

UNITED STATES BANKRUPTCY COURT  
Eastern District of California  
Honorable René Lastreto II  
Hearing Date: Wednesday, May 6, 2020  
Place: Department B – 510 19th Street  
Bakersfield, California

**ALL APPEARANCES MUST BE TELEPHONIC**  
**(Please see the court's website for instructions.)**

*Pursuant to District Court General Order 617, no persons are permitted to appear in court unless authorized by order of the court until June 1, 2020. All appearances of parties and attorneys shall be telephonic through CourtCall, which advises the court that it is waiving the fee for the use of its service by pro se (not represented by an attorney) parties through May 31, 2020. The contact information for CourtCall to arrange for a phone appearance is: (866) 582-6878.*

**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. 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.**

**9:00 AM**

1. [18-10306](#)-B-13     **IN RE: ALEJANDRO CERVANTES**  
[MHM-5](#)

MOTION TO SHORTEN TIME AND REQUEST THAT HEARINGS BE EXPEDITED TO  
MAY FOR THE MOTION OF THOMAS O. GILLIS  
4-20-2020    [\[113\]](#)

MICHAEL MEYER/MV  
THOMAS GILLIS/ATTY. FOR DBT.  
RESPONSIVE PLEADING

TENTATIVE RULING:            This matter will proceed as scheduled.

DISPOSITION:                    Granted. Hearing on TOG-1 will be May 28, 2020  
at 11:30 a.m. Department B Fresno telephonic  
appearances only.

ORDER:                            The minutes of the hearing will be the court's  
findings and conclusions. The court will issue  
the order.

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

This motion is GRANTED. The hearing on TOG-1 will be advanced to May 28, 2020 at 11:30 am in Fresno, Department B. Only telephonic appearances will be permitted. It will be in joint session with Judge Clement who is assigned to In re Martinez/Chinchilla Case No. 19-12274 DCN TOG-1.

The chapter 13 trustee ("Trustee") asks the court to expedite the hearing of certain motions filed by debtor's former counsel, Thomas Gillis ("Gillis") to an earlier date in May. Doc. #113.

On April 9, 2020, Gillis filed TOG-1, a motion for alternative relief: amendment or additional findings of fact; judgment or order to be altered or amended; and for a new trial. Doc. #106. The hearing was originally scheduled by Gillis using the court's self-set calendar for June 24, 2020 at 9:30 a.m. in case no. 18-10306 (for Department B), and June 25, 2020 at 9:00 a.m. in case no. 19-

12274 (for Department A). Doc. #107. Trustee opposed the motion on April 21, 2020. Doc. #117.

Trustee alleges that Gillis may have set the matters out in June "to delay resolution of the [the] matters . . . ." Doc. #113. Gillis states that the matters were set out that far to give the court adequate time to review the matters and "because a briefing may be required from both sides or additional evidence might be required." Doc. #121. Gillis also opines that the compensation issues this case presents are "novel" and may be decided by the Bankruptcy Appellate Panel. Id.

The court appreciates Gillis's concern for the court's schedule. But if further briefing or evidence is needed the court can order that at the hearing on TOG-1. The Trustee has already filed opposition to TOG-1. So, all that is left for Gillis to file is any reply, if he chooses. The court's proposed disposition of this motion gives Gillis ample time to do so.

The hearing on TOG-1 shall be advanced to May 28, 2020 at 11:30 am. It shall be heard jointly with Gillis's identical motion (TOG-1) filed in 19-12274. Any opposition by other parties must be filed and served May 14, 2020. Trustee's opposition to the motion having been filed and served, Gillis's reply, if any, to any opposition shall be filed and served on or before May 21, 2020.

2. [19-13907](#)-B-13     **IN RE: JAVIER JAIME AND LILIANA LUIS**  
[MHM-2](#)

MOTION TO DISMISS CASE  
4-17-2020    [\[66\]](#)

MICHAEL MEYER/MV  
ROBERT WILLIAMS/ATTY. FOR DBT.

TENTATIVE RULING:            This matter will proceed as scheduled.

DISPOSITION:                Granted.

ORDER:                        The minutes of the hearing will be the court's findings and conclusions. The court will issue the order.

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

The basis for this motion was failure to confirm a chapter 13 plan and unreasonable delay that is prejudicial to creditors.

On April 22, 2020, debtor Liliana Luis submitted a declaration addressing the issues raised by the Ch. 13 Trustee in his opposition to confirmation of plan filed on March 17, 2020. Doc. #61. The debtor stated that they would be current with their plan payments by the hearing date and addressed the issue of additional expenses necessary for Javier Jaime's employment. Doc. # 71.

Therefore, if the motion to confirm (RSW-3) is granted, then this motion will be denied. If the motion to confirm is denied, then this motion may be granted.

3. [19-13907](#)-B-13     **IN RE: JAVIER JAIME AND LILIANA LUIS**  
[RSW-3](#)

CONTINUED MOTION TO CONFIRM PLAN  
3-4-2020    [\[53\]](#)

JAVIER JAIME/MV  
ROBERT WILLIAMS/ATTY. FOR DBT.  
RESPONSIVE PLEADING

TENTATIVE RULING:        This matter will proceed as scheduled.

DISPOSITION:                Conditionally granted.

ORDER:                        The minutes of the hearing will be the court's findings and conclusions. The court will issue the order.

This motion is CONDITIONALLY GRANTED. The sole issue remaining is that debtors are delinquent in the amount of \$2,110.00 through April 2020. If debtors are current at this hearing, the motion will be CONDITIONALLY GRANTED.

4. [18-13708](#)-B-13     **IN RE: LEONARDO CHAVEZ**  
[NSV-5](#)

MOTION TO MODIFY PLAN  
3-24-2020    [\[57\]](#)

LEONARDO CHAVEZ/MV  
NIMA VOKSHORI/ATTY. FOR DBT.  
RESPONSIVE PLEADING WITHDRAWN

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 35 days' notice as required by Local Rule of Practice ("LBR") 3015-1(d)(1). The failure of the

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

This motion is GRANTED. The chapter 13 trustee withdrew his opposition. Doc. #70. The confirmation order shall include the docket control number of the motion and it shall reference the plan by the date it was filed.

5. [19-11408](#)-B-13     **IN RE: DOUGLAS MCDANIEL**  
[RSW-4](#)

MOTION TO MODIFY PLAN  
3-18-2020    [134](#)

DOUGLAS MCDANIEL/MV  
ROBERT WILLIAMS/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 35 days' notice as required by Local Rule of Practice ("LBR") 3015-1(d)(1). The failure of the creditors, the debtor, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument. Upon default, factual allegations will be taken as true (except those relating to amount of damages). Televideo Systems, Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires that a plaintiff make a prima facie showing that they are entitled to the relief sought, which the movant has done here.

This motion is GRANTED. The confirmation order shall include the docket control number of the motion and it shall reference the plan by the date it was filed.

6. [20-10711](#)-B-13     **IN RE: TAMMY SALYER**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES  
4-3-2020    [\[23\]](#)

DISMISSED 4/13/20

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

DISPOSITION:                    Dropped as moot.

NO ORDER REQUIRED.

The case was dismissed on April 13, 2020. Doc. #27.

7. [19-14713](#)-B-13     **IN RE: DARWIN MAMARADLO**  
[JCW-1](#)

MOTION TO APPROVE LOAN MODIFICATION  
4-7-2020    [\[51\]](#)

MIDFIRST BANK/MV  
WILLIAM OLCOTT/ATTY. FOR DBT.  
JENNIFER WONG/ATTY. FOR MV.

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

DISPOSITION:                    Denied without prejudice.

ORDER:                            The court will issue an order.

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

First, the notice did not contain the language required under LBR 9014-1(d)(3)(B)(iii). LBR 9014-1(d)(3)(B), which is about noticing requirements, requires movants to notify respondents that they can determine whether the matter has been resolved without oral argument or if the court has issued a tentative ruling by checking the Court's website at [www.caeb.uscourts.gov](http://www.caeb.uscourts.gov) after 4:00 p.m. the day before the hearing.

Additionally, the movant did not serve the United States Trustee's Office ("UST"). Doc. #54.

Fed. R. Bankr. P. 2002(a) requires twenty-one days' notice to parties in interest for proposed use, sale, or lease of property of the estate other than in the ordinary course of business, unless the

court for cause shown shortens the time or directs another method of giving notice.

The chapter 13 plan was confirmed on April 3, 2020. Doc. #50. Under the terms of the plan, property of the estate shall not revert in the debtor upon confirmation of the plan. Doc. #18, ¶ 6.01. Therefore, the property securing this loan modification is still property of the estate, the UST is still a party in interest, and must be served and noticed. The UST was not served and noticed.

For the above reasons, this motion is DENIED WITHOUT PREJUDICE.

8. [20-10015](#)-B-13     **IN RE: JANICE HIXON**  
[JCW-1](#)

CONTINUED OBJECTION TO CONFIRMATION OF PLAN BY MTGLQ INVESTORS,  
LP  
2-28-2020    [\[38\]](#)

MTGLQ INVESTORS, LP/MV  
JENNIFER WONG/ATTY. FOR MV.

NO RULING.

The court notes debtor's supplemental objection. Doc. #64.

Persons not represented by attorneys must appear telephonically via CourtCall, an independent business not part of the Federal Court. There is no fee to use CourtCall for persons not represented by attorneys through May 31, 2020. The number to contact CourtCall to arrange for a phone appearance is 866-582-6878.

9. [20-10015](#)-B-13     **IN RE: JANICE HIXON**  
[MHM-1](#)

CONTINUED OBJECTION TO CONFIRMATION OF PLAN BY TRUSTEE MICHAEL H.  
MEYER  
2-27-2020    [\[31\]](#)

NO RULING.

The court notes debtor's supplemental objection. Doc. #64.

Persons not represented by attorneys must appear telephonically via CourtCall, an independent business not part of the Federal Court. There is no fee to use CourtCall for persons not represented by attorneys through May 31, 2020. The number to contact CourtCall to arrange for a phone appearance is 866-582-6878.

10. [20-10015](#)-B-13     **IN RE: JANICE HIXON**  
[MHM-2](#)

CONTINUED MOTION TO DISMISS CASE  
2-27-2020    [\[34\]](#)

MICHAEL MEYER/MV  
RESPONSIVE PLEADING

NO RULING.

The court notes debtor's supplemental objection. Doc. #64.

Persons not represented by attorneys must appear telephonically via CourtCall, an independent business not part of the Federal Court. There is no fee to use CourtCall for persons not represented by attorneys through May 31, 2020. The number to contact CourtCall to arrange for a phone appearance is 866-582-6878.

11. [20-10592](#)-B-13     **IN RE: JUAN PATINO**  
[JHK-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY  
4-1-2020    [\[20\]](#)

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



The movant, Mercedes-Benz Financial Services, Inc., seeks relief from the automatic stay under 11 U.S.C. § 362(d)(1). Doc. #20. The collateral is a 2015 Freightliner CA 125SLP and the total amount owed is \$66,182.76. Docs. #22, 24. The debtor is a guarantor on the contract and not on title. Doc. #24. The property is listed in the Debtor's schedules and valued at \$55,000.00 by the debtor. Doc. #1.

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 because debtor has failed to make at least two pre-petition payments. Doc. #22. The movant has produced evidence that debtor is delinquent at least \$5,129.10. Doc. 24. As of March 17, 2020, the total payoff was \$66,182.76. Id.

Accordingly, the motion will be granted pursuant to 11 U.S.C. § 362(d)(1) to permit the movant to dispose of its collateral pursuant to applicable law and to use the proceeds from its disposition to satisfy its claim.

The 14-day stay of Fed. R. Bankr. P. 4001(a)(3) will be ordered waived because debtor has failed to make at least two pre-petition payments to movant and the collateral is a depreciating vehicle.

10:00 AM

1. [20-10904](#)-B-7     **IN RE: MICHAEL/LINDA WENNINGER**  
[JHW-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY  
4-1-2020    [\[12\]](#)

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

The movant, Santander Consumer USA Inc. ("Movant"), seeks relief from the automatic stay under 11 U.S.C. §§ 362(d)(1) and (d)(2) with respect to a 2014 Dodge Dart ("Vehicle"). Doc. #12.

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

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

After review of the included evidence, the court finds that "cause" exists to lift the stay because debtors have failed to make at least seven complete pre- and post-petition payments. The movant has

produced evidence that debtors are delinquent at least \$3,408.37.  
Doc. #15, 16.

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 debtors are in chapter 7. Id. The Vehicle is valued at \$10,225.00 and debtor owes \$12,722.37. Doc. #17.

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

The 14-day stay of Fed. R. Bankr. P. 4001(a)(3) will be ordered waived because debtors have failed to make at least one post-petition payment to Movant and the Vehicle is a depreciating asset.

2. [20-10812](#)-B-7      **IN RE: FRANK ANDRASEVITS**  
[JCW-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY  
4-6-2020    [\[11\]](#)

MIDFIRST BANK/MV  
JULIE MORADI-LOPES/ATTY. FOR DBT.  
JENNIFER WONG/ATTY. FOR MV.

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

DISPOSITION:      Denied without prejudice.

ORDER:              The court will issue an order.

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

The notice did not contain the language required under LBR 9014-1(d)(3)(B)(iii). LBR 9014-1(d)(3)(B), which is about noticing requirements, requires movants to notify respondents that they can determine whether the matter has been resolved without oral argument or if the court has issued a tentative ruling by checking the Court's website at [www.caeb.uscourts.gov](http://www.caeb.uscourts.gov) after 4:00 p.m. the day before the hearing.

3. [19-14015](#)-B-7      **IN RE: MAXIMUS III COMPANY**  
[MHK-1](#)

OBJECTION TO CHAPTER 7 TRUSTEE'S REPORT OF NO DISTRIBUTION AND/OR  
MOTION FOR RELIEF FROM AUTOMATIC STAY  
3-17-2020    [\[17\]](#)

COASTAL STAR PARTNERS, LLC/MV  
D. GARDNER/ATTY. FOR DBT.  
DAVID MEEGAN/ATTY. FOR MV.

NO RULING.

4. [19-14727](#)-B-7      **IN RE: HOOVER TENA**  
[JCW-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY  
3-30-2020    [\[17\]](#)

MIDFIRST BANK/MV  
OSCAR SWINTON/ATTY. FOR DBT.  
JENNIFER WONG/ATTY. FOR MV.  
DISCHARGED 3/16/20

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

The motion will be GRANTED IN PART for cause shown as to the chapter 7 trustee's interest and DENIED AS MOOT IN PART as to the debtor's interest pursuant to 11 U.S.C. § 362(c)(2)(C). The debtor's discharge was entered on March 16, 2020. Doc. #15.

The movant, MidFirst Bank ("Movant"), seeks relief from the automatic stay under 11 U.S.C. §§ 362(d)(1) and (d)(2) with respect to a piece of real property located at 407 Rushcutters Bay Drive, Bakersfield, CA 93307 ("Property").

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

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

After review of the included evidence, the court finds that "cause" exists to lift the stay because the debtor has been in default since June 1, 2019. Doc. #19.

Movant has valued the Property at \$237,900.00. Doc. #20. The amount owed to Movant is \$204,273.39. Id. Debtor does have equity in the property.

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

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

The 14-day stay of Fed. R. Bankr. P. 4001(a)(3) will be ordered waived because debtor has been in default since June 1, 2019.

5. [16-14128](#)-B-7     **IN RE: DANIELA HAVLICEK**  
[PWG-5](#)

MOTION FOR COMPENSATION BY THE LAW OFFICE OF CASE LOMBARDI &  
PETTIT FOR TED N. PETTIT, SPECIAL COUNSEL(S)  
4-21-2020     [\[52\]](#)

LEONARD WELSH/ATTY. FOR DBT.

TENTATIVE RULING:     This matter will proceed as scheduled.

DISPOSITION:     Granted.

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

This motion was filed and served pursuant to Local Rule of Practice ("LBR") 9014-1(f)(2) and Federal Rule of Bankruptcy Procedure 2002(6) and will proceed as scheduled. Unless opposition is presented at the hearing, the court intends to enter the

respondents' defaults and grant the motion. If opposition is presented at the hearing, the court will consider the opposition and whether further hearing is proper pursuant to LBR 9014-1(f)(2). The court will issue an order if a further hearing is necessary.

This motion will be granted. The chapter 7 trustee's ("Trustee") special counsel, The Law Office of Case Lombardi & Pettit for Ted N. Pettit, requests fees of \$9,982.50, a 4.71% general excise tax of \$470.18, and costs of \$1,045.50, for a total of \$11,498.18 for services rendered from March 7, 2018 through June 6, 2018. Doc. #52. Trustee consented to this fee application. Doc. #55.

11 U.S.C. § 330(a)(1)(A) & (B) permits approval of "reasonable compensation for actual necessary services rendered by . . . [a] professional person" and "reimbursement for actual, necessary expenses." The movant's services included, without limitation: (1) preparing and recording a notice of adverse claim; (2) preparing and filing an application to retain special counsel; (3) providing analysis of the claim to the trustee; (4) drafting a demand letter and conducting negotiations; and (5) drafting and recording the deed and closing documents. Docs. #54, 56.

The court finds these services reasonable and necessary and the expenses requested actual and necessary.

Movant shall be awarded \$10,452.68 in fees and \$1,045.50 in costs. Of the fees, \$9,982.50 is for professional services rendered and \$470.18 is for the general excise tax of 4.71%.

This court takes notice of the fact that the motion, notice, declarations, exhibits, and certificate of service were filed on April 21, 2020, but dated between April 6 and April 15, 2020. Docs. #52-57.

Fed. R. Bankr. P. 2002(a)(6) requires at least 21 days' notice to parties in interest of "a hearing on any entity's request for compensation or reimbursement of expenses if the request exceeds \$1,000.00."

The motion and supporting documents were filed April 21, 2020, but the certificate of service states, under penalty of perjury, that true and correct copies of all documents were properly served by causing them to be mailed by prepaid U.S. first class mail to all required parties. Doc. #57.

The motion was set for hearing on May 6, 2020. May 6, 2020 is 15 days after April 21, 2020, the date the documents were filed, and 21 days after April 15, 2020, the date the documents were supposedly served upon the required parties. The court will inquire at the hearing to verify whether the documents were properly served on April 15 in compliance with Rule 2002(a)(6).

6. [20-10438](#)-B-7      **IN RE: DAVON JACKSON**

MOTION FOR WAIVER OF THE CHAPTER 7 FILING FEE  
2-6-2020    [\[5\]](#)

DAVON JACKSON/MV  
DAVON JACKSON/ATTY. FOR MV.

NO RULING.

There are inconsistencies between the fee waiver application and debtor's schedules. Debtor must appear telephonically and explain the inconsistencies to the court. Failure to appear will result in denial of the application. Telephonic appearance instructions can be found here:

Persons not represented by attorneys must appear telephonically via CourtCall, an independent business not part of the Federal Court. There is no fee to use CourtCall for persons not represented by attorneys through May 31, 2020. The number to contact CourtCall to arrange for a phone appearance is 866-582-6878.

7. [19-15346](#)-B-7      **IN RE: MATHIAS SCHMITT**  
[JMV-1](#)

MOTION TO SELL  
4-14-2020    [\[20\]](#)

JEFFREY VETTER/MV  
JULIE MORADI-LOPES/ATTY. FOR DBT.

TENTATIVE RULING:      This matter will proceed as scheduled.

DISPOSITION:              Granted.

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

This motion was filed and served pursuant to Federal Rule of Bankruptcy Procedure 2002(a)(2) and Local Rule of Practice ("LBR") 9014-1(f)(2) and will proceed as scheduled. Unless opposition is presented at the hearing, the court intends to enter the respondents' defaults and grant the motion. If opposition is presented at the hearing, the court will consider the opposition and whether further hearing is proper pursuant to LBR 9014-1(f)(2). The court will issue an order if a further hearing is necessary.

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

Proposed sales under 11 U.S.C. § 363(b) are reviewed to determine whether they are: (1) in the best interests of the estate resulting

from a fair and reasonable price; (2) supported by a valid business judgment; and (3) proposed in good faith. In re Alaska Fishing Adventure, LLC, No. 16-00327-GS, 2018 WL 6584772, at \*2 (Bankr. D. Alaska Dec. 11, 2018); citing 240 North Brand Partners, Ltd. v. Colony GFP Partners, LP (In re 240 N. Brand Partners, Ltd.), 200 B.R. 653, 659 (9th Cir. BAP 1996) citing In re Wilde Horse Enterprises, Inc., 136 B.R. 830, 841 (Bankr. C.D. Cal. 1991). In the context of sales of estate property under § 363, a bankruptcy court "should determine only whether the trustee's judgment was reasonable and whether a sound business justification exists supporting the sale and its terms." Alaska Fishing Adventure, LLC, 2018 WL 6584772, at \*4, quoting 3 Collier on Bankruptcy ¶ 363.02[4] (Richard Levin & Henry J. Sommer eds., 16th ed.). "[T]he trustee's business judgment is to be given great judicial deference.'" Id., citing In re Psychometric Systems, Inc., 367 B.R. 670, 674 (Bankr. D. Colo. 2007), citing In re Bakalis, 220 B.R. 525, 531-32 (Bankr. E.D.N.Y. 1998).

The chapter 7 trustee ("Trustee") asks this court for authorization to sell a 2014 Acura MDX, a 2004 Honda Goldwing, and a 2006 Yamaha SJR ("Vehicles") back to Debtor, subject to higher and better bids at the hearing, for \$10,000.00. Doc. #20.

It appears that the sale of the Vehicles is in the best interests of the estate, for a fair and reasonable price, supported by a valid business judgment, and proposed in good faith. The motion is GRANTED.

Interested parties that wish to bid at the hearing must do the following: A \$1,500.00 refundable deposit must be received at P.O. Box 2424, Bakersfield, California, 93303, not later than May 4, 2020 at 5:00 PM. The deposit must be certified funds such as a money order or cashier's check. Be prepared to bid in an amount starting at \$14,325.00. Be prepared to bid in \$500.00 increments after \$1,000.00 initial overbid. Bidders are bidding on the 2014 Acura MDX (appx. 110,000 miles), 2004 Honda Goldwing (appx. 50,000 miles), and a 2006 Yamaha SJR 1300 (appx. 47,000 miles). Property being sold together as one lot. Items will not be sold separately. The balance must be paid within 10 days after the court order is signed. The winning bidder who fails to pay within 10 days will forfeit their \$1,500.00 deposit. Deposits of non-winning bidders will be returned at the hearing. The only document of sale provided by the Trustee will be the Order Granting the Motion by Trustee for Order Authorizing Sale of Personal Property to the Debtor. The Trustee will execute other reasonable documents requested by the buyer to expedite and facilitate the sale.



8. [19-13374](#)-B-7     **IN RE: KENNETH HUDSON**  
[LNH-2](#)

CONTINUED MOTION TO SELL FREE AND CLEAR OF LIENS  
2-12-2020    [\[34\]](#)

JEFFREY VETTER/MV  
NEIL SCHWARTZ/ATTY. FOR DBT.  
LISA HOLDER/ATTY. FOR MV.

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

DISPOSITION:     Continued to July 8, 2020 at 11:00 a.m.

ORDER:             The court will issue an order.

Pursuant to the movant's request (doc. #46) this matter is continued to July 8, 2020 at 10:00 a.m. The court notes creditor Royalty Lending II, Ltd.'s opposition, filed and served May 1, 2020. Doc. #49.

9. [20-10782](#)-B-7     **IN RE: RAMON CISNEROS ESPINOZA AND ANGELA CISNEROS**  
[MET-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY  
4-16-2020    [\[15\]](#)

BANK OF THE WEST/MV  
NEIL SCHWARTZ/ATTY. FOR DBT.  
MARY TANG/ATTY. FOR MV.

TENTATIVE RULING:     This matter will proceed as scheduled.

DISPOSITION:     Granted.

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

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

The movant, Bank of the West ("Movant"), seeks relief from the automatic stay under 11 U.S.C. §§ 362(d)(1) and (d)(2) with respect to a 2016 Dodge Ram 3500 Crew Cab ("Vehicle").

11 U.S.C. § 362(d)(1) allows the court to grant relief from the stay for cause, including the lack of adequate protection. "Because there is no clear definition of what constitutes 'cause,' discretionary

relief from the stay must be determined on a case by case basis." In re Mac Donald, 755 F.2d 715, 717 (9th Cir. 1985).

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

After review of the included evidence, the court finds that "cause" exists to lift the stay because debtor is three payments past due in the amount of \$2,807.64 plus late fees of \$46.79. Doc. #17.

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 debtors are in chapter 7. Movant values the Vehicle at \$31,425.00 and the amount owed to Movant is \$54,998.74. Doc. #18.

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

The 14-day stay of Fed. R. Bankr. P. 4001(a)(3) will be ordered waived because debtor has failed to make two post-petition payments and the Vehicle is a depreciating asset.

10. [12-15588](#)-B-7     **IN RE: JOHN/PENNY YOUNG**  
[RSW-1](#)

MOTION TO COMPROMISE CONTROVERSY/APPROVE SETTLEMENT AGREEMENT  
AND/OR MOTION THAT AN ASSET HAS BEEN ABANDONED  
3-26-2020    [\[21\]](#)

JOHN YOUNG/MV  
ROBERT WILLIAMS/ATTY. FOR DBT.

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

DISPOSITION:     Denied without prejudice.

ORDER:             No appearance is necessary. The court will issue the order.

The debtors filed this motion seeking to approve a settlement agreement for a class action lawsuit that arose prior to their chapter 7 bankruptcy. In the alternative, the debtors request an order stating that the debtors' interest in their claim was abandoned by operation of law.

This motion is DENIED WITHOUT PREJUDICE.

This case was filed on June 22, 2012. Doc. #1. The discharge order was entered on November 2, 2012 with no distribution to creditors. Doc. #14. The case was closed November 2, 2012. Doc. #16. This case was reopened on March 5, 2020. Doc. #20.

The underlying claim giving rise to the settlement arose from multiple surgeries joint debtor underwent between 2010 and 2011. Doc. #23. In 2011, the joint debtor responded to a television ad for an injury law firm, filled out a questionnaire, and became a participant in this class action lawsuit. The class action lawsuit was listed in the debtors' original Schedule B with an "Unknown" value. Doc. #1, p. 15. The lawsuit was not exempted as an asset on Schedule C. Id. at p. 17.

Recently, a settlement was reached. Under the settlement, the joint debtor was awarded a gross judgment of \$152,160.95. Doc. #23. After deducting 40% attorneys' fees of \$60,864.38, expenses of \$1,460.24, fees of \$475.00, and reimbursement obligations of \$3,043.22, the net award payable to the debtors is \$86,318.11. Doc. #24. The joint debtor filed a declaration wherein she states that the injury law firm requires a bankruptcy court order before she can accept the settlement because of the bankruptcy filing. Doc. #23.

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(a). Absent from Rule 9019 is standing for the debtor to seek such approval. Only the trustee may file a motion to approve a compromise or settlement.

In the motion to reopen this case, the debtors requested that a chapter 7 trustee be appointed. Doc. #18. In the order reopening this case, this court stated that no trustee will be appointed in this case unless a party to the case files a request for the appointment of a trustee. Doc. 20. The debtors apparently did not request the appointment of a trustee and instead filed this motion.

For the above reasons, the debtors' motion to approve a compromise or settlement is DENIED WITHOUT PREJUDICE because the debtors do not have standing to bring such a motion.

In the alternative, the debtors request an order stating that the asset has been abandoned by operation of law.

The debtors' motion states that they filed amended schedules to update the value of the settlement and exempt it. Doc. #21, p. 2, ¶ 5. These amended schedules do not appear to have been filed. However, the lawsuit was originally scheduled but not claimed as exempt and the exemption schedule was never amended. Doc. #1.

11 U.S.C. § 554(c) states that any property scheduled under § 521(a)(1) that is not administered at the time of the closing of a case is abandoned to the debtor and administered for the purposes of § 350.

This court will not issue an order for the alternative relief requested. 11 U.S.C. § 554(c) is unambiguous. If declaratory relief is requested by the motion the motion is DENIED. FRBP 7001. If the motion is construed as seeking an order compelling abandonment of property of the estate under § 554(b), the motion is DENIED AS MOOT. See, § 554(c).

11. [20-11293](#)-B-7      **IN RE: PAMELA KEILLOR**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES  
4-15-2020    [\[14\]](#)

WILLIAM EDWARDS/ATTY. FOR DBT.

TENTATIVE RULING:            This matter will proceed as scheduled.

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

ORDER:                        The court will issue an order.

This matter will proceed as scheduled. The Chapter 7 filing fee was not paid at the time of the filing of the Voluntary Petition. The filing fee is due in the amount of \$335.00. A notice of payment due was served on April 8, 2020. Doc. #10. If the fees due at the time of the hearing have not been paid prior to the hearing, the case will be dismissed on the grounds stated in the OSC.

12. [20-11295](#)-B-7      **IN RE: MAURIN CONSTRUCTION CORP**  
[HRH-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY  
4-16-2020    [\[15\]](#)

BMO HARRIS BANK N.A./MV  
PETER FEAR/ATTY. FOR DBT.  
RAFFI KHATCHADOURIAN/ATTY. FOR MV.

TENTATIVE RULING:            This matter will proceed as scheduled.

DISPOSITION:                Granted.

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

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

The movant, BMO Harris 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 2019 Ford F250 ("Vehicle").

11 U.S.C. § 362(d)(1) allows the court to grant relief from the stay for cause, including the lack of adequate protection. "Because there is no clear definition of what constitutes 'cause,' discretionary

relief from the stay must be determined on a case by case basis." In re Mac Donald, 755 F.2d 715, 717 (9th Cir. 1985).

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

After review of the included evidence, the court finds that "cause" exists to lift the stay because debtor has failed to make at least two pre-petition payments. The movant has produced evidence that debtor is delinquent at least \$2,628.38, and the entire balance of \$47,308.66 is owed. Doc. #17, 19.

The court also finds that the debtor does not have any equity in the property and the property is not necessary to an effective reorganization. Movant has valued the Vehicle at \$41,000.00. The amount owed to Movant is \$47,308.66. Doc. #17.

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

The 14-day stay of Fed. R. Bankr. P. 4001(a)(3) will be ordered waived because debtor has failed to make at least two pre-petition payments and the collateral is a depreciating vehicle.

13. [20-11296](#)-B-7     **IN RE: KYLE/DEANNA MAURIN**  
[HRH-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY  
4-16-2020    [\[14\]](#)

BMO HARRIS BANK N.A./MV  
PETER FEAR/ATTY. FOR DBT.  
RAFFI KHATCHADOURIAN/ATTY. FOR MV.

TENTATIVE RULING:            The matter will proceed as scheduled.

DISPOSITION:                  Denied as moot.

ORDER:                          The court will issue an order.

This motion is DENIED AS MOOT. Movant has obtained the requested relief in matter #12 above. Debtor has no interest in the collateral. Debtor is only a guarantor of the loan. Debtor's business (which also filed and is the debtor in matter #12 above) is the party that entered into the sale and loan agreement with movant. Therefore the motion is DENIED AS MOOT.

11:00 AM

1. [19-14513](#)-B-7     **IN RE: NAYLAN BENDER**  
[20-1003](#)

CONTINUED STATUS CONFERENCE RE: COMPLAINT  
1-21-2020    [[1](#)]

LRS REALTY & MANAGEMENT, INC. V. BENDER, III  
JEREMY FAITH/ATTY. FOR PL.  
RESPONSIVE PLEADING

NO RULING.

2. [18-14323](#)-B-7     **IN RE: SYLVIA SPEAKMAN**  
[19-1028](#)

PRE-TRIAL CONFERENCE RE: COMPLAINT  
2-19-2019    [[1](#)]

YOUNG V. SPEAKMAN ET AL LISA HOLDER/ATTY. FOR PL.  
RESPONSIVE PLEADING

NO RULING.

3. [19-13374](#)-B-7     **IN RE: KENNETH HUDSON**  
[19-1128](#)

CONTINUED STATUS CONFERENCE RE: COMPLAINT  
11-26-2019    [[1](#)]

BROWN V. HUDSON  
GLEN GATES/ATTY. FOR PL.  
RESPONSIVE PLEADING

NO RULING.

The court notes the parties' stipulation to extend current deadlines  
30 days.

11:30 AM

1. [19-15341](#)-B-7     **IN RE: KEITH/KIMBERLY WHITE**

PRO SE REAFFIRMATION AGREEMENT WITH MECHANICS BANK  
3-27-2020    [\[20\]](#)

WILLIAM OLCOTT/ATTY. FOR DBT.

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

DISPOSITION:     Denied.

ORDER:             The court will issue an order.

Debtors' counsel will inform debtors that no appearance is necessary.

Both the reaffirmation agreement and the bankruptcy schedules show that reaffirmation of this debt creates a presumption of undue hardship which has not been rebutted in the reaffirmation agreement. Although the debtors' attorney executed the agreement, the attorney could not affirm that, (a) the agreement was not a hardship and, (b) the debtor would be able to make the payments.