a further hearing is necessary.

11 U.S.C. § 554(b) provides that "on request of a party in interest and after notice and a hearing, the court may order the trustee to abandon any property of the estate that is burdensome to the estate or that is of inconsequential value and benefit to the estate." Debtors are "parties in interest."

To grant a motion to abandon property, the bankruptcy court must find either that: (1) the property is burdensome to the estate or (2) of inconsequential value and inconsequential benefit to the estate. *In re Vu*, 245 B.R. 644, 647 (B.A.P. 9th Cir. 2000). As one court noted, "an order compelling abandonment is the exception, not the rule. Abandonment should only be compelled in order to help the creditors by assuring some benefit in the administration of each asset . . . Absent an attempt by the trustee to churn property worthless to the estate just to increase fees, abandonment should rarely be ordered." *In re K.C. Mach. & Tool Co.*, 816 F.2d 238, 246 (6th Cir. 1987). In evaluating a proposal to abandon property, it is the interests of the estate and the creditors

that have primary consideration, not the interests of the debtor. *In re Johnson*, 49 F.3d 538, 541 (9th Cir. 1995) (noting that the debtor is not mentioned in § 554). *In re Galloway*, No. AZ-13-1085-PaKiTa, 2014 Bankr. LEXIS 3626, at *16-17 (B.A.P. 9th Cir. 2014).

Debtors filed this Chapter 7 proceeding on October 27, 2024. Doc. #1. They received a discharge on February 12, 2024, but the case remains open while the Trustee administers a portion of their tax refund. Doc. #18; Doc. #20.

Debtors value the Property at \$612,900.00. Doc. #1 (*Sched. A/B*). They claim an exemption of \$330,000.00 pursuant to C.C.P. § 704.730. *Id.* (*Sched. C*). Debtors owe approximately \$328,346.88 on their first mortgage held by Roundpoint Mortgage Servicing, LLC ("Roundpoint"), \$69,920.81 on their second mortgage held by Achieve Serviced by Specialized Loan ("ASSL"), and \$36,769.00 on a secured loan for solar panels held by DCU FCU. *Id.* (*Sched. D*). The liens and exemptions on the Property may be expressed as follows:

Value of Property	\$612,900.00
Debtors' Claimed Exemption	(\$330,000.00)
Roundpoint Mortgage	(\$328,346.88)
ASSL Mortgage	(\$68,920.81)
Solar Lien	(\$36,769.00)
Remaining Equity for the Estate	(\$151,136.69)

Thus, there appears to be no remaining equity which could be used for the benefit of the estate.

However, absent from the filings is any certification from Debtors that they are qualified and eligible to claim the exemptions under applicable law and evincing their understanding that if for any reason it is determined that Debtors are not qualified to claim an exemption in the property listed, or if there is some other error in the exemption claimed, Trustee may demand that Debtor compensate the estate for any damage caused by the claimed exemption. The court notes that, if the Debtors' \$330,000.00 exemption is excluded from the calculations above, \$177,210.19 in equity remains. That aside, however, the Trustee has filed a non-opposition to the motion, which the court interprets as a concession that Debtors' exemption is correct and there is thus no equity in the Property.

Written opposition was not required and may be presented at the hearing. In the absence of opposition, the court will find that the Property is of inconsequential value and benefit to the estate. The Property is accurately scheduled and is encumbered or exempted in its entirety. Therefore, the court intends to GRANT this motion.

The order shall specifically include the property to be abandoned.

5. [19-10016](#)-B-7 **IN RE: QUALITY FRESH FARMS, INC.**

MOTION FOR PAYMENT OF UNCLAIMED FUNDS IN THE AMOUNT OF \$
2127.49 WITH FRANCISCO SOTO
3-19-2024 [[190](#)]

RILEY WALTER/ATTY. FOR DBT.

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Granted.

ORDER: The movant will prepare the order.

Francisco Soto ("Movant") has filed the instant *Motion for Payment of Unclaimed Funds* and seeks to recoup the sum of \$2,127.49 from the unclaimed dividends paid into the court in the underlying Chapter 7 proceeding ("the Proceeding"). Doc. #190. The Proceeding was commenced on January 4, 2019. Doc. #1. On October 10, 2023, the Chapter 7 Trustee filed a *Notice to the Clerk of Small Dividends and Unclaimed Dividends* which, inter alia, listed Francisco Soto as a creditor in the Proceeding who was entitled to unclaimed dividends in the amount of \$21,27.49. Doc. #178.

The instant application is accompanied by a notarized declaration attesting to Movant's identity, as well as a photocopy of Movant's California driver's license. Doc. #190. Finally, Movant actually includes a photocopy of the unnegotiated check issued by the Trustee with Movant as the recipient in the amount of \$2,127.49. *Id.* The court is satisfied that Movant has demonstrated entitlement to the unclaimed funds by "full proof" under 28 U.S.C. § 2042.

The motion was filed on March 19, 2024, and, consistent with its internal procedures, the Clerk's Office generated a *Notice of Hearing on Application for Payment of Unclaimed Funds* on March 20, 2024. Docs. ##190,194.

Although this matter was set on 28 days' notice, the certificate of service was one generated by the clerk's office which contains none of the language pertaining to the requirement of a written response when a matter is set for hearing under LBR 9014-1(f)(1). In light of the Movant's reliance on court-generated documents in its filing, the court is inclined to overlook any procedural defects. The moving papers include a court-generated certificate of service which indicates that Movant properly served the U.S. Attorney's Office as required by 28 U.S.C. § 2042. Accordingly, this matter will proceed as scheduled, and any opposition may be presented at the hearing. In the absence of any such opposition, this motion will be GRANTED.

6. [22-10816](#)-B-7 **IN RE: ROBERTO RENTERIA AND ERIKA ARTEAGA**
[FAT-2](#)

MOTION TO APPROVE LOAN MODIFICATION
4-4-2024 [[44](#)]

ERIKA ARTEAGA/MV
FLOR DE MARIA TATAJE/ATTY. FOR DBT.

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Dismissed without prejudice.

ORDER: The minutes of the hearing will be the court's findings and conclusions. The Moving Party shall submit a proposed order after the hearing.

Erika Alicia Arteaga ("Movant"), the co-debtor in this case, moves for approval of a loan modification on Movant's residence at 2089 Valor Court, Atwater, California 95301 ("the Property"). Doc. #44. Although there are two debtors in this case, Movant and her spouse, Roberto Renteria ("Renteria"), both of whom are listed as joint owners of the Property even though the Deed of Trust for the loan to be modified was only signed by Ms. Arteaga. The moving papers indicate that Movant brings this motion on her own behalf without Renteria's involvement, and the moving papers all feature her signature but not her husband's. See *Doc. #44 et seq.* Thus, it is unclear to the court whether Movant owns the Property outright or is a co-tenant with Renteria, a matter which will need to be clarified at the hearing. Both debtors received a Chapter 7 discharge on August 26, 2022. Doc. #23.

Written opposition was not required and may be presented at the hearing. For the below reasons this motion will be DISMISSED as not having been brought by the real party in interest.

This motion was filed and served pursuant to Local Rule of Practice ("LBR") 9014-1(f)(2) and will proceed as scheduled. Unless opposition is presented at the hearing, the court intends to enter the respondents' defaults. If opposition is presented at the hearing, the court will consider the opposition and whether further hearing is proper pursuant to LBR 9014-1(f)(2). The court will issue an order if a further hearing is necessary.

Debtor seeks to modify the loan secured by the Property, which is encumbered by a Deed of Trust originally in favor of Summit Funding, Inc., dated June 25, 2020, and recorded in the land records of Merced County. Doc. #46. Debtor values the Property at \$260,000.00 as of the petition date. *Id.* Debtor avers that a modification is necessary because her income has recently been drastically reduced. *Id.* She proposes to refinance the mortgage through PHH Mortgage Corporation ("PHH") but requires a court order to do so. *Id.* Under the proposed modification agreement ("the Agreement"), the loan will have a Fixed Interest rate of 3.5%. *Id.* Debtor avers that there is no equity in the Property, which is valued at \$260,000.00 but subject to a lien with a current payoff in excess of \$217,575.65. *Id.* It is unclear whether the loan is currently in default or not.

Under the Agreement, the new balance will be \$217,575.65. Doc. #47 (*Exhib. B*). This amount includes \$5,381.68 in unpaid interest, tax premiums, and other expenses which will be folded into the principal. *Id.* Debtor's monthly payment will be \$1,279.48 over the next 40 years. *Id.* This is a slight reduction from the \$1,300.00 monthly payment listed on Debtor's Schedule J. Doc. #1 (*Sched. J*).

This case remains open, and the Property is still "property of the estate" until it is abandoned. It would seem the Debtors would want to have the Trustee abandon the Property as opposed to asking the court to "bypass" the Trustee as the real party in interest on a motion under § 363 or § 364.

Opposition may be presented at the hearing. Absent opposition, the court is inclined to DISMISS the motion without prejudice since it is not brought by the real party in interest, the Trustee.

7. [23-12922](#)-B-7 **IN RE: DONNA ROCHA**
[PFT-1](#)

MOTION TO SELL
3-26-2024 [[17](#)]

PETER FEAR/MV
MARK ZIMMERMAN/ATTY. FOR DBT.
PETER FEAR/ATTY. FOR MV.

TENTATIVE RULING: This matter will proceed for higher and better bids, only.

DISPOSITION: Granted.

ORDER: The minutes of the hearing will be the court's findings and conclusions. The Moving Party will submit a proposed order after hearing.

Chapter 7 trustee Peter Fear ("Trustee") seeks authorization to sell the estate's interest in a 2020 Ford EcoSport with 30,000 miles ("Vehicle") to Donna Rocha ("Debtor"), subject to higher and better bids, for \$6,000.00. Doc. #18. Trustee also seeks waiver of the fourteen-day stay provision of Fed. R. Bankr. 6004(g). *Id.*

This motion was set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of the creditors, the debtor, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will proceed for higher and better bids only. Upon default, factual allegations will be taken as true (except those relating to amounts of damages). *Televideo Systems, Inc. v. Heidenthal*, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires that a plaintiff make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

No party in interest timely filed written opposition. This motion will be GRANTED.

11 U.S.C. § 363(b)(1) allows the trustee to "sell, or lease, other than in the ordinary course of business, property of the estate."

Proposed sales under 11 U.S.C. § 363(b) are reviewed to determine whether they are: (1) in the best interests of the estate resulting from a fair and reasonable price; (2) supported by a valid business judgment; and (3) proposed in good faith. *In re Alaska Fishing Adventure, LLC*, 594 B.R. 883, 887 (Bankr. D. Alaska 2018) citing *240 North Brand Partners v. Colony GFP Partners, Ltd. P'ship (In re 240 N. Brand Partners)*, 200 B.R. 653, 659 (B.A.P. 9th Cir. 1996); *In re Wilde Horse Enters., Inc.*, 136 B.R. 830, 841 (Bankr. C.D. Cal. 1991). In the context of sales of estate property under § 363, a bankruptcy court "should determine only whether the trustee's judgment was reasonable and whether a sound business justification exists supporting the sale and its terms." *Alaska Fishing Adventure, LLC*, 594 B.R. at 889 quoting 3 Collier on Bankruptcy ¶ 363.02[4] (Richard Levin & Henry J. Sommer eds., 16th ed.). "[T]he trustee's business judgment is to be given great judicial deference.'" *Id.* citing *In re Psychometric Sys., Inc.*, 367 B.R. 670, 674 (Bankr. D. Colo. 2007); *In re Bakalis*, 220 B.R. 525, 531-32 (Bankr. E.D.N.Y. 1998).

Sales to an insider are subject to heightened scrutiny. *Alaska Fishing Adventure, LLC*, 594 B.R. at 887 citing *Mission Product Holdings, Inc. v. Old Cold, LLC (In re Old Cold LLC)*, 558 B.R. 500, 516 (B.A.P. 1st Cir. 2016). This sale is to the Debtor. The schedules include the Vehicle as follows:

2020 Ford Eco Sport 30,000 miles	Current Value: \$13,895.00	Exemption: \$7,500.00	Liens: \$0.00
-------------------------------------	-------------------------------	--------------------------	------------------

Doc. #1 (*Sched. A/B, C, and D*). Trustee confirms that the Vehicle is unencumbered. Doc. #20.

Trustee contends that the sale price was determined by estimating the fair market value of the property and believes that the proposed sale is in the best interests of creditors. *Id.* No commission will be paid to any party in connection with this sale. *Id.* Trustee has presumably conducted due diligence and concluded the sale in the best interest of creditors and the estate. Since Debtor claims an exemption, the proposed sale eliminates the need for retention of an auctioneer with attendant commissions, delay, etc.

It appears that the sale of the Vehicle is in the best interests of the estate, for a fair and reasonable price, supported by a valid business judgment, and proposed in good faith. There are no objections or opposition to the motion.

The motion does not request, nor will the court authorize, the sale free and clear of any liens or interests. Trustee indicates that there are no encumbrances on the Vehicle.

Any party wishing to overbid must appear at the hearing and acknowledge that no warranties or representations are included with the Vehicle; it is being sold "as-is."

8. [24-10122](#)-B-7 **IN RE: ROSA LEON RODRIGUEZ**
[JES-2](#)

MOTION TO EXTEND DEADLINE TO FILE A COMPLAINT OBJECTING TO DISCHARGE OF THE DEBTOR AND/OR MOTION TO EXTEND DEADLINE TO FILE A COMPLAINT OBJECTING TO DISCHARGEABILITY OF A DEBT
3-20-2024 [[18](#)]

JAMES SALVEN/MV
VINCENT QUIGG/ATTY. FOR DBT.

FINAL RULING: There will be no hearing on this matter.

DISPOSITION: Granted.

ORDER: The Moving Party shall submit a proposed order in conformance with the ruling below.

Chapter 7 Trustee James Salven ("Trustee") moves pursuant to 11 U.S.C. § 727 and § 523 to extend the deadlines for objecting to debtor's discharge or to the dischargeability of any specific debt from April 15, 2024, to May 31, 2024. Doc. #18.

No party in interest timely filed written opposition. The motion will be GRANTED.

This motion was set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of the creditors, the debtor, the chapter 7 trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See *Boone v. Burk (In re Eliapo)*, 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument. Upon default, factual allegations will be taken as true (except those relating to amounts of damages). *Televideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires that a plaintiff make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

Rule 4004(a) requires a complaint objecting to the debtor's discharge under § 727 to be filed no later than 60 days after the first date set for the § 341(a) meeting of creditors unless an extension of time is requested. Rule 4004(b)(1) allows the court to extend the time to object to discharge, for cause, on motion of any party in interest, and after a noticed hearing. The motion shall be filed before the time has expired unless the conditions specified in Rule 4004(b)(2) are met.

Similarly, Rule 4007(c) requires that a complaint objecting to the dischargeability of a particular debt under § 523 must be filed no later than 60 days after the first date set for the § 341(a) meeting of creditors unless an extension of time is requested.

The court is permitted to enlarge the time for acting under Rules 4007 (c) and 4004(a) only to the extent and under the conditions stated in those rules. Rule 9006(b)(3).

Courts have analyzed "cause" for the purposes of requesting an extension of time to object to a debtor's discharge. These factors include:

- (1) Whether the moving party had sufficient notice of the deadline and information to file an objection;
- (2) The complexity of the case;
- (3) Whether the moving party has exercised diligence; and
- (4) Whether the debtor has been uncooperative or acted in bad faith.

In re Bomarito, 448 B.R. 242, 249 (Bankr. E.D. Cal. 2011), citing *In re Nowinski*, 291 B.R. 302 (Bankr. S.D. N.Y. 2004).

Here, Debtor filed chapter 7 bankruptcy on January 19, 2024. Doc. #1. The first date set for the meeting of creditors was February 15, 2024, so the 60-day deadline to file a complaint objecting to discharge under § 727, or to discharge of any particular debt under § 523, was April 15, 2024. Doc. #20.

The first § 341 meeting was held on February 15, 2024, continued to March 14, 2024, and continued again to April 24, 2024. Doc. #20. See docket generally. The Trustee also avers that Debtor failed to provide the required documents prior to the first hearing and has continually failed to provide those documents ever since. Doc. #20. A motion to dismiss for failure to appear at the most recent 341 meeting is pending. Doc. #16. Finally, the Trustee declares that he has been in communication with Debtor's counsel who has advised that he has lost contact with Debtor. Doc. #20.

The record before the court clearly demonstrates that the debtor has been uncooperative or may have acted in bad faith. Thus, cause exists for an extension of the deadlines for objections to discharge or the dischargeability of any particular debt. Accordingly, this motion will be GRANTED. The deadlines for the Trustee to object under either § 727 or § 523 are extended up to and including May 31, 2024.

9. [24-10129](#)-B-7 **IN RE: TIMOTHY TASSEY AND CASANDRA SANDOVAL**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES
4-5-2024 [[22](#)]

MARK ZIMMERMAN/ATTY. FOR DBT.
\$199.00 OSC FEE PAID 4/9/24

FINAL RULING: There will be no hearing on this matter.

DISPOSITION: The OSC will be vacated.

ORDER: The court will issue an order.

The record shows that the \$199.00 filing fee was paid on April 9, 2024. Accordingly, this order to show cause will be VACATED.

10. [24-10043](#)-B-7 **IN RE: JOHNNY RICARDO**
[NLG-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
3-21-2024 [[14](#)]

CARRINGTON MORTGAGE SERVICES,
LLC/MV
NEIL SCHWARTZ/ATTY. FOR DBT.
NICHOLE GLOWIN/ATTY. FOR MV.

FINAL RULING: There will be no hearing on this matter.

DISPOSITION: Granted.

ORDER: The Moving Party shall submit a proposed order in
conformance with the ruling below.

Specialized Loan Servicing LLC ("Movant") seeks relief from the automatic stay under 11 U.S.C. §§ 362(d)(1) and (d)(2) with respect to 2913 Woodglen Drive, Bakersfield, California 93311 ("Property"). Doc. #14. Movant also requests waiver of the 14-day stay of Fed. R. Bankr. P. 4001(a)(3). *Id.*

Johnny Andres Ricardo, Jr. ("Debtor") did not oppose. No other party in interest timely filed written opposition. This motion will be GRANTED.

This motion was set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of the creditors, the debtor, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See *Boone v. Burk (In re Eliapo)*, 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument. Upon default, factual allegations will be taken as true (except those relating to amount of damages). *Televideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires that a plaintiff make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

11 U.S.C. § 362(d)(1) allows the court to grant relief from the stay for cause, including the lack of adequate protection. "Because there is no clear definition of what constitutes 'cause,' discretionary relief from the stay must be determined on a case-by-case basis." *In re Mac Donald*, 755 F.2d 715, 717 (9th Cir. 1985).

11 U.S.C. § 362(d)(2) allows the court to grant relief from the stay if the debtor does not have an equity in such property and such property is not necessary to an effective reorganization.

After review of the included evidence, the court finds that "cause" exists to lift the stay because Debtor has failed to make at least nine (9) pre-petition and two (2) post-petition payments. The Movant has

produced evidence that Debtor is delinquent at least \$24,837.22 and the entire balance of \$321,323.65 is due. Docs. ##16, 18.

The court also finds that the Debtor does not have any equity in the Property and the Property is not necessary to an effective reorganization because Debtor is in chapter 7. The property is valued at \$329,094.00 less the 8% cost of sale of 26,327.52 leaving a balance of \$302,766.48 and Debtor owes \$321,323.65. Doc. #16.

Relief under § 362(d) (2) is moot because there is "cause" to grant the motion under § 362(d) (1).

Accordingly, the motion will be granted pursuant to 11 U.S.C. §§ 362(d) (1) and (d) (2) to permit the Movant to dispose of its collateral pursuant to applicable law and to use the proceeds from its disposition to satisfy its claim. No other relief is awarded.

The order shall also provide that the bankruptcy proceeding has been finalized for purposes of California Civil Code § 2923.5.

The 14-day stay of Fed. R. Bankr. P. 4001(a) (3) will be ordered waived because Debtors have failed to make nine (9) pre- and two (2) post-petition payments to Movant.

11. [24-10659](#)-B-7 **IN RE: BUSH BUSINESS DEVELOPMENT CORP**
[CAE-1](#)

ORDER TO SHOW CAUSE WHY CASE SHOULD NOT BE DISMISSED
3-20-2024 [[10](#)]

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Case dismissed. The minutes of the hearing will be the court's findings and conclusions.

ORDER: The court will issue an order.

An *Order Showing Cause* was filed by this court on March 20, 2024, directing Bush Business Development Corp. ("Debtor") to appear at the hearing and show cause why this case should not be dismissed since Debtor has not appeared with counsel. Doc. #10

Debtor has not filed a written response providing evidence as to why the bankruptcy petition should not be dismissed; and/or monetary sanctions imposed. Accordingly, as set forth in the order, this court can dismiss the matter based on the lack of response. The court notes that no attorney has made an appearance on behalf of this Debtor.

The case will be DISMISSED.

12. [21-12790](#)-B-7 **IN RE: ANTONIA FLORE**
[SL-1](#)

MOTION TO COMPEL ABANDONMENT
3-15-2024 [[24](#)]

ANTONIA FLORES/MV
SCOTT LYONS/ATTY. FOR DBT.

FINAL RULING: There will be no hearing on this matter.

DISPOSITION: Granted.

ORDER: The Moving Party shall submit a proposed order in
conformance with the ruling below.

Antonia Felicia Flores ("Debtor") moves for an order compelling abandonment of property of the bankruptcy estate, to wit: a manufactured home and land located at 577 W. Prine Drive, Tulare CA 93274 ("the Property")

This motion was set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1). Thus, pursuant to LBR 9014-1(f)(1)(B), the failure of any party in interest (including but not limited to creditors, the debtor, the U.S. Trustee, or any other properly-served party in interest) to file written opposition at least 14 days prior to the hearing may be deemed a waiver of any such opposition to the granting of the motion. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). When there is no opposition to a motion, the defaults of all parties in interest who failed to timely respond will be entered, and, in the absence of any opposition, the movant's factual allegations will be taken as true (except those relating to amounts of damages). *Televideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917 (9th Cir. 1987). Because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary when an unopposed movant has made a prima facie case for the requested relief. *See Boone v. Burk (In re Eliapo)*, 468 F.3d 592 (9th Cir. 2006).

No party in interest timely filed written opposition. This motion will be GRANTED.

11 U.S.C. § 554(b) provides that "on request of a party in interest and after notice and a hearing, the court may order the trustee to abandon any property of the estate that is burdensome to the estate or that is of inconsequential value and benefit to the estate."

To grant a motion to abandon property, the bankruptcy court must find either that: (1) the property is burdensome to the estate or (2) of inconsequential value and inconsequential benefit to the estate. *In re Vu*, 245 B.R. 644, 647 (B.A.P. 9th Cir. 2000). As one court noted, "an order compelling abandonment is the exception, not the rule. Abandonment should only be compelled in order to help the creditors by assuring some benefit in the administration of each asset Absent an attempt by the trustee to churn property worthless to the estate just to increase fees, abandonment should rarely be ordered." *In re K.C. Mach. & Tool Co.*, 816 F.2d 238, 246 (6th Cir. 1987). In evaluating a proposal to abandon property, it is the interests of the estate and the creditors that have primary consideration, not the

interests of the debtor. *In re Johnson*, 49 F.3d 538, 541 (9th Cir. 1995) (noting that the debtor is not mentioned in § 554). *In re Galloway*, No. AZ-13-1085-PaKiTa, 2014 Bankr. LEXIS 3626, at *16-17 (B.A.P. 9th Cir. 2014).

Debtor filed this Chapter 7 proceeding on December 10, 2021. Doc. #1. They received a discharge on February 18, 2024, but the case has not yet been closed. Doc. #20.

Debtor values the Property at \$79,500.00, but she has co-owner, so her own interest in the Property is \$39,750.00 Doc. #15 (*Amended Sched. A/B*). Debtor claims an exemption of \$300,000.00 pursuant to C.C.P. § 704.730. *Id.* (*Amended Sched. C*). The Property appears to be unencumbered. Doc. #1 (*Sched. D*). The liens and exemptions on the Property may be expressed as follows:

Value of Property	\$79,500.00
Debtors' Claimed Exemption	(\$330,000.00)
Liens	(\$0.00)
Remaining Equity for the Estate	(\$250,500.00)

Thus, there appears to be no remaining equity which could be used for the benefit of the estate.

Debtor certifies that Debtor was qualified and eligible to claim the exemptions under applicable law and understands that if for any reason it is determined that Debtor is not qualified to claim an exemption in the property listed, or if there is some other error in the exemption claimed, Trustee may demand that Debtor compensate the estate for any damage caused by the claimed exemption. Doc. #26. Debtor agrees to not amend the exemptions affecting the Business Assets unless Trustee stipulated to that amendment or such relief is granted by further order of the court. *Id.*

The motion avers that Debtor's counsel anticipates a non-opposition from the Trustee, but no such non-opposition has been filed. Nevertheless, neither the Trustee nor any other party has responded to this motion, and the defaults of all non-responding parties are entered.

Accordingly, the court finds that the Property is of inconsequential value and benefit to the estate. The Property is accurately scheduled and is encumbered or exempted in its entirety. The motion is GRANTED.

The order shall specifically include and describe the property to be abandoned.