

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Robert S. Bardwil
Bankruptcy Judge
Sacramento, California

April 24, 2019 at 10:00 a.m.

INSTRUCTIONS FOR PRE-HEARING DISPOSITIONS

1. Matters resolved without oral argument:

Unless otherwise stated, the court will prepare a civil minute order on each matter listed. If the moving party wants a more specific order, it should submit a proposed amended order to the court. In the event a party wishes to submit such an Order it needs to be titled 'Amended Civil Minute Order.'

If the moving party has received a response or is aware of any reason, such as a settlement, that a response may not have been filed, the moving party must contact Nancy Williams, the Courtroom Deputy, at (916) 930-4580 at least one hour prior to the scheduled hearing.

2. The court will not continue any short cause evidentiary hearings scheduled below.

3. If a matter is denied or overruled without prejudice, the moving party may file a new motion or objection to claim with a new docket control number. The moving party may not simply re-notice the original motion.

4. If no disposition is set forth below, the matter will be heard as scheduled.

1.	18-24301-D-7	RODEL HESULTURA	MOTION FOR RELIEF FROM
	NLL-1		AUTOMATIC STAY
	WELLS FARGO BANK, N.A. VS.		3-22-19 [38]

Final ruling:

The matter is resolved without oral argument. The court's records indicate that no timely opposition has been filed and the relief requested in the motion is supported by the record. As such the court will grant relief from stay. As the debtor's Statement of Intentions indicates he will surrender the property, the court will also waive FRBP 4001(a)(3) by minute order. There will be no further relief afforded. No appearance is necessary.

2. 19-21209-D-7 ADAM SHERIDAN

MOTION FOR WAIVER OF THE
CHAPTER 7 FILING FEE OR OTHER FEE
2-28-19 [2]

Final ruling:

Application withdrawn by moving party on March 26, 2019. Matter removed from calendar. No appearance is necessary.

3. 18-27920-D-7 GREEN BELT CARRIERS
MHK-6

MOTION FOR ADMINISTRATIVE
EXPENSES
3-18-19 [53]

Tentative ruling:

This is the trustee's motion for allowance of and authority to pay an administrative tax claim of \$800 to the Franchise Tax Board (the "FTB"), for 2019 estimated tax, and the FTB's priority tax claim of \$311.59, for income taxes and penalties due for 2018. Benjamin's Transfer, Inc. ("Benjamin's") has filed opposition, claiming it is owed \$126,291 for services performed. Benjamin's (1) suggests the debtor should have sufficient funds to pay its debt to Benjamin's; (2) questions the debtor's inability to pay its bills; and (3) asks that Benjamin's representative be notified "[i]f anything further is needed." Benjamin's Transfer letter, filed April 3, 2019.

First, it does not appear the individual who signed the opposition on Benjamin's behalf is an attorney, whereas a corporation may appear in this court only by an attorney. Local District Court 183(a), incorporated herein by LBR 1001-1(c). Even if the court were to consider the opposition, however, there is nothing therein that supports denial of the motion. Benjamin's has filed a proof of claim; to the extent anything further is needed or advisable, it is not among the court's functions to provide that type of information or advice to individual creditors. Benjamin's is free to contact the debtor, its attorney, the trustee, her attorney, and/or the Office of the United States Trustee, and free to consult counsel of its own.

The court finding good cause for the relief requested in the motion, the motion will be granted. The court will hear the matter.

4. 16-22725-D-7 PETER/CATHLEEN VERBOOM
HSM-5

MOTION TO COMPROMISE
CONTROVERSY/APPROVE SETTLEMENT
AGREEMENT WITH ARTOIS FEED, INC.
3-25-19 [254]

5. 11-36728-D-7 JAMES/ERIN DOHERTY
GEL-2

MOTION TO AVOID LIEN OF
CITIBANK, N.A.
3-20-19 [21]

Final ruling:

The matter is resolved without oral argument. The court's records indicate that no timely opposition has been filed and the relief requested in the motion is supported by the record. The court finds the judicial lien described in the motion impairs an exemption to which the debtors are entitled. As a result, the court will grant the debtors' motion to avoid the lien. Moving party is to submit an appropriate order, which order shall specifically identify the real property subject to the lien and specifically identify the lien to be avoided. No appearance is necessary.

6. 16-20635-D-7 LISA GARCIA
ADJ-3

MOTION FOR COMPENSATION BY THE
LAW OFFICE OF FORES MACKO
JOHNSTON, INC. FOR ANTHONY D.
JOHNSTON, CHAPTER 7 TRUSTEE
3-13-19 [72]

Final ruling:

The matter is resolved without oral argument. The court's records indicate that no timely opposition has been filed. The record establishes, and the court finds, that the fees and costs requested are reasonable compensation for actual, necessary, and beneficial services under Bankruptcy Code § 330(a). As such, the court will grant the motion by minute order. No appearance is necessary.

7. 19-21235-D-7 JON/TERRI HAJEK
DJD-1
U.S. BANK, N.A. VS.

MOTION FOR RELIEF FROM
AUTOMATIC STAY
3-20-19 [12]

Final ruling:

This matter is resolved without oral argument. This is U.S. Bank, N.A.'s motion for relief from automatic stay. The court records indicate that no timely opposition has been filed. The motion along with the supporting pleadings demonstrate that there is no equity in the subject property and the property is not necessary for an effective reorganization. Accordingly, the court finds there is cause for granting relief from stay. The court will grant relief from stay by minute order. There will be no further relief afforded. No appearance is necessary.

8. 19-21139-D-7 SHAUNTIC MEREDITH
JHW-1
SANTANDER CONSUMER USA, INC.
VS.

MOTION FOR RELIEF FROM
AUTOMATIC STAY
3-20-19 [11]

Final ruling:

This matter is resolved without oral argument. This is Santander Consumer USA, Inc.'s motion for relief from automatic stay. The court's records indicate that no timely opposition has been filed. The motion along with the supporting pleadings demonstrate that there is no equity in the subject property and debtors are not making post petition payments. The court finds there is cause for relief from stay, including lack of adequate protection of the moving party's interest. As the debtor has filed a statement of non-opposition and the creditor's collateral is a depreciating asset, the court will also waive FRBP 4001(a)(3). Accordingly, the court will grant relief from stay and waive FRBP 4001(a)(3) by minute order. There will be no further relief afforded. No appearance is necessary.

9. 18-26941-D-7 JERRY HARDEMAN

MOTION TO VACATE DISMISSAL OF
CASE
3-8-19 [47]

DEBTOR DISMISSED: 03/01/2019

10. 19-21241-D-7 KEITH KIMMONS
JHW-1
CAB WEST, LLC VS.

MOTION FOR RELIEF FROM
AUTOMATIC STAY
3-12-19 [11]

Final ruling:

This matter is resolved without oral argument. This is CAB West, LLC's motion for relief from automatic stay. The court's records indicate that no timely opposition has been filed. The motion along with the supporting pleadings demonstrate that there is no equity in the subject property and debtor is not making post petition payments. The court finds there is cause for relief from stay, including lack of adequate protection of the moving party's interest. As the debtor has filed a statement of non-opposition and the creditor's collateral is a depreciating asset, the court will also waive FRBP 4001(a)(3). Accordingly, the court will grant relief from stay and waive FRBP 4001(a)(3) by minute order. There will be no further relief afforded. No appearance is necessary.

11. 16-21659-D-7 TRONG NGUYEN
KJH-2

MOTION FOR COMPENSATION FOR
GABRIELSON & COMPANY,
ACCOUNTANT(S)
3-20-19 [192]

Final ruling:

The matter is resolved without oral argument. The court's records indicate that no timely opposition has been filed. The record establishes, and the court finds, that the fees and costs requested are reasonable compensation for actual, necessary, and beneficial services under Bankruptcy Code § 330(a). As such, the court will grant the motion by minute order. No appearance is necessary.

12. 16-24067-D-7 BUTTACAVOLI INDUSTRIES,
DNL-5 INC.

MOTION FOR COMPENSATION FOR
BACHECKI, CROM & CO., LLP,
ACCOUNTANT(S)
3-25-19 [55]

Final ruling:

The matter is resolved without oral argument. The court's records indicate that no timely opposition has been filed. The record establishes, and the court finds, that the fees and costs requested are reasonable compensation for actual, necessary, and beneficial services under Bankruptcy Code § 330(a). As such, the court will grant the motion by minute order. No appearance is necessary.

13.	18-25873-D-7	NORMA ROBERTS	MOTION FOR ENTRY OF DEFAULT
	18-2198	UST-1	JUDGMENT
	U.S. TRUSTEE V. ROBERTS		3-19-19 [14]

14.	19-20281-D-7	SUNMLER/JUANELL TOWNSEND	MOTION FOR RELIEF FROM
	JHW-1		AUTOMATIC STAY
	FORD MOTOR CREDIT COMPANY,		3-25-19 [15]
	LLC VS.		

Final ruling:

This matter is resolved without oral argument. This is Ford Motor Credit Company, LLC's motion for relief from automatic stay. The court's records indicate that no timely opposition has been filed. The motion along with the supporting pleadings demonstrate that there is no equity in the subject property and debtors are not making post petition payments. The court finds there is cause for relief from stay, including lack of adequate protection of the moving party's interest. As the debtors are not making post-petition payments and the creditor's collateral is a depreciating asset, the court will also waive FRBP 4001(a)(3). Accordingly, the court will grant relief from stay and waive FRBP 4001(a)(3) by minute order. There will be no further relief afforded. No appearance is necessary.

15.	19-20281-D-7	SUNMLER/JUANELL TOWNSEND	MOTION FOR RELIEF FROM
	JHW-2		AUTOMATIC STAY
	FORD MOTOR CREDIT COMPANY,		3-25-19 [22]
	LLC VS.		

Final ruling:

This matter is resolved without oral argument. This is Ford Motor Credit Company, LLC's motion for relief from automatic stay. The court's records indicate that no timely opposition has been filed. The motion along with the supporting pleadings demonstrate that there is no equity in the subject property and debtors are not making post petition payments. The court finds there is cause for relief from stay, including lack of adequate protection of the moving party's interest. As the debtors are not making post-petition payments and the creditor's collateral is a depreciating asset, the court will also waive FRBP 4001(a)(3). Accordingly, the court will grant relief from stay and waive FRBP 4001(a)(3) by minute order. There will be no further relief afforded. No appearance is necessary.

16. 19-21083-D-7 TORY/SYLIVIA BATTEN

MOTION FOR WAIVER OF THE
CHAPTER 7 FILING FEE OR OTHER
FEE
2-25-19 [5]

17. 18-27584-D-7 EDWARD/SODONIA BELL
GS-1

MOTION TO COMPEL ABANDONMENT
3-21-19 [14]

Final ruling:

This is the debtors' motion to compel the trustee to abandon certain office equipment. The moving parties served the chapter 7 trustee and the United States Trustee, but failed to serve the creditors in the case. Thus, the moving parties failed to serve the motion in accordance with Fed. R. Bankr. P. 6007.

Fed. R. Bankr. P. 6007(a) requires the trustee or debtor in possession to give notice of a proposed abandonment or disposition of property "to the United States trustee [and] all creditors" On the other hand, Fed. R. Bankr. P. 6007(b) provides that "[a] party in interest may file and serve a motion requiring the trustee or debtor in possession to abandon property of the estate." Ostensibly, the latter subparagraph does not require that notice be given to all creditors, although the former does. A motion under subparagraph (b), however, should generally be served on the same parties who would receive notice under subparagraph (a) of the rule. See In re Jandous Elec. Constr. Corp., 96 B.R. 462, 465 (Bankr. S.D.N.Y. 1989) (citing Sierra Switchboard Co. v. Westinghouse Elec. Corp., 789 F.2d 705, 709-10 (9th Cir. 1986)).

The court will continue the hearing to May 8, 2019, at 10:00 a.m., the moving parties to file a notice of continued hearing and serve it, together with the motion, on all creditors in this case, including those listed on the debtors' Schedules E/F, G, and H, and those filing claims in this case at the addresses on their proofs of claim. The notice of continued hearing shall be a notice pursuant to LBR 9014-1(f)(2) (no written opposition required). The hearing will be continued by minute order. No appearance is necessary on April 24, 2019.

18. 19-20786-D-7 BARBARA DOVICH
JHW-1
FORD MOTOR CREDIT COMPANY,
LLC VS.

MOTION FOR RELIEF FROM
AUTOMATIC STAY
3-27-19 [15]

Final ruling:

This matter is resolved without oral argument. This is Ford Motor Credit Company, LLC's motion for relief from automatic stay. The court's records indicate that no timely opposition has been filed. The motion along with the supporting pleadings demonstrate that there is no equity in the subject property and debtor is not making post petition payments. The court finds there is cause for relief from stay, including lack of adequate protection of the moving party's interest. As the debtor is not making post-petition payments and the creditor's collateral is a depreciating asset, the court will also waive FRBP 4001(a)(3). Accordingly, the court will grant relief from stay and waive FRBP 4001(a)(3) by minute order. There will be no further relief afforded. No appearance is necessary.

19. 17-20689-D-7 MONUMENT SECURITY, INC.
DNL-17

MOTION FOR ADMINISTRATIVE
EXPENSES
3-25-19 [611]

Tentative ruling:

This is the trustee's motion for allowance of chapter 11 administrative claims of 348 former employees of the debtor who performed services for the debtor while this case was a chapter 11 case. Former employee Jose Castellanos has filed opposition in the form of letters filed April 4, 2019 and April 11, 2019, and former employee Trevor Foreman has filed opposition in the form of a letter filed April 15, 2019. For the following reasons, the motion will be granted. However, the court will hear from Mr. Castellanos and Mr. Foreman at the hearing if they have questions about this ruling.

The trustee submitted with the motion a list of the employees owed for the chapter 11 period by name and amount. Mr. Castellanos and Mr. Foreman take issue with the amounts of their claims. Instead of \$1,710, Mr. Castellanos contends he is entitled to \$10,643, broken down as stated in his letters. Instead of \$1,876, Mr. Foreman contends he is entitled to \$7,912, broken down as stated in his letter. The problem is that Mr. Castellanos' and Mr. Foreman's amounts cover the periods from the time they began working for the debtor company, in 2011 and 2013, respectively, whereas the amounts in the trustee's motion cover only the period of time the company was in chapter 11; that is, from February 1, 2017 to December 4, 2018. If Mr. Castellanos or Mr. Foreman appears at the hearing, the court will hear from either or both as to whether they dispute the amounts of \$1,710 and \$1,876, respectively, for that time period. Mr. Castellanos and Mr. Foreman are advised they may consult the court's website about procedures for appearing by telephone if they so choose, or they may, of course, appear in person.

But for any supplemental comments Mr. Castellanos or Mr. Foreman may make at the hearing, the court is prepared to conclude that the administrative claims proposed to be allowed and paid represent actual and necessary costs of preserving the estate, in the form of wages, salaries, or commissions for services rendered to the debtor after the commencement of the case. Accordingly, the motion will be granted.

The court will hear the matter.

20. 17-20689-D-7 MONUMENT SECURITY, INC. MOTION FOR RELIEF FROM
SAP-1 AUTOMATIC STAY
G6 HOSPITALITY, LLC VS. 3-27-19 [620]

Final ruling:

This matter is resolved without oral argument. This is G6 Hospitality, LLC's motion seeking relief from automatic stay to pursue available insurance proceeds. The court's records indicate that no timely opposition has been filed. The motion along with the supporting pleadings demonstrate that there is cause for granting limited relief from stay to allow the moving party to proceed with litigation, as is necessary, to collect against available insurance proceeds. Accordingly, the court will grant limited relief from stay to allow the moving party to proceed to judgment against the debtor for the limited purpose of pursuing any available insurance proceeds. There will be no further relief afforded. Moving party is to submit an appropriate order. No appearance is necessary.

21. 18-21899-D-7 TODD LUSH MOTION FOR COMPENSATION FOR
DMW-2 GABRIELSON & COMPANY,
ACCOUNTANT(S)
3-15-19 [61]

Final ruling:

The matter is resolved without oral argument. The court's records indicate that no timely opposition has been filed. The record establishes, and the court finds, that the fees and costs requested are reasonable compensation for actual, necessary, and beneficial services under Bankruptcy Code § 330(a). As such, the court will grant the motion by minute order. No appearance is necessary.

22. 18-27399-D-7 WARREN COYKENDALL MOTION FOR RELIEF FROM
APN-1 AUTOMATIC STAY
WELLS FARGO BANK, N.A. VS. 3-19-19 [15]

Final ruling:

This matter is resolved without oral argument. This is Wells Fargo Bank, N.A.'s motion for relief from automatic stay. The court's records indicate that no timely opposition has been filed. The motion along with the supporting pleadings demonstrate that there is no equity in the subject property and debtor is not making post petition payments. The court finds there is cause for relief from stay, including lack of adequate protection of the moving party's interest. As the debtor is not making post-petition payments and the creditor's collateral is a depreciating asset, the court will also waive FRBP 4001(a)(3). Accordingly, the court will grant relief from stay and waive FRBP 4001(a)(3) by minute order. There will be no further relief afforded. No appearance is necessary.

23. 19-20103-D-7 PAUL CARCOT

TRUSTEE'S MOTION TO DISMISS FOR
FAILURE TO APPEAR AT SEC.
341 (A) MEETING OF CREDITORS
3-17-19 [20]

24. 19-21608-D-7 DENISE MAYNARD

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
4-4-19 [28]

Final ruling:

The deficiency has been corrected. As a result the court will issue a minute order discharging the order to show cause and the case will remain open. No appearance is necessary.

25. 18-27925-D-7 CHRISTOPHER NEARY
RWC-1
WILLIAM AMARAL VS.

MOTION FOR RELIEF FROM
AUTOMATIC STAY
4-2-19 [15]

26. 18-25346-D-7 SHIV SINGH
GMW-4

AMENDED MOTION TO AVOID LIEN OF
AXIS CAPITAL, INC.
4-10-19 [52]

27. 19-21259-D-7 CASSIE BERGQUIST MOTION FOR RELIEF FROM
KKY-1 AUTOMATIC STAY
OPERATING ENGINEERS FEDERAL 4-1-19 [10]
CREDIT UNION VS.

28. 17-20689-D-7 MONUMENT SECURITY, INC. MOTION FOR RELIEF FROM
SJE-3 AUTOMATIC STAY
JASON DOE, A MINOR BY AND 4-3-19 [638]
THROUGH GUARDIAN AD LITEM,
GERALD DOE VS.

29. 17-20689-D-7 MONUMENT SECURITY, INC. MOTION FOR RELIEF FROM
SJE-3 AUTOMATIC STAY
JASON DOE, A MINOR BY AND 4-3-19 [644]
THROUGH GUARDIAN AD LITEM,
GERALD DOE VS.

Final ruling:

This is a duplicate of the motion being heard as item no. 28 above. Matter removed from calendar.

30. 19-21391-D-7 NIKOLAY KONSTANTINOV MOTION TO COMPEL ABANDONMENT
MS-1 4-2-19 [10]