UNITED STATES BANKRUPTCY COURT
Eastern District of California
Honorable Jennifer E. Niemann
Hearing Date: Wednesday, May 1, 2024
Department A – Courtroom #11
Fresno, California

Unless otherwise ordered, all matters before the Honorable Jennifer E. Niemann shall be simultaneously: (1) **In Person** at, Courtroom #11 (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 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 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 who wish to appear remotely must contact the Courtroom Deputy for the Department holding the hearing.

Please also note the following:

- Parties in interest 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 appearing by ZoomGov may only listen in to the hearing using the zoom telephone number. Video appearances are not permitted.
- Members of the public and the press may not listen in to trials or evidentiary hearings, though they may appear in person in most instances.

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.

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 POSSIBLE UPDATES.

9:30 AM

1. 22-11226-A-11 **IN RE: ALVARENGA TRANSPORT, LLC**
FW-15

MOTION TO COMPROMISE CONTROVERSY/APPROVE SETTLEMENT AGREEMENT WITH ALFREDO MILLAN ZUNIGA, BRENDA MILLAN, MIRIAM CINDY RAMIREZ MUNOZ, JASMINE RAMIREZ MUNOZ, AND DIANA RAMIREZ MUNOZ
4-3-2024 [202]

ALVARENGA TRANSPORT, LLC/MV
PETER FEAR/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.

This motion was set for hearing on at least 28 days' notice prior to the hearing date pursuant to Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of 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). 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 a moving party make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

Alvarenga Transport LLC ("Debtor"), the chapter 11 debtor and debtor in possession, moves the court for an order pursuant to Federal Rule of Bankruptcy Procedure 9019, approving a settlement and release between Debtor and Alfredo Millan Zuniga, Brenda Millan, Miriam Cindy Ramirez Munoz, Jasmine Ramirez Munoz a/k/a/ Jamine Ramirez Munoz, and Diana Ramirez Munoz (collectively, the "Claimants") resolving Debtor's objection to Claimants' claims. Doc. #202.

Pre-petition, Claimants filed lawsuits against Debtor and others in state court claiming liability related to personal injuries suffered in a motor vehicle collision. Doc. #202. After Debtor's bankruptcy petition was filed, Claimants each filed proofs of claim, and Debtor timely objected to each proof of claim. Claim 4-1; Claim 5-1; Claim 6-1; Claim 9-1; Claim 10-1; Doc. ##126-150. On February 2, 2023, Debtor's chapter 11 plan of reorganization ("Plan") was confirmed. Doc. #109. In the Plan, Claimants are classified as general unsecured creditors. Id. The Plan provides for payments by Debtor into a distribution fund from which the subchapter V trustee will pay general unsecured creditors on a pro rata basis. Id. The Plan further provides that any funds remaining after administrative expenses are approved and paid will be applied to the claims of general unsecured creditors. Id.

Claimants and Debtor mediated Debtor's objection to Claimants' claims and have agreed to resolve Debtor's liability to Claimants for a set claim amount.

Doc. #202. The specific dollar amount agreed to for Claimants' claims are as follows:

(1) Alfredo Millan Zuniga's claim is set at $3,000,000;

(2) Brenda Millan's claim is set at $250,000;

(3) Miriam Cindy Ramirez's claim is set at $1,000,000;

(4) Jasmine Ramirez Munoz a/k/a Jamine Ramirez Munoz claim is set at $1,000,000; and

(5) Diana Ramirez Munoz's claim is set at $4,750,000.

Ex. A; Doc. #205. Further, as part of the settlement, Debtor's principal, Jose Alvarenga, is required to withdraw his general unsecured claim in the amount of $516,000. Id. Mr. Alvarenga acknowledges this settlement agreement and is agreeable to its terms, including his willingness to withdraw his $516,000 claim for the benefit of the general unsecured creditors. Decl. of Jose Alvarenga, Doc. #204

On a motion by the debtor in possession and after notice and a hearing, the court may approve a compromise or settlement. Fed. R. Bankr. P. 9019. Approval of a compromise must be based upon considerations of fairness and equity. Martin v. Kane (In re A & C Props.), 784 F.2d 1377, 1381 (9th Cir. 1986). The court must consider and balance four factors: (1) the probability of success in the litigation; (2) the difficulties, if any, to be encountered in the matter of collection; (3) the complexity of the litigation involved, and the expense, inconvenience, and delay necessarily attending it; and (4) the paramount interest of the creditors with a proper deference to their reasonable views. Woodson v. Fireman's Fund Ins. Co. (In re Woodson), 839 F.2d 610, 620 (9th Cir. 1988).

It appears from the moving papers that Debtor has considered the standards of A & C Properties and Woodson. Doc. #202. First, Debtor believes it will prevail in litigating its liability to Claimants but understands the cost of litigation would be profoundly expensive. Id. Therefore, the settlement agreement conclusively establishes the outcome, and Debtor believes this factor tips in favor of approving the settlement. Id. Next, Debtor is the party paying the funds in this case and payments would be made at or near the end of the Plan term. Id. Therefore, this factor is neutral to Debtor. Id. Next, the facts are quite complex as Claimants have each asserted substantial personal injury claims in the millions of dollars as well as contends profound and permanent injuries. Id. The discovery that would need to be conducted with respect to Debtor's objections to Claimants' claims as well as the testimony of experts will be costly. Id. Approving the settlement will resolve the litigation and, to a reasonable degree of certainty, permit unused funds set aside in the Plan for administrative expenses in defending Claimants' claims to be available for the benefit of general unsecured creditors. Id. Therefore, this factor tips strongly in favor of approving the settlement. Id. Lastly, most of the general unsecured creditors in this case will benefit by having Claimants' claims determined under the terms of the settlement. By requiring Debtor's principal, Jose Alvarenga, to relinquish his $516,000 general unsecured claim as part of the settlement agreement, the settlement results in a larger share of the proceeds from the Plan distribution fund to be paid pro rata to the general unsecured creditors of the estate. Id. Therefore, this factor tips strongly in favor of approving the settlement. Id. The settlement is fair, reasonable, and obtains an economically advantageous result. The court concludes that the A & C Properties factors balance in favor of approving the compromise, and the compromise is in the best interest of the creditors and the estate.

Accordingly, it appears that the compromise pursuant to Federal Rule of Bankruptcy Procedure 9019 is reasonable. The court may give weight to the opinions of the debtor in possession, the parties, and their attorneys. In re Blair, 538 F.2d 849, 851 (9th Cir. 1976). No opposition has been filed. Furthermore, the law favors compromise and not litigation for its own sake. Id.

Accordingly, the motion is GRANTED, and the settlement between Debtor and Claimants is approved. Debtor is authorized, but not required, to execute any and all documents necessary to satisfy the terms of the proposed settlement.

This ruling is not authorizing the payment of any fees or costs associated with the litigation.

2. 23-12784-A-11 **IN RE: KODIAK TRUCKING INC.**
CAS-1

MOTION FOR RELIEF FROM AUTOMATIC STAY, AND/OR MOTION FOR ADEQUATE PROTECTION
4-1-2024 [213]

ALLY BANK/MV
PETER FEAR/ATTY. FOR DBT.
CHERYL SKIGIN/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.

This motion was set for hearing on at least 28 days' notice prior to the hearing date as required by Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of 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 Systems, Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires a movant make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

The movant, Ally Bank ("Movant"), seeks relief from the automatic stay under 11 U.S.C. § 362(d)(1) with respect to a 2022 GMC Yukon XL SLE Sport Utility 4D, VIN #1GKS1FKD5NR314047 ("Yukon") and a 2022 GMC Sierra 1500 Crew Cab SLT Pickup 4D, VIN #3GTUUDET3NG642392 ("Sierra"). Doc. #213.

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).

After review of the included evidence, the court finds that "cause" exists to lift the stay as to the Yukon because the debtor has failed to make at least one complete pre-petition payment and three post-petition payments owed to Movant with respect to the Yukon. Decl. of Paul Tangen, Doc. #215; Ex. D, Doc. #216. Movant has produced evidence that the debtor is delinquent with respect to the Yukon by at least $5,301.12. Id. Moreover, the debtor does not have any equity in the Yukon because the Yukon is valued at $46,128.00, and the debtor owes $62,679.33 on the Yukon, so there is no equity cushion in the Yukon to serve as adequate protection for Movant. Tangen Decl., Doc. #215; Ex. C, Doc. #216.

After review of the included evidence, the court also finds that "cause" exists to lift the stay as to the Sierra because the debtor has failed to make at least four post-petition payments owed to Movant with respect to the Sierra. Tangen Decl., Doc. #215; Ex. H, Doc. #216. Movant has produced evidence that the debtor is delinquent with respect to the Sierra by at least $5,450.40. Id. Moreover, the debtor does not have any equity in the Sierra because the Sierra is valued at $55,273.00, and the debtor owes $64,043.96 on the Sierra, so there is no equity cushion in the Sierra to serve as adequate protection for Movant. Tangen Decl., Doc. #215; Ex. G, Doc. #216.

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

The 14-day stay of Federal Rule of Bankruptcy Procedure 4001(a)(3) will be ordered waived because the debtor has failed to make at least one complete pre-petition payment and three post-petition payments owed to Movant with respect to the Yukon, at least four post-petition payments owed to Movant with respect to the Sierra, and the Yukon and the Sierra are both depreciating assets.

1. 23-12203-A-7 **IN RE: DUSTIN/SARAH SMITH**
CAS-1

MOTION FOR RELIEF FROM AUTOMATIC STAY
3-26-2024 [42]

ALLY BANK/MV
ERIC ESCAMILLA/ATTY. FOR DBT.
CHERYL SKIGIN/ATTY. FOR MV.
DISCHARGED 04/05/2024

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

DISPOSITION: Granted in part and denied as moot in part.

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

This motion was set for hearing on at least 28 days' notice prior to the hearing date as required by Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of creditors, the debtors, 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 a movant make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

The movant, Ally Bank ("Movant"), seeks relief from the automatic stay under 11 U.S.C. § 362(d)(1) and (d)(2) with respect to a 2015 Ram Promaster City Tradesman SLT Cargo Van 4D; VIN: ZFBERFBT8F6A10468 (the "Vehicle"). Doc. #42.

The motion will be GRANTED IN PART as to the trustee's interest and DENIED AS MOOT IN PART as to the debtors' interest pursuant to 11 U.S.C. § 362(c)(2)(C). The debtors' discharge was entered on April 5, 2024. Doc. #54. The motion will be GRANTED IN PART for cause shown as to the chapter 7 trustee.

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 debtors do not have any 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 the debtors have failed to make at least five complete

post-petition payments. Movant has produced evidence that the debtors are delinquent by at least $1,574.10. Decl. of Paul Tangen, Doc. #44.

The court also finds that the debtors do not have any equity in the Vehicle and the Vehicle is not necessary to an effective reorganization because the debtors are in chapter 7. Id. The Vehicle is valued at $13,508.00 and the debtors owe $13,526.19. Tangen Decl., Doc. #44. The debtors have agreed to surrender the Vehicle, and Movant repossessed the Vehicle on March 1, 2024. Id.

Accordingly, the motion will be granted pursuant to 11 U.S.C. § 362(d)(1) and (d)(2) to permit 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 14-day stay of Federal Rule of Bankruptcy Procedure 4001(a)(3) will be ordered waived because the debtors have failed to make at least five complete post-petition payments to Movant, the Vehicle is a depreciating asset, and the debtors have already surrendered the Vehicle to Movant.

2. 23-12203-A-7 **IN RE: DUSTIN/SARAH SMITH**
FW-2

MOTION TO COMPROMISE CONTROVERSY/APPROVE SETTLEMENT AGREEMENT WITH DEBTORS DUSTIN RAY SMITH AND SARAH ANN SMITH
3-28-2024 [48]

PETER FEAR/MV
ERIC ESCAMILLA/ATTY. FOR DBT.
GABRIEL WADDELL/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.

This motion was set for hearing on at least 28 days' notice prior to the hearing date pursuant to Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of 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). 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 a moving party make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

Peter L. Fear ("Trustee"), the chapter 7 trustee of the bankruptcy estate of Dustin Ray Smith and Sarah Ann Smith (together, "Debtors"), moves the court for an order pursuant to Federal Rule of Bankruptcy Procedure 9019, approving a settlement agreement between Trustee and Debtors regarding the liquidation

value of Debtors' non-exempt assets, and selling the non-exempt equity in all assets back to Debtors. Doc. #48.

Trustee believes that the liquidation value of the non-exempt assets of Debtors' bankruptcy estate is higher than the value stated on Debtors' schedules. Decl. of Peter L. Fear, Doc. #50. Specifically, on Schedules A/B, Debtors list a number of assets and exempt some of the equity in those assets on Schedule C, but equity in the amount of $5,540.25 has not been exempt. Schedules A/B & C. Trustee believes that the actual liquidation value of Debtors' assets could result in a higher return to creditors than stated on Debtors' Schedules A/B and C. Fear Decl., Doc. #50. To resolve this dispute, Debtors agree to pay Trustee the total sum of $10,000 to purchase the non-exempt equity in all assets listed on Debtors' Schedules A/B by March 15, 2024. Stipulation, Doc. #52. Trustee currently holds the funds from Debtors, but the Stipulation provides that if Debtors fail to pay as agreed, Debtors shall be responsible to pay Trustee's attorneys' fees and costs in any action to enforce the stipulation. Id.

On a motion by the trustee and after notice and a hearing, the court may approve a compromise or settlement. Fed. R. Bankr. P. 9019. Approval of a compromise must be based upon considerations of fairness and equity. Martin v. Kane (In re A & C Props.), 784 F.2d 1377, 1381 (9th Cir. 1986). The court must consider and balance four factors: (1) the probability of success in the litigation; (2) the difficulties, if any, to be encountered in the matter of collection; (3) the complexity of the litigation involved, and the expense, inconvenience, and delay necessarily attending it; and (4) the paramount interest of the creditors with a proper deference to their reasonable views. Woodson v. Fireman's Fund Ins. Co. (In re Woodson), 839 F.2d 610, 620 (9th Cir. 1988).

It appears from the moving papers that Trustee has considered the standards of A & C Properties and Woodson. Doc. #48. The proposed settlement maximizes the distribution to unsecured creditors and collection of the negotiated amounts are not an issue. Fear Decl., Doc. #50. Further, this settlement would eliminate additional administrative expenses required to liquidate the non-exempt assets, including auctioneer expenses and attorneys' fees. Id. The court concludes that the A & C Properties factors balance in favor of approving the compromise, and the compromise is in the best interest of the creditors and the estate.

Accordingly, it appears that the compromise pursuant to Federal Rule of Bankruptcy Procedure 9019 is a reasonable exercise of Trustee's business judgment. The court may give weight to the opinions of the trustee, the parties, and their attorneys. In re Blair, 538 F.2d 849, 851 (9th Cir. 1976). No opposition has been filed. Furthermore, the law favors compromise and not litigation for its own sake. Id.

Accordingly, the motion is GRANTED, and the settlement between Trustee and Debtors is approved. Trustee is authorized, but not required, to execute any and all documents necessary to satisfy the terms of the proposed settlement.

This ruling is not authorizing the payment of any fees or costs associated with the litigation.

3. 24-10569-A-7 **IN RE: SHELLI PALOMINO**
SKI-1

MOTION FOR RELIEF FROM AUTOMATIC STAY
4-2-2024 [16]

TD BANK, N.A./MV
SHERYL ITH/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.

This motion was set for hearing on at least 28 days' notice prior to the hearing date as required by Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of 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 a movant make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

The movant, TD Bank, N.A. ("Movant"), seeks relief from the automatic stay under 11 U.S.C. § 362(d)(1) and (d)(2) with respect to a 2017 Genesis G80, VIN: KMHGN4JE1HU181336 (the "Vehicle"). Doc. #16.

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 any 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 the debtor has failed to make at least three complete pre- and post-petition payments. Movant has produced evidence that the debtor is delinquent by at least $1,994.31 plus late fees of $742.46 and recovery fees of $725.00. Decl. of Paulette Carter, Doc. #18.

The court also finds that the debtor does not have any equity in the Vehicle and the Vehicle is not necessary to an effective reorganization because the debtor is in chapter 7. The Vehicle is valued at $15,100.00 and the debtor owes $18,206.29. Carter Decl., Doc. #18; Decl. of John Eng, Doc. #22. Movant recovered the Vehicle pre-petition on March 7, 2024. Carter Decl., Doc. #18.

Accordingly, the motion will be granted pursuant to 11 U.S.C. § 362(d)(1) and (d)(2) to permit 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 14-day stay of Federal Rule of Bankruptcy Procedure 4001(a)(3) will be ordered waived because the debtor has failed to make at least three complete pre- and post-petition payments to Movant, the Vehicle is a depreciating asset, and Movant has possession of the Vehicle.