

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF CALIFORNIA**

Honorable Fredrick E. Clement
Fresno Federal Courthouse
2500 Tulare Street, 5th Floor
Courtroom 11, Department A
Fresno, California

PRE-HEARING DISPOSITIONS

DAY: WEDNESDAY
DATE: APRIL 25, 2018
CALENDAR: 9:00 A.M. CHAPTER 7 CASES

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. 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. If the parties stipulate to continue the hearing on the matter or agree to resolve the matter in a way inconsistent with the final ruling, then the court will consider vacating the final ruling only if the moving party notifies chambers before 4:00 pm at least one business day before the hearing date: Department A-Kathy Torres (559)499-5860; Department B-Jennifer Dauer (559)499-5870. If a party has grounds to contest a final ruling because of the court's error under FRCP 60 (a) (FRBP 9024) ["a clerical mistake (by the court) or a mistake arising from (the court's) oversight or omission"] the party shall notify chambers (contact information above) and any other party affected by the final ruling by 4:00 pm one business day before the hearing.

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.

1. [18-10004](#)-A-7 **IN RE: CASEY ALESSO**
[KDG-1](#)

OBJECTION TO DEBTOR'S CLAIM OF EXEMPTIONS
3-21-2018 [[45](#)]

CYNTHIA MANOR/MV
ROBERT WILLIAMS
LISA HOLDER/ATTY. FOR MV.
RESPONSIVE PLEADING

No Ruling

2. [18-10004](#)-A-7 **IN RE: CASEY ALESSO**
[TGM-3](#)

MOTION OBJECTING TO DEBTOR'S FORMER SPOUSE'S AMENDED CLAIMS
OF EXEMPTION
3-14-2018 [[38](#)]

RANDELL PARKER/MV
ROBERT WILLIAMS
TRUDI MANFREDO/ATTY. FOR MV.
RESPONSIVE PLEADING

No Ruling

3. [15-13412](#)-A-7 **IN RE: BASILA CONSTRUCTION, INC.**
[JES-2](#)

MOTION FOR COMPENSATION FOR JAMES E. SALVEN, ACCOUNTANT(S)
3-8-2018 [[232](#)]

JAMES SALVEN/MV
RILEY WALTER

Final Ruling

Application: Allowance of Final Compensation and Expense
Reimbursement

Notice: LBR 9014-1(f)(1); written opposition required

Disposition: Approved

Order: Civil minute order

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this application was required not less than 14 days before the hearing on the application. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as

true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

COMPENSATION AND EXPENSES

In this Chapter 7 case, James E. Salven, accountant for the trustee, has applied for an allowance of final compensation and reimbursement of expenses. The applicant requests that the court allow compensation in the amount of \$7,799.00 and reimbursement of expenses in the amount of \$427.28.

Section 330(a) of the Bankruptcy Code authorizes "reasonable compensation for actual, necessary services" rendered by a trustee, examiner or professional person employed under § 327 or § 1103 and "reimbursement for actual, necessary expenses." 11 U.S.C. § 330(a)(1). Reasonable compensation is determined by considering all relevant factors. See *id.* § 330(a)(3).

The court finds that the compensation and expenses sought are reasonable, and the court will approve the application on a final basis.

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

James E. Salven's application for allowance of final compensation and reimbursement of expenses has been presented to the court. Having entered the default of respondent for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the application,

IT IS ORDERED that the application is approved on a final basis. The court allows final compensation in the amount of \$7,799.00 and reimbursement of expenses in the amount of \$427.28.

IT IS FURTHER ORDERED that the trustee is authorized without further order of this court to pay from the estate the aggregate amount allowed by this order in accordance with the Bankruptcy Code and the distribution priorities of § 726.

4. [18-10515](#)-A-7 **IN RE: ANTHONY/REBECCA TELESE**
[NLL-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
3-19-2018 [[13](#)]

U.S. BANK NATIONAL
ASSOCIATION/MV
JOSEPH PEARL
NANCY LEE/ATTY. FOR MV.

Final Ruling

Motion: Stay Relief

Notice: LBR 9014-1(f)(1); written opposition required

Disposition: Granted

Order: Civil minute order

Subject: 12215 Home Ranch Drive, Bakersfield, CA

Unopposed motions are subject to the rules of default. Fed. R. Civ. P.55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

STAY RELIEF

Section 362(d)(2) authorizes stay relief if the debtor lacks equity in the property and the property is not necessary to an effective reorganization. 11 U.S.C. § 362(d)(2). Chapter 7 is a mechanism for liquidation, not reorganization, and, therefore, property of the estate is never necessary for reorganization. *In re Casgul of Nevada, Inc.*, 22 B.R. 65, 66 (B.A.P. 9th Cir. 1982). In this case, the aggregate amount due all liens exceeds the value of the collateral and the debtor has no equity in the property. The motion will be granted, and the 14-day stay of Federal Rule of Bankruptcy Procedure 4001(a)(3) will be waived. No other relief will be awarded.

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

U.S. Bank National Association's motion for relief from the automatic stay has been presented to the court. Having entered the default of respondent for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the motion,

IT IS ORDERED that the motion is granted. The automatic stay is vacated with respect to the property described in the motion, commonly known as 12215 Home Ranch Drive, Bakersfield, CA, as to all parties in interest. The 14-day stay of the order under Federal Rule of Bankruptcy Procedure 4001(a)(3) is waived. Any party with standing may pursue its rights against the property pursuant to applicable non-bankruptcy law.

IT IS FURTHER ORDERED that no other relief is awarded. To the extent that the motion includes any request for attorney's fees or other costs for bringing this motion, the request is denied.

5. [17-12119](#)-A-7 **IN RE: JOHN EBEL**
[RHT-3](#)

MOTION TO SELL AND/OR MOTION TO PAY
3-16-2018 [[65](#)]

ROBERT HAWKINS/MV
HAGOP BEDOYAN
TRUDI MANFREDO/ATTY. FOR MV.
RESPONSIVE PLEADING

Tentative Ruling

Motion: Sell Real Property and Compensate Real Estate Broker

Notice: LBR 9014-1(f)(1); written opposition required

Disposition: Granted

Order: Prepared by moving party and approved as to form and content by Wells Fargo Bank, N.A.

Property: 444 Nelson Street, Tulare, CA

Buyer: Jean Houle Trust and Julissa Chavez

Sale Price: \$525,550

Sale Type: Private sale subject to overbid opportunity

Compensation: 6% commission to employed real estate broker

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55(c), *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

Section 363(b)(1) of Title 11 authorizes sales of property of the estate "other than in the ordinary course of business." 11 U.S.C. § 363(b)(1); *see also In re Lionel Corp.*, 722 F.2d 1063, 1071 (2d Cir. 1983) (requiring business justification). The moving party is the Chapter 7 trustee and liquidation of property of the estate is a

proper purpose. See 11 U.S.C. § 704(a)(1). As a result, the court will grant the motion. The stay of the order provided by Federal Rule of Bankruptcy Procedure 6004(h) will be waived.

Section 330(a) of Title 11 authorizes "reasonable compensation for actual, necessary services" rendered by a professional person employed under § 327 and "reimbursement for actual, necessary expenses." 11 U.S.C. § 330(a). Reasonable compensation is determined by considering all relevant factors. See *id.* § 330(a)(3). The court finds that the compensation sought is reasonable and will approve the application.

6. [16-12127](#)-A-7 **IN RE: STUEVE'S MILK TRANSPORT, INC. A**
CALIFORNIA CORPORATION
[JES-1](#)

MOTION TO PAY
3-22-2018 [[110](#)]

JAMES SALVEN/MV
HAGOP BEDOYAN
ROBERT HAWKINS/ATTY. FOR MV.

Final Ruling

Motion: Allow Administrative Expense [Estate Taxes]

Notice: LBR 9014-1(f)(1); written opposition required

Disposition: Granted

Order: Civil minute order

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

ALLOWANCE OF ADMINISTRATIVE EXPENSE

"Subject to limited exceptions, a trustee must pay the taxes of the estate on or before the date they come due, 28 U.S.C. § 960(b), even if no request for administrative expenses is filed by the tax authorities, 11 U.S.C. § 503(b)(1)(D), and the trustee must insure that 'notice and a hearing' have been provided before doing so, see *id.* § 503(b)(1)(B). The hearing requirement insures that interested parties . . . have an opportunity to contest the amount of tax paid before the estate's funds are diminished, perhaps irretrievably." *In re Clooback*, 788 F.3d 1243, 1246 (9th Cir. 2015). It is error to approve a trustee's final report without first holding a hearing, see 11 U.S.C. § 102(1), to allow creditors and parties in interest

an opportunity to object to the allowance or amount of tax before it is paid. *Id.* 1245 n.1, 1246.

Creditors and parties in interest have had an opportunity to contest the allowance and amount of the estate taxes in this case. No objection has been made. Accordingly, state taxes in the amount specified in the motion shall be allowed as an administrative expense under 11 U.S.C. § 503(b)(1)(B).

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

The chapter 7 trustee's motion for allowance of administrative expense has been presented to the court. Having entered the default of respondent for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the motion,

IT IS ORDERED that the motion is granted. The court allows and California state taxes of \$829.00 an administrative expense under 11 U.S.C. § 503(b)(1)(B).

7. [16-12127](#)-A-7 **IN RE: STUEVE'S MILK TRANSPORT, INC. A**
CALIFORNIA CORPORATION
[RTW-2](#)

MOTION FOR COMPENSATION FOR RATZLAFF, TAMBERI & WONG,
ACCOUNTANT(S)
3-23-2018 [[115](#)]

RATZLAFF, TAMBERI & WONG/MV
HAGOP BEDOYAN

Final Ruling

Application: Allowance of Final Compensation and Expense
Reimbursement

Notice: LBR 9014-1(f)(1); written opposition required

Disposition: Approved

Order: Civil minute order

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this application was required not less than 14 days before the hearing on the application. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as

true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

COMPENSATION AND EXPENSES

In this Chapter 7 case, Ratzlaff, Tamberi & Wong, accountant for the trustee, has applied for an allowance of final compensation and reimbursement of expenses. The applicant requests that the court allow compensation in the amount of \$2,540.00 and reimbursement of expenses in the amount of \$12.69.

Section 330(a) of the Bankruptcy Code authorizes "reasonable compensation for actual, necessary services" rendered by a trustee, examiner or professional person employed under § 327 or § 1103 and "reimbursement for actual, necessary expenses." 11 U.S.C. § 330(a)(1). Reasonable compensation is determined by considering all relevant factors. See *id.* § 330(a)(3).

The court finds that the compensation and expenses sought are reasonable, and the court will approve the application on a final basis.

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

Ratzlaff, Tamberi & Wong's application for allowance of final compensation and reimbursement of expenses has been presented to the court. Having entered the default of respondent for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the application,

IT IS ORDERED that the application is approved on a final basis. The court allows final compensation in the amount of \$2,540.00 and reimbursement of expenses in the amount of \$12.69.

IT IS FURTHER ORDERED that the trustee is authorized without further order of this court to pay from the estate the aggregate amount allowed by this order in accordance with the Bankruptcy Code and the distribution priorities of § 726.

8. [18-10227](#)-A-7 **IN RE: TERESA/JOSE GRACIA**
[UST-1](#)

MOTION FOR DENIAL OF DISCHARGE OF BOTH DEBTORS UNDER 11
U.S.C. SECTION 727(A)
3-23-2018 [[13](#)]

TRACY DAVIS/MV
TERRI DIDION/ATTY. FOR MV.

Final Ruling

Motion: Deny Discharge under § 727(a)(8)
Notice: LBR 9014-1(f)(1); written opposition required
Disposition: Granted
Order: Prepared by the movant

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

The U.S. Trustee has moved for denial of discharge pursuant to § 727(a)(8). The debtors have received a chapter 7 discharge in a prior case. The prior case was commenced within 8 years prior to the petition date in the current case. Pursuant to § 727(a)(8), the debtors are not entitled to receive a discharge in this case.

9. [17-14229](#)-A-7 **IN RE: BRIAN HAYNES**

MOTION FOR RELIEF FROM AUTOMATIC STAY
3-22-2018 [[20](#)]

GFC LENDING, LLC/MV
JEFFREY ROWE
KRISTIN ZILBERSTEIN/ATTY. FOR MV.
DISCHARGED

Tentative Ruling

Motion: Stay Relief
Notice: LBR 9014-1(f)(2); no written opposition required
Disposition: Granted in part, denied in part as moot
Order: Civil minute order

Subject: 2008 Dodge Ram

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

AS TO DEBTOR

The motion will be denied in part as moot to the extent it seeks stay relief as to the debtor. The stay that protects the debtor terminates at the entry of discharge. 11 U.S.C. § 362(c)(2). In this case, discharge has been entered. As a result, the motion is moot as to the debtor.

AS TO ESTATE

Section 362(d)(2) authorizes stay relief if the debtor lacks equity in the property and the property is not necessary to an effective reorganization. 11 U.S.C. § 362(d)(2). Chapter 7 is a mechanism for liquidation, not reorganization, and, therefore, property of the estate is never necessary for reorganization. *In re Casgul of Nevada, Inc.*, 22 B.R. 65, 66 (B.A.P. 9th Cir. 1982). In this case, the aggregate amount due all liens exceeds the value of the collateral and the debtor has no equity in the property. The motion will be granted, and the 14-day stay of Federal Rule of Bankruptcy Procedure 4001(a)(3) will be waived. No other relief will be awarded.

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

GFC Lending, LLC's motion for relief from the automatic stay has been presented to the court. Having entered the default of respondent for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the motion,

IT IS ORDERED that the motion is granted in part and denied as moot in part. The automatic stay is vacated with respect to the interest of the trustee in the property described in the motion, commonly known as a 2008 Dodge Ram. Relief from the automatic stay as to the interest of the debtor in such property is denied as moot given the entry of the discharge in this case. 11 U.S.C. § 362(c)(2)(C).

IT IS FURTHER ORDERED that the 14-day stay of the order under Federal Rule of Bankruptcy Procedure 4001(a)(3) is waived. Any party with standing may pursue its rights against the property pursuant to applicable non-bankruptcy law.

IT IS FURTHER ORDERED that no other relief is awarded. To the extent that the motion includes any request for attorney's fees or other costs for bringing this motion, the request is denied.

10. [18-10031](#)-A-7 **IN RE: JOHN KOCAK**
[TMT-1](#)

OPPOSITION RE: TRUSTEE'S MOTION TO DISMISS FOR FAILURE TO
APPEAR AT SEC. 341(A) MEETING OF CREDITORS
3-3-2018 [\[16\]](#)

Tentative Ruling

Motion: Dismiss Case and Extend Trustee's Deadlines

Notice: LBR 9014-1(f)(1); written opposition required or case dismissed without hearing

Disposition: Conditionally denied in part, granted in part

Order: Civil minute order

DISMISSAL

Chapter 7 debtors shall attend the § 341(a) meeting of creditors. 11 U.S.C. § 343. A continuing failure to attend this meeting is cause for dismissal of the case. See 11 U.S.C. §§ 105(a), 343, 707(a); see also *In re Nordblad*, No. 2:13-bk-14562-RK, 2013 WL 3049227, at *2 (Bankr. C.D. Cal. June 17, 2013).

The debtor has failed to appear at a scheduled meeting of creditors required by 11 U.S.C. § 341. Because the debtor's failure to attend the required § 341 creditors' meeting has occurred only once, the court will not dismiss the case on condition that the debtor attend the next creditors' meeting. But if the debtor does not appear at the continued meeting of creditors, the case will be dismissed on trustee's declaration without further notice or hearing.

TELEPHONIC APPEARANCE BY INCARCERATED DEBTOR

The U.S. Trustee Program's Handbook for Chapter 7 Trustees provides that rare circumstances, including a debtor's incarceration, may serve as a basis for allowing a debtor's telephonic appearance at the meeting of creditors. See U.S. Tr. Program, U.S. Dep't of Justice, *Handbook for Ch. 7 Panel Trustees* 3-9 (Oct. 1, 2012).

The debtor is incarcerated. He has indicated that he has arranged for a telephonic appearance at the continued § 341 meeting of creditors. This is an appropriate avenue for an incarcerated debtor to appear at the meeting of creditors.

EXTENSION OF DEADLINES

The court will grant the motion in part to the extent it requests extension of the trustee's deadlines to object to discharge and to dismiss the case for abuse, other than presumed abuse. Such

deadlines will no longer be set at 60 days following the first date set for the meeting of creditors. The following deadlines are extended to 60 days after the next continued date of the creditors' meeting: (1) the trustee's deadline for objecting to discharge under § 727, see Fed. R. Bankr. P. 4004(a); and (2) the trustee's deadline for bringing a motion to dismiss under § 707(b) or (c) for abuse, other than presumed abuse, see Fed. R. Bankr. P. 1017(e).

CIVIL MINUTE ORDER

The court will issue a minute order that conforms substantially to the following form:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes of the hearing.

IT IS ORDERED that the Motion to Dismiss is denied on the condition that the debtor attend the next continued § 341(a) meeting of creditors scheduled for May 7, 2018, at 9:30 a.m. But if the debtor does not appear at this continued meeting, the case will be dismissed on trustee's declaration without further notice or hearing.

IT IS ALSO ORDERED that following deadlines shall be extended to 60 days after the next continued date of the creditors' meeting: (1) the trustee's deadline for objecting to discharge under § 727, see Fed. R. Bankr. P. 4004(a); and (2) the trustee's deadline for bringing a motion to dismiss under § 707(b) or (c) for abuse, other than presumed abuse, see Fed. R. Bankr. P. 1017(e).

11. [18-10732](#)-A-7 **IN RE: FRANK/ANGELINA ALEJANDRO**
[APN-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
3-28-2018 [[13](#)]

SANTANDER CONSUMER USA INC./MV
R. BELL
AUSTIN NAGEL/ATTY. FOR MV.

Final Ruling

Motion: Stay Relief

Notice: LBR 9014-1(f)(1); written opposition required

Disposition: Granted

Order: Civil minute order

Subject: 2017 Ram 1500

Unopposed motions are subject to the rules of default. Fed. R. Civ. P.55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). None has been

filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

STAY RELIEF

Section 362(d)(2) authorizes stay relief if the debtor lacks equity in the property and the property is not necessary to an effective reorganization. 11 U.S.C. § 362(d)(2). Chapter 7 is a mechanism for liquidation, not reorganization, and, therefore, property of the estate is never necessary for reorganization. *In re Casgul of Nevada, Inc.*, 22 B.R. 65, 66 (B.A.P. 9th Cir. 1982). In this case, the aggregate amount due all liens exceeds the value of the collateral and the debtor has no equity in the property. The motion will be granted, and the 14-day stay of Federal Rule of Bankruptcy Procedure 4001(a)(3) will be waived. No other relief will be awarded.

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

Santander Consumer USA, Inc.'s motion for relief from the automatic stay has been presented to the court. Having entered the default of respondent for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the motion,

IT IS ORDERED that the motion is granted. The automatic stay is vacated with respect to the property described in the motion, commonly known as 2017 Ram 1500, as to all parties in interest. The 14-day stay of the order under Federal Rule of Bankruptcy Procedure 4001(a)(3) is waived. Any party with standing may pursue its rights against the property pursuant to applicable non-bankruptcy law.

IT IS FURTHER ORDERED that no other relief is awarded. To the extent that the motion includes any request for attorney's fees or other costs for bringing this motion, the request is denied.

12. [16-11233](#)-A-7 **IN RE: TIMOTHY/ELENA MAGILL**
[DRJ-1](#)

OBJECTION TO CLAIM OF AARON PANKRATZ, CLAIM NUMBER 25
3-8-2018 [[61](#)]

TIMOTHY MAGILL/MV
DAVID JENKINS

Final Ruling

Objection: Objection to Claim

Notice: LBR 3007-1(b)(1); written opposition required

Disposition: Sustained

Order: Prepared by objecting party

Unopposed objections are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c); LBR 9001-1(d), (n) (contested matters include objections). Written opposition to the sustaining of this objection was required not less than 14 days before the hearing on this objection. None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

The debtors object to Claim No. 25 filed by Aaron Pankratz in the amount of \$22,329.00. The claim is filed as a priority claim in the amount of \$12,161.00, and the basis for priority is 11 U.S.C. § 507(a)(4) (wages, salaries or commissions).

The declaration of the debtor, however, indicates that the claimant was never an employee of the debtor. Claimant was an expert witness for the debtor to assist the debtor in prosecuting several lawsuits. The claimant has not responded and offered counter-evidence that he was (1) an employee of the debtor who earned wages, or (2) a person working on a commission basis.

Accordingly, the court will disallow the claim as a priority claim. The claim will be allowed for \$22,329 as an unsecured claim.

13. [15-11835](#)-A-7 **IN RE: JAMES/JAMIE CANNON**
[KDG-26](#)

MOTION TO EMPLOY LISA HOLDER AS ATTORNEY(S)
3-15-2018 [[683](#)]

TRUDI MANFREDO/MV
ROBERT WILLIAMS
TRUDI MANFREDO/ATTY. FOR MV.

Tentative Ruling

Application: Approval of Employment

Notice: LBR 9014-1(f)(2); no written opposition required

Disposition: Approved

Order: Prepared by applicant pursuant to the instructions below

Unopposed applications are subject to the rules of default. Fed. R. Civ. P. 55, incorporated by Fed. R. Bankr. P. 7055, 9014(c). The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

The court may approve employment of professional persons who "do not hold or represent an interest adverse to the estate, and that are disinterested persons." 11 U.S.C. § 327(a); see also *id.* § 101(14) (defining "disinterested person"). From the factual information provided in the motion and supporting papers, the court will approve the employment.

The order shall contain the following provision: "Nothing contained herein shall be construed to approve any provision of any agreement between [professional's name] and the estate for indemnification, arbitration, choice of venue, jurisdiction, jury waiver, limitation of damages, or similar provision." The order shall also state its effective date in a manner consistent with LBR 2014-1(b)(1).

14. [16-11644](#)-A-7 **IN RE: TONI PHOEUN**
[RH-4](#)

MOTION FOR COMPENSATION FOR ROBERT HAWKINS, TRUSTEES
ATTORNEY(S)
3-28-2018 [[52](#)]

ERIC ESCAMILLA

Final Ruling

Application: Allowance of Final Compensation and Expense
Reimbursement

Notice: LBR 9014-1(f)(1); written opposition required

Disposition: Approved

Order: Civil minute order

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this application was required not less than 14 days before the hearing on the application. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

COMPENSATION AND EXPENSES

In this Chapter 7 case, Robert Hawkins, attorney for the trustee, has applied for an allowance of final compensation and reimbursement of expenses. The applicant requests that the court allow compensation in the amount of \$4160.00 and reimbursement of expenses in the amount of \$100.52.

Section 330(a) of the Bankruptcy Code authorizes "reasonable compensation for actual, necessary services" rendered by a trustee, examiner or professional person employed under § 327 or § 1103 and "reimbursement for actual, necessary expenses." 11 U.S.C. § 330(a)(1). Reasonable compensation is determined by considering all relevant factors. See *id.* § 330(a)(3).

The court finds that the compensation and expenses sought are reasonable, and the court will approve the application on a final basis.

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

Robert Hawkins's application for allowance of final compensation and reimbursement of expenses has been presented to the court. Having entered the default of respondent for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the application,

IT IS ORDERED that the application is approved on a final basis. The court allows final compensation in the amount of \$4160.00 and reimbursement of expenses in the amount of \$100.52.

IT IS FURTHER ORDERED that the trustee is authorized without further order of this court to pay from the estate the aggregate amount allowed by this order in accordance with the Bankruptcy Code and the distribution priorities of § 726.

15. [17-11245](#)-A-7 **IN RE: ORLONZO HEDRINGTON**
[RAS-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
3-15-2018 [\[22\]](#)

DEUTSCHE BANK NATIONAL TRUST
COMPANY/MV
LAYNE HAYDEN
SEAN FERRY/ATTY. FOR MV.
DISCHARGED

Final Ruling

Motion: Stay Relief

Notice: LBR 9014-1(f)(1); written opposition required

Disposition: Granted in part, denied in part as moot

Order: Civil minute order

Subject: 14895 E. Clinton Ave., Fresno, CA

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

AS TO DEBTOR

The motion will be denied in part as moot to the extent it seeks stay relief as to the debtor. The stay that protects the debtor terminates at the entry of discharge. 11 U.S.C. § 362(c)(2). In this case, discharge has been entered. As a result, the motion will be denied in part as moot as to the debtor.

AS TO ESTATE

Section 362(d)(2) authorizes stay relief if the debtor lacks equity in the property and the property is not necessary to an effective reorganization. 11 U.S.C. § 362(d)(2). Chapter 7 is a mechanism for liquidation, not reorganization, and, therefore, property of the estate is never necessary for reorganization. *In re Casgul of Nevada, Inc.*, 22 B.R. 65, 66 (B.A.P. 9th Cir. 1982). In this case, the aggregate amount due all liens exceeds the value of the collateral and the debtor has no equity in the property. The motion will be granted, and the 14-day stay of Federal Rule of Bankruptcy Procedure 4001(a)(3) will be waived. No other relief will be awarded.

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

Deutsche Bank National Trust Company's motion for relief from the automatic stay has been presented to the court. Having entered the default of respondent for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the motion,

IT IS ORDERED that the motion is granted in part and denied as moot in part. The automatic stay is vacated with respect to the interest of the trustee in the property described in the motion, commonly known as 14895 E. Clinton Ave., Fresno, CA. Relief from the automatic stay as to the interest of the debtor in such property is denied as moot given the entry of the discharge in this case. 11 U.S.C. § 362(c)(2)(C).

IT IS FURTHER ORDERED that the 14-day stay of the order under Federal Rule of Bankruptcy Procedure 4001(a)(3) is waived. Any party with standing may pursue its rights against the property pursuant to applicable non-bankruptcy law.

IT IS FURTHER ORDERED that no other relief is awarded. To the extent that the motion includes any request for attorney's fees or other costs for bringing this motion, the request is denied.

16. [17-12046](#)-A-7 **IN RE: MEDICAL ARTS AMBULATORY SURGERY
CENTER, INC.
[NCK-1](#)**

MOTION FOR RELIEF FROM AUTOMATIC STAY
3-29-2018 [\[80\]](#)

LYNDA VARGAS/MV
LEONARD WELSH
DANIEL BARADAT/ATTY. FOR MV.

Final Ruling

Motion: Relief from Stay

Disposition: Denied without prejudice

Order: Civil minute order

INSUFFICIENT SERVICE

The court will deny the motion without prejudice on grounds of insufficient service of process. A motion for relief from stay is a contested matter requiring service of the motion in the manner provided by Federal Rule of Bankruptcy Procedure 7004. Fed. R. Bankr. P. 4001(a)(1), 9014(b). Under Rule 7004, service on an individual must be made by first class mail addressed to the individual's dwelling house or usual place of abode or to the place

where the individual regularly conducts a business or profession." Fed. R. Bankr. P. 7004(b)(1). A debtor in bankruptcy may be served before the case is dismissed or closed "at the address shown in the petition or to such other address as the debtor may designate in a filed writing." Fed. R. Bankr. P. 7004(b)(9).

Here, service of the motion was insufficient. The motion and supporting papers were not served on the debtor. In addition, the motion was not served on the trustee.

LOCAL RULES VIOLATION

A motion was previously filed for stay relief by this movant having NCK-1 as the docket control number. That motion was denied for insufficient service and non-compliance with the court's local rules. The present motion has been filed with docket control number NCK-1.

LBR 9014-1(c)(3) provides:

The Docket Control Number shall consist of not more than three letters . . . 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.

The present motion and the previous motion have the same docket control number with the same number used. So the docket control number for the motion is not compliant with the court's local rules.

17. [18-10546](#)-A-7 **IN RE: PRECISIONS TILE WORKS, INC.**
[RH-3](#)

MOTION TO SELL
3-27-2018 [[15](#)]

JAMES SALVEN/MV
SCOTT LYONS
ROBERT HAWKINS/ATTY. FOR MV.

Final Ruling

Motion: Sell Property

Notice: LBR 9014-1(f)(1); written opposition required

Disposition: Granted

Order: Prepared by moving party

Property: 2014 Chevrolet Silverado, 2004 GMC 2500 and miscellaneous machinery and equipment

Sale Type: Public auction

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written

opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

Section 363(b)(1) of Title 11 authorizes sales of property of the estate "other than in the ordinary course of business." 11 U.S.C. § 363(b)(1); see also *In re Lionel Corp.*, 722 F.2d 1063, 1071 (2d Cir. 1983) (requiring business justification). The moving party is the Chapter 7 trustee and liquidation of property of the estate is a proper purpose. See 11 U.S.C. § 704(a)(1). As a result, the court will grant the motion. The stay of the order provided by Federal Rule of Bankruptcy Procedure 6004(h) will be waived.

18. [18-10049](#)-A-7 **IN RE: JAIME/BREANNA GALDAMEZ**
[DRJ-1](#)

MOTION TO AVOID LIEN OF DEPARTMENT STORES NATIONAL BANK
3-27-2018 [\[21\]](#)

JAIME GALDAMEZ/MV
DAVID JENKINS

Final Ruling

Motion: Avoid Lien that Impairs Exemption

Notice: LBR 9014-1(f)(1); written opposition required

Disposition: Granted

Order: Prepared by moving party

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, incorporated by Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

Section 522(f) of the Bankruptcy Code authorizes the court to avoid a lien "on an interest of the debtor in property to the extent that such lien impairs an exemption to which the debtor would have been entitled." 11 U.S.C. § 522(f)(1). There are four elements to avoidance of a lien that impairs an exemption: (1) there must be an exemption to which the debtor would have been entitled; (2) the property must be listed on the schedules and claimed as exempt; (3) the lien must impair the exemption claimed; and (4) the lien must be a judicial lien or nonpossessory, nonpurchase-money security interest in property described in § 522(f)(1)(B). *Goswami v. MTC Distrib. (In re Goswami)*, 304 B.R. 386, 390-91 (B.A.P. 9th Cir. 2003). Impairment is statutorily defined: a lien impairs an

exemption "to the extent that the sum of - (i) the lien; (ii) all other liens on the property; and (iii) the amount of the exemption that the debtor could claim if there were no liens on the property; exceeds the value that the debtor's interest in the property would have in the absence of any liens." 11 U.S.C. § 522(f)(2)(A).

The responding party's judicial lien, all other liens, and the exemption amount together exceed the property's value by an amount greater than or equal to the judicial lien. As a result, the responding party's judicial lien will be avoided entirely.

19. [17-12750](#)-A-7 **IN RE: BRIAN/LOURIE FOLLAND**
[RWR-2](#)

MOTION TO COMPROMISE CONTROVERSY/APPROVE SETTLEMENT
AGREEMENT WITH BRIAN FOLLAND AND LOURIE LANNETT FOLLAND
3-22-2018 [\[64\]](#)

JAMES SALVEN/MV
DAVID JENKINS
RUSSELL REYNOLDS/ATTY. FOR MV.

Tentative Ruling

Motion: Approve Compromise or Settlement of Controversy
Notice: LBR 9014-1(f)(2); no written opposition required
Disposition: Granted
Order: Civil minute order

Parties to Compromise: Trustee and Brian Folland and Lourie Folland
Dispute Compromised: Estate's Interest in 1530 East La Quinta Drive Fresno, California and Brian Folland's law practice (including accounts receivable)
Summary of Material Terms: \$115,000, payable at \$6,000 per month

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

APPROVAL OF COMPROMISE

In determining whether to approve a compromise under Federal Rule of Bankruptcy Procedure 9019, the court determines whether the compromise was negotiated in good faith and whether the party proposing the compromise reasonably believes that the compromise is the best that can be negotiated under the facts. *In re A & C Props.*, 784 F.2d 1377, 1381 (9th Cir. 1982). More than mere good faith negotiation of a compromise is required. The court must also find that the compromise is fair and equitable. *Id.* "Fair and equitable" involves a consideration of four factors: (i) the probability of success in the litigation; (ii) the difficulties to

be encountered in collection; (iii) the complexity of the litigation, and expense, delay and inconvenience necessarily attendant to litigation; and (iv) the paramount interest of creditors and a proper deference to the creditors' expressed wishes, if any. *Id.* The party proposing the compromise bears the burden of persuading the court that the compromise is fair and equitable and should be approved. *Id.*

The movant requests approval of a compromise that settles the dispute described above. The compromise is reflected in the settlement agreement attached to the motion as an exhibit. Based on the motion and supporting papers, the court finds that the compromise presented for the court's approval is fair and equitable considering the relevant *A & C Properties* factors. The compromise or settlement will be approved.

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

James E. Salven's motion to approve a compromise has been presented to the court. Having considered the motion, oppositions, responses and replies, if any, and having heard oral argument presented at the hearing,

IT IS ORDERED that the motion is granted. The court hereby approves the compromise that is reflected in the settlement agreement attached to the motion as an exhibit and filed at docket no. 68.

20. [17-12755](#)-A-7 **IN RE: CHERYL EAKER**
[JES-2](#)

MOTION TO SELL
3-7-2018 [[29](#)]

JAMES SALVEN/MV
SHARLENE ROBERTS-CAUDLE/ATTY. FOR MV.

Tentative Ruling

Motion: Sell Property

Notice: LBR 9014-1(f)(1); written opposition required

Disposition: Granted

Order: Prepared by moving party

Property: Remington Wingmaster 12-gauge shotgun and Smith and Wesson 9mm

Buyer: Debtor

Sale Price: \$1500.00 (\$1425.00 cash plus \$75 exemption credit)

Sale Type: Private sale subject to overbid opportunity

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

Section 363(b)(1) of Title 11 authorizes sales of property of the estate "other than in the ordinary course of business." 11 U.S.C. § 363(b)(1); *see also In re Lionel Corp.*, 722 F.2d 1063, 1071 (2d Cir. 1983) (requiring business justification). The moving party is the Chapter 7 trustee and liquidation of property of the estate is a proper purpose. *See* 11 U.S.C. § 704(a)(1). As a result, the court will grant the motion. The stay of the order provided by Federal Rule of Bankruptcy Procedure 6004(h) will be waived.

21. [18-10758](#)-A-7 **IN RE: TRACIE SALAZAR**
[APN-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
3-23-2018 [[19](#)]

NISSAN MOTOR ACCEPTANCE
CORPORATION/MV
AUSTIN NAGEL/ATTY. FOR MV.
DISMISSED

Final Ruling

Motion: Stay Relief

Disposition: Denied as moot

Order: Civil minute order

Federal courts have no authority to decide moot questions. *Arizonans for Official English v. Arizona*, 520 U.S. 43, 67-68, 72 (1997). "The basic question in determining mootness is whether there is a present controversy as to which effective relief can be granted." *Nw. Envtl. Def. Ctr. v. Gordon*, 849 F.2d 1241, 1244-45 (9th Cir. 1988) (citing *United States v. Geophysical Corp.*, 732 F.2d 693, 698 (9th Cir.1984)).

Dismissal of a bankruptcy case terminates the automatic stay. Under § 362(c)(1), the stay of an act against property of the estate terminates when such property leaves the estate. 11 U.S.C. § 362(c)(1). And the dismissal of a case "revests the property of the estate in the entity in which such property was vested immediately before the commencement of the case." *Id.* § 349(b)(3). Under § 362(c)(2), the stay of "any other act" under § 362(a) terminates upon the earlier of three events: (i) dismissal of a

case, (ii) closure of a case, or (iii) the time a discharge is granted or denied. 11 U.S.C. § 362(c)(2)(A)-(C).

Because the case has been dismissed, the automatic stay no longer exists. The court is unable to grant effective relief. The motion will be denied as moot.

22. [18-10259](#)-A-7 **IN RE: CARLEE JOHNSON**
[RDW-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
4-4-2018 [[20](#)]

TECHNOLOGY CREDIT UNION/MV
MARK ZIMMERMAN
REILLY WILKINSON/ATTY. FOR MV.

Tentative Ruling

Motion: Stay Relief

Notice: LBR 9014-1(f)(2); no written opposition required

Disposition: Granted

Order: Civil minute order

Subject: Solar Energy System located at 6220 W. Buena Vista Ct.,
Visalia, CA

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

STAY RELIEF

Section 362(d)(2) authorizes stay relief if the debtor lacks equity in the property and the property is not necessary to an effective reorganization. 11 U.S.C. § 362(d)(2). Chapter 7 is a mechanism for liquidation, not reorganization, and, therefore, property of the estate is never necessary for reorganization. *In re Casgul of Nevada, Inc.*, 22 B.R. 65, 66 (B.A.P. 9th Cir. 1982). In this case, the aggregate amount due all liens exceeds the value of the collateral and the debtor has no equity in the property. The motion will be granted, and the 14-day stay of Federal Rule of Bankruptcy Procedure 4001(a)(3) will be waived. No other relief will be awarded.

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

Technology Credit Union's motion for relief from the automatic stay has been presented to the court. Having entered the default of respondent for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the motion,

IT IS ORDERED that the motion is granted. The automatic stay is vacated as to all parties in interest with respect to the property described in the motion, commonly known as a Solar Energy System located at 6220 W. Buena Vista Ct., Visalia, CA. The 14-day stay of the order under Federal Rule of Bankruptcy Procedure 4001(a)(3) is waived. Any party with standing may pursue its rights against the property pursuant to applicable non-bankruptcy law.

IT IS FURTHER ORDERED that no other relief is awarded. To the extent that the motion includes any request for attorney's fees or other costs for bringing this motion, the request is denied.

23. [17-14468](#)-A-7 **IN RE: BRUCE GREER**
[RH-3](#)

MOTION TO SELL
3-27-2018 [\[54\]](#)

TRUDI MANFREDO/MV
DAVID JENKINS
ROBERT HAWKINS/ATTY. FOR MV.

Tentative Ruling

Motion: Sell Property

Notice: LBR 9014-1(f)(1); written opposition required

Disposition: Granted

Order: Prepared by moving party

Property: 18906 Avenue 300 Exeter, CA

Buyer: Debtor

Sale Price: \$599,000 (\$80,000 cash plus \$100,000 homestead exemption credit and accounting for a \$367,919 mortgage lien and the costs of closing a sale to a third party in the approximate amount of \$51,081)

Sale Type: Private sale subject to overbid opportunity

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true.

TeleVideo Sys., Inc. v. Heidenthal, 826 F.2d 915, 917-18 (9th Cir. 1987).

Section 363(b)(1) of Title 11 authorizes sales of property of the estate "other than in the ordinary course of business." 11 U.S.C. § 363(b)(1); see also *In re Lionel Corp.*, 722 F.2d 1063, 1071 (2d Cir. 1983) (requiring business justification). The moving party is the Chapter 7 trustee and liquidation of property of the estate is a proper purpose. See 11 U.S.C. § 704(a)(1). As a result, the court will grant the motion. The stay of the order provided by Federal Rule of Bankruptcy Procedure 6004(h) will be waived.

24. [16-10469](#)-A-7 **IN RE: JEFFREY BOHN**
[JES-3](#)

MOTION TO EMPLOY EUGEN C. ANDRES AS SPECIAL COUNSEL
8-23-2016 [[72](#)]

JAMES SALVEN/MV
PETER FEAR
RUSSELL REYNOLDS/ATTY. FOR MV.
ORDER, ECF NO. 132

No Ruling

25. [18-10069](#)-A-7 **IN RE: JORGE/JESSICA RAMOS**
[JES-1](#)

OBJECTION TO DEBTOR'S CLAIM OF EXEMPTIONS
3-8-2018 [[20](#)]

JAMES SALVEN/MV

Tentative Ruling

Objection: Objection to Claim of Exemptions
Notice: LBR 9014-1(f)(1); written opposition required
Disposition: Sustained
Order: Civil minute order

Unopposed objections are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c); LBR 9001-1(d), (n) (contested matters include objections). Written opposition to the sustaining of this objection was required not less than 14 days before the hearing on this motion. None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

FACTS

The debtors have claimed an exemption in their 2017 income tax refunds in the amount of \$6,100. The exemption is claimed under California Code of Civil Procedure § 704.070. The trustee has objected to this claim of exemption arguing that the debtors' tax refunds do not qualify for an exemption under § 704.070.

EXEMPTION LAW

A debtor may claim an exemption in paid earnings under California Code of Civil Procedure section 704.070. Cal. Civ. Proc. Code § 704.070(a)(2), (b). The term "paid earnings" means "earnings as defined in Section 706.011 that were paid to the employee during the 30-day period ending on the date of the levy." *Id.* § 704.070(a)(2). The term "earnings" means "compensation made payable by an employer to an employee for personal services performed by such employee, whether denominated as wages, salary, commission, bonus, or otherwise." *Id.* § 706.011(a).

The exemption for earnings is limited to all or a percentage of earnings paid to an employee within the 30-day period prior to the date of levy, which translates in the bankruptcy context to the 30-day period preceding the date of the petition. See Cal. Civ. Proc. Code § 704.070(a)(2); *In re Moffat*, 119 B.R. 201, 204 n.3 (B.A.P. 9th Cir. 1990) ("The debtor's exemption rights under state law are determined as of the date of the petition.").

ANALYSIS

The trustee is correct. The debtors tax refunds could never qualify as paid earnings as that term is defined in § 704.070(a) and § 706.011(a) of the California Code of Civil Procedure. A tax refund is not compensation made payable by an employer to an employee for personal services performed the employee. Taxpayers do not receive tax refunds from government taxing agencies in exchange for their services. The objection will be sustained.

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

The chapter 7 trustee's objection to the debtors' claim of exemptions in 2017 tax refunds has been presented to the court. Having entered the default of respondent for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the objection,

IT IS ORDERED that the objection is sustained.

26. [15-11079](#)-A-7 **IN RE: WEST COAST GROWERS, INC. A CALIFORNIA**
CORPORATION
[KDG-37](#)

MOTION FOR ORDER AUTHORIZING DISTRIBUTIONS TO CERTAIN
CREDITORS UNDER TERMS OF ORDER APPROVING GLOBAL SETTLEMENT
OF DISPUTES
3-16-2018 [[1033](#)]

ROBERT HAWKINS/MV
HAGOP BEDOYAN
NON-OPPOSITION

Final Ruling

Motion: For Order Authorizing Distributions to Certain Creditors
under the Terms of a Settlement Agreement

Notice: LBR 9014-1(f)(1); written opposition required

Disposition: Granted

Order: Prepared by moving party pursuant to instructions below

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

The trustee requests authorization to disburse funds to certain creditors as contemplated by a settlement approved by the court. Pursuant to §§ 363(b)(1) and 725 of the Code and Rule 6007, the court will authorize the distribution.

The proposed order shall be submitted with the signatures of the creditors who are entitled to the distribution, which signatures shall indicate their consent to the distribution amount under the terms of the settlement.

27. [18-10087](#)-A-7 **IN RE: ANTONIO DE LEON**
[JES-1](#)

OBJECTION TO DEBTOR'S CLAIM OF EXEMPTIONS
3-7-2018 [\[23\]](#)

JAMES SALVEN/MV

Tentative Ruling

Objection: Objection to Claim of Exemptions
Notice: LBR 9014-1(f)(1); written opposition required
Disposition: Sustained
Order: Civil minute order

Unopposed objections are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c); LBR 9001-1(d), (n) (contested matters include objections). Written opposition to the sustaining of this objection was required not less than 14 days before the hearing on this motion. None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

EXEMPTION IN TRAILER

The debtors have claimed an exemption in a 1996 utility trailer in the amount of \$800.00. They claim the exemption under California Code of Civil Procedure § 704.010. The trustee objects to this claim of exemption.

Section 704.010 of the California Code of Civil Procedure provides for an exemption in motor vehicles or the proceeds of an execution sale or of insurance or other indemnification for the loss or damage of a motor vehicle.

When interpreting a statute, the court must "assume that the legislative purpose is expressed by the ordinary meaning of the words used." *In re Hokulani Square, Inc.*, 776 F.3d 1083, 1086 (9th Cir. 2015). Indeed, "when the statute's language is plain, the sole function of the courts – at least where the disposition required by the text is not absurd – is to enforce it according to its terms." *Hartford Underwriters Ins. Co. v. Union Planters Bank, N.A.*, 530 U.S. 1, 6, 120 S. Ct. 1942, 1947 (2000) (internal quotation marks omitted).

The plain language of the exemption statute uses the term "motor vehicle." A motor vehicle requires that the vehicle or conveyance have a motor. See *Webster's II New College Dictionary* 732 (3d. ed. 2005) (defining a "motor vehicle" as a "self-propelled wheeled conveyance not running on rails"). A trailer does not qualify as a motor vehicle under § 704.010 of the C.C.P.

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

The chapter 7 trustee's objection to the debtor's claim of exemptions in a utility trailer has been presented to the court. Having entered the default of respondent for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the objection,

IT IS ORDERED that the objection is sustained.

28. [18-10787](#)-A-7 **IN RE: JOANN BARALDI AND DANNY SANCHEZ**

MOTION FOR WAIVER OF THE CHAPTER 7 FILING FEE OR OTHER FEE
3-6-2018 [[5](#)]

JOANN BARALDI/MV
JOANN BARALDI/ATTY. FOR MV.

No Ruling

29. [18-10694](#)-A-7 **IN RE: PAMELA WILLIAMS**
[APN-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
3-19-2018 [[11](#)]

SANTANDER CONSUMER USA INC./MV
PETER BUNTING
AUSTIN NAGEL/ATTY. FOR MV.

Final Ruling

Motion: Stay Relief

Notice: LBR 9014-1(f)(1); written opposition required

Disposition: Granted

Order: Civil minute order

Subject: 2009 Dodge Charger

Unopposed motions are subject to the rules of default. Fed. R. Civ. P.55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). None has been

filed. And the debtor has filed a non-opposition to the relief sought.

The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

STAY RELIEF

Section 362(d)(2) authorizes stay relief if the debtor lacks equity in the property and the property is not necessary to an effective reorganization. 11 U.S.C. § 362(d)(2). Chapter 7 is a mechanism for liquidation, not reorganization, and, therefore, property of the estate is never necessary for reorganization. *In re Casgul of Nevada, Inc.*, 22 B.R. 65, 66 (B.A.P. 9th Cir. 1982). In this case, the aggregate amount due all liens exceeds the value of the collateral and the debtor has no equity in the property. The motion will be granted, and the 14-day stay of Federal Rule of Bankruptcy Procedure 4001(a)(3) will be waived. No other relief will be awarded.

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

Santander Consumer USA, Inc.'s motion for relief from the automatic stay has been presented to the court. Having entered the default of respondent for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the motion,

IT IS ORDERED that the motion is granted. The automatic stay is vacated with respect to the property described in the motion, commonly known as a 2009 Dodge Charger, as to all parties in interest. The 14-day stay of the order under Federal Rule of Bankruptcy Procedure 4001(a)(3) is waived. Any party with standing may pursue its rights against the property pursuant to applicable non-bankruptcy law.

IT IS FURTHER ORDERED that no other relief is awarded. To the extent that the motion includes any request for attorney's fees or other costs for bringing this motion, the request is denied.

30. [13-15197](#)-A-7 **IN RE: CHAD LANGWORTHY**
[KDG-4](#)

MOTION FOR COMPENSATION BY THE LAW OFFICE OF KLEIN,
DENATALE, GOLDNER, COOPER, ROSENLIEB, & KIMBALL, LLP FOR
LISA HOLDER, TRUSTEES ATTORNEY(S)
4-4-2018 [\[57\]](#)

STEVEN ALPERT

Tentative Ruling

Application: Allowance of Final Compensation and Expense
Reimbursement

Notice: LBR 9014-1(f)(2); no written opposition required

Disposition: Approved

Order: Civil minute order

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

COMPENSATION AND EXPENSES

In this Chapter 7 case, Klein DeNatale, attorney for the trustee, has applied for an allowance of final compensation and reimbursement of expenses. The applicant requests that the court allow compensation in the amount of \$11,256.00 and reimbursement of expenses in the amount of \$82.90.

Section 330(a) of the Bankruptcy Code authorizes "reasonable compensation for actual, necessary services" rendered by a trustee, examiner or professional person employed under § 327 or § 1103 and "reimbursement for actual, necessary expenses." 11 U.S.C. § 330(a)(1). Reasonable compensation is determined by considering all relevant factors. See *id.* § 330(a)(3).

The court finds that the compensation and expenses sought are reasonable, and the court will approve the application on a final basis.

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

Klein DeNatale's application for allowance of final compensation and reimbursement of expenses has been presented to the court. Having entered the default of respondent for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the application,

IT IS ORDERED that the application is approved on a final basis. The court allows final compensation in the amount of \$11,256.00 and reimbursement of expenses in the amount of \$82.90.

IT IS FURTHER ORDERED that the trustee is authorized without further order of this court to pay from the estate the aggregate amount allowed by this order in accordance with the Bankruptcy Code and the distribution priorities of § 726.

31. [18-10099](#)-A-7 **IN RE: LUIS ROBERTO MIRA ALMENDARIZ**
[BPC-2](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
4-10-2018 [[60](#)]

THE GOLDEN 1 CREDIT UNION/MV
DIONISIO COSTALES
JEANNIE KIM/ATTY. FOR MV.

Tentative Ruling

Motion: Stay Relief

Notice: LBR 9014-1(f)(2); no written opposition required

Disposition: Granted

Order: Civil minute order

Subject: 2012 Kia Optima

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

STAY RELIEF

Section 362(d)(2) authorizes stay relief if the debtor lacks equity in the property and the property is not necessary to an effective reorganization. 11 U.S.C. § 362(d)(2). Chapter 7 is a mechanism for liquidation, not reorganization, and, therefore, property of the estate is never necessary for reorganization. *In re Casgul of Nevada, Inc.*, 22 B.R. 65, 66 (B.A.P. 9th Cir. 1982). In this case, the aggregate amount due all liens exceeds the value of the collateral and the debtor has no equity in the property. The motion will be granted, and the 14-day stay of Federal Rule of Bankruptcy Procedure 4001(a)(3) will be waived. No other relief will be awarded.

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

The Golden 1 Credit Union's motion for relief from the automatic stay has been presented to the court. Having entered the default of respondent for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the motion,

IT IS ORDERED that the motion is granted. The automatic stay is vacated with respect to the property described in the motion, commonly known as 2012 Kia Optima, as to all parties in interest. The 14-day stay of the order under Federal Rule of Bankruptcy Procedure 4001(a)(3) is waived. Any party with standing may pursue its rights against the property pursuant to applicable non-bankruptcy law.

IT IS FURTHER ORDERED that no other relief is awarded. To the extent that the motion includes any request for attorney's fees or other costs for bringing this motion, the request is denied.

32. [18-10399](#)-A-7 **IN RE: KRISTINA ESPINOZA**
[EPE-1](#)

MOTION TO AVOID LIEN OF BANK OF AMERICA, N.A.
3-22-2018 [\[15\]](#)

KRISTINA ESPINOZA/MV
ERIC ESCAMILLA

Tentative Ruling

Motion: Avoid Lien that Impairs Exemption

Notice: LBR 9014-1(f)(1); written opposition required

Disposition: Granted in part, denied in part

Order: Prepared by moving party

Judicial Lien: \$6068.69 plus post-judgment interest

All Other Liens: \$108,416.00

Exemption: \$95,584.00

Value of Property: \$208,000.00

Extent Judicial Lien Not Avoided: \$4,000.00

Extend Judicial Lien Avoided: \$2,068.69

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true.

TeleVideo Sys., Inc. v. Heidenthal, 826 F.2d 915, 917-18 (9th Cir. 1987).

Section 522(f) of the Bankruptcy Code authorizes the court to avoid a lien "on an interest of the debtor in property to the extent that such lien impairs an exemption to which the debtor would have been entitled." 11 U.S.C. § 522(f)(1). There are four elements to avoidance of a lien that impairs an exemption: (1) there must be an exemption to which the debtor would have been entitled; (2) the property must be listed on the schedules and claimed as exempt; (3) the lien must impair the exemption claimed; and (4) the lien must be a judicial lien or nonpossessory, nonpurchase-money security interest in property described in § 522(f)(1)(B). *Goswami v. MTC Distrib. (In re Goswami)*, 304 B.R. 386, 390-91 (B.A.P. 9th Cir. 2003). Impairment is statutorily defined: a lien impairs an exemption "to the extent that the sum of - (i) the lien; (ii) all other liens on the property; and (iii) the amount of the exemption that the debtor could claim if there were no liens on the property; exceeds the value that the debtor's interest in the property would have in the absence of any liens." 11 U.S.C. § 522(f)(2)(A).

The court finds that the liens, exemption amount, and property's value are as set forth above. The motion is granted in part and denied in part. The respondent's judicial lien, all other liens, and the exemption amount together do not exceed the property's value by an amount equal to the respondent's judicial lien. The responding party's judicial lien is not avoided to the extent set forth above, and the remaining balance of the judicial lien is avoided.

33. [17-11824](#)-A-7 **IN RE: HORISONS UNLIMITED**
[SFR-1](#)

MOTION TO EMPLOY SHARLENE F. ROBERTS-CAUDLE AS SPECIAL
COUNSEL
4-11-2018 [[603](#)]

JAMES SALVEN/MV
CECILY DUMAS
PETER FEAR/ATTY. FOR MV.

No Ruling