

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

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

**PRE-HEARING DISPOSITIONS**

**DAY:** TUESDAY  
**DATE:** MAY 8, 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. [18-10002](#)-A-7     **IN RE: CYNTHIA CHAVEZ**  
[UST-1](#)

MOTION TO DISMISS CASE PURSUANT TO 11 U.S.C. SECTION 707(B)  
4-5-2018    [\[17\]](#)

TRACY DAVIS/MV  
DEOK KIM  
ROBIN TUBESING/ATTY. FOR MV.  
RESPONSIVE PLEADING

### **Tentative Ruling**

**Motion:** Dismiss Chapter 7 Case under § 707(b)(1)-(2) [Presumption of Abuse]

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

**Disposition:** Granted

**Order:** Prepared by moving party

The debtor filed a bankruptcy petition under chapter 7 of the Bankruptcy Code. The U.S. Trustee has moved to dismiss the debtor's case under § 707(b)(1) on grounds that the presumption of abuse arises under § 707(b)(2) and § 707(b)(3). The debtor opposes the motion by asserting the existence of special circumstances warranting an adjustment to the means test formula.

The debtor has filed Forms 122C, documents of which the court takes judicial notice. The court also takes judicial notice of the debtor's petition and schedules filed in this case. Fed. R. Evid. 201(b)-(c).

### **LEGAL STANDARDS**

A motion to dismiss a chapter 7 bankruptcy case under § 707(b) offers creditors or the United States Trustee two grounds of showing that a particular chapter 7 case is abusive: § 707(b)(2), which creates a presumption of abuse, and § 707(b)(3), which allows abuse to be shown based on the totality of the circumstances or bad faith. Section 707(b)(2) and (3) are applicable only to cases in which the debts are primarily consumer debt. 11 U.S.C. § 101(8) (defining consumer debt). And the means test of § 707(b)(2) is triggered only as to above-median income debtors. See *id.* § 707(b)(7)(A).

The presumption of § 707(b)(2) is triggered when the debtor's current monthly income (CMI) less specified expenses ("disposable income"), § 707(b)(2)(A)(ii)-(iv), multiplied by 60 is greater than or equal to the lesser of the following: (1) 25% of the debtor's non-priority unsecured debt or \$7,700.00, whichever is greater, or (2) \$12,850.00. *Id.* § 707(b)(2)(A)(i)(I)-(II). The presumption may be rebutted by demonstrating special circumstances, including serious medical condition or call to duty in the Armed Forces. *Id.* § 707(b)(2)(B)(I).

## DISCUSSION

The court takes judicial notice of the voluntary petition, schedules, and statements filed in this case, as well as judicial notice of their contents. Fed. R. Evid. 201. The contents of the schedules and statements are non-hearsay admissions of the debtor to the extent they are offered against the debtor in this matter. Fed. R. Evid. 801(d)(2)(A), (D).

### Section 707(b)(1) and (7)

The voluntary petition shows the nature of the debts in this case. They are primarily consumer debts. 11 U.S.C. § 707(b)(1).

Further, the debtor's Form 122A-1 shows that the debtor is above-median income for the debtor's applicable state and household size. See *id.* § 707(b)(7)(A).

### Section 707(b)(2): Presumption of Abuse Based on Means Test

After adjusting for any improperly claimed deductions from income raised by the U.S. Trustee, the debtor's monthly disposable income amount on Form 122A-1, multiplied by 60, exceeds the applicable statutory limit under § 707(b)(2)(A)(i). Thus, § 707(b)(2) reflects a presumption of abuse.

The debtor has not offered any evidence or argument to rebut the factual grounds the U.S. Trustee has offered to show that a presumption of abuse arises in this case. So the debtor concedes that the presumption of abuse arises in this case and waives any argument to the contrary.

But the debtor contends that changed circumstances rebut the presumption of abuse. Preliminarily, the term "changed circumstances" applies in chapter 13 or chapter 12 when determining projected disposable income required to be paid under a confirmed plan. See *Lanning v. Hamilton*, 560 U.S. 505, 513-19, 524. But "projected disposable income" is not a concept that translates into the chapter 7 context. Nevertheless, the court interprets the debtor's use of the term "changed circumstances" to mean "special circumstances" and will address this argument next.

### Special Circumstances Exception

To rebut a presumption of abuse under the means test calculation under § 707(b)(2), the debtor may demonstrate special circumstances that justify additional expenses or an adjustment to income. See 11 U.S.C. § 707(b)(2)(B). "Special circumstances" is a narrowly defined term. 11 U.S.C. § 707(b)(2)(B). The statute offers as examples a serious medical condition or a call to active duty in the armed services. *Id.* Special circumstances must be beyond the debtor's control and must put a "strain on a debtor's household budget." *In re Egeberg*, 574 F.3d 1045, 1053 (9th Cir. 2009); 11 U.S.C. § 707(b)(2)(B).

Procedural steps must be satisfied, moreover, to establish special circumstances. The relevant statute provides, "[T]o establish special circumstances, the debtor shall be required to itemize each additional expense or adjustment of income and to provide (I) documentation for such expense or adjustment to income; and (II) a detailed explanation of the special circumstances that make such expenses or adjustment to income necessary and reasonable." 11 U.S.C. § 707(b)(2)(B)(ii). The statute also requires that any information provided to show special circumstances shall be supported by the debtor's attestation under oath. *Id.* § 707(b)(2)(B)(iii).

Here, the debtor has not proffered any special circumstances that qualify for an adjustment to income or expenses. The debtor presents as a special circumstance a post-petition separation from her non-filing spouse. The separation occurred months after the petition date. Chavez Decl. ¶ 4, ECF No. 23. This postpetition separation does not constitute a special circumstance within the scope of the statutory examples of a serious medical condition or a call to active duty. The court does not doubt that a separation, as described by the debtor, would put a strain on the household budget. The problem, however, is that the statutory examples present very narrow grounds for claiming special circumstances. And a post-petition separation is not within those narrow grounds.

Additionally, the debtor has not met the procedural prerequisites for proving a special circumstance. While the debtor has attested under oath to her physical separation from her spouse, the debtor has not itemized her adjustments to income and expenses based on the separation and has not provided the corroborating documentation required for such adjustments.

## **CONCLUSION**

Since the matter has been resolved under § 707(b)(2), the court makes no findings under § 707(b)(3). 11 U.S.C. § 707(b)(2)-(3). The motion will be granted and the case dismissed.

2. [16-14604](#)-A-7     **IN RE: RUBEN/LUZ GOMEZ**  
[SFR-2](#)

MOTION TO SELL  
4-17-2018    [[44](#)]

TRUDI MANFREDO/MV  
THOMAS GILLIS  
SHARLENE ROBERTS-CAUDLE/ATTY. FOR MV.

### **Tentative Ruling**

**Motion:** Sell Real Property and Compensate Real Estate Broker and Approve Stipulation

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

**Disposition:** Granted

**Order:** Prepared by moving party

**Property:** 263 Valencia St. Lindsay, CA

**Buyer:** Armaond Meza Meza

**Sale Price:** \$139,100

**Sale Type:** Private sale subject to overbid opportunity

**Compensation:** 6% commission for employed broker to be shared with any cooperating broker pursuant to contract or custom

**Stipulation:** Stipulation between the trustee and Silvia Gomez to avoid the pre-petition transfer of the real property is approved. Silvia Gomez has already transferred the property back to the estate and the property is titled in debtor's name.

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).

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.

3. [18-10405](#)-A-7     **IN RE: MARIA GUARDADO**  
[TOG-1](#)

MOTION TO CONVERT CASE FROM CHAPTER 7 TO CHAPTER 13  
4-6-2018    [\[12\]](#)

THOMAS GILLIS

**Final Ruling**

**Motion:** Convert Case from Chapter 7 to Chapter 13

**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).

**CONVERSION UNDER § 706(a)**

Section 706 of the Bankruptcy Code gives chapter 7 debtors a qualified conversion right. See 11 U.S.C. § 706(a), (d). A debtor's right to convert a case from Chapter 7 to Chapter 11, 12, or 13 is conditioned on (i) the debtor's eligibility for relief under the chapter to which the case will be converted and (ii) the case not having been previously converted under §§ 1112, 1208, or 1307. 11 U.S.C. § 706(a), (d); see also *Marrama v. Citizens Bank of Mass.*, 549 U.S. 365, 372-74 (2007) (affirming denial of debtor's conversion from Chapter 7 to Chapter 13 based on bad faith conduct sufficient to establish cause under § 1307(c)).

The secured and unsecured debt amounts shown in the debtor's schedules are below the debt limits provided in § 109(e). See 11 U.S.C. § 109(e). The case has not been previously converted under § 1112, 1208, or 1307 of the Bankruptcy Code. See *id.* § 706(a). No party in interest has questioned the debtor's eligibility for relief under Chapter 13.

**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 debtor's motion to convert this case from chapter 7 to chapter 13 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 converts this case from chapter 7 to chapter 13.

4. [17-10608](#)-A-7     **IN RE: JOHN ANTONGIOVANNI**  
[KDG-5](#)

MOTION FOR COMPENSATION BY THE LAW OFFICE OF KLEIN,  
DENATALE, GOLDNER, COOPER, ROSENLIB & KIMBALL, LLP FOR LISA  
HOLDER, TRUSTEES ATTORNEY(S)  
4-10-2018     [[93](#)]

PATRICK KAVANAGH

**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, Klein, DeNatale, Goldner, Cooper, Rosenlieb, & Kimball, LLP, general counsel 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 \$7,002.50 and reimbursement of expenses in the amount of \$121.07.

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.

The court also approves on a final basis all prior applications for interim fees and costs that the court has allowed under § 331 on an interim basis. And the court will authorize the trustee to pay the

applicant the 20% holdback amount of \$5,933.80 that was approved as part of the applicant's first interim fee application.

#### **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, Goldner, Cooper, Rosenlieb, & Kimball, LLP'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 \$7,002.50 and reimbursement of expenses in the amount of \$121.07. The court also approves on a final basis all prior applications for interim fees and costs that the court has allowed under § 331 on an interim basis.

IT IS FURTHER ORDERED that the trustee is authorized to pay the applicant the 20% holdback amount of \$5,933.80, which amount was approved as part of the applicant's first interim fee application.

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.

5. [18-11126](#)-A-7     **IN RE: JUSTIN/TONYA STROUD**  
[JDW-1](#)

MOTION TO COMPEL ABANDONMENT  
4-22-2018    [[16](#)]

JUSTIN STROUD/MV  
JOEL WINTER

#### **Final Ruling**

**Motion:** Compel Abandonment of Property of the Estate

**Disposition:** Denied without prejudice

**Order:** Civil minute order

Rule 6007(a) expressly requires a trustee or debtor in possession to provide notice of a proposed abandonment to all creditors, indenture trustees, and any committees. But Rule 6007(b) does not specifically state who must receive notice of a motion to abandon



property of the estate. See Fed. R. Bankr. P. 6007(a)-(b). But a motion under Rule 6007(b) seeks an order to compel the trustee to abandon property of the estate, the same action that is described in Rule 6007(a) and for which notice to creditors is required.

Because a motion under Rule 6007(b) requests a type of relief that requires notice to all creditors and parties in interest under Rule 6007(a), the same notice required by Rule 6007(a) should be required when a party in interest seeks to compel the trustee to take such an action under Rule 6007(b). See *Sierra Switchboard Co. v. Westinghouse Elec. Corp.*, 789 F.2d 705, 709-10 (9th Cir. 1986) (finding that a trustee's abandonment would not be effective without notice to creditors); *Hie of Effingham, LLC v. WBCMT 2007-C33 Mid America Lodging, LLC (In re Hie of Effingham, LLC)*, 490 B.R. 800, 807-08 (Bankr. S.D. Ill. 2013) (concluding that Rule 6007(b) incorporates service requirements of Rule 6007(a)); *In re Jandous Elec. Constr. Corp.*, 96 B.R. 462, 464-65 (Bankr. S.D.N.Y. 1989) (finding that parties in interest requesting abandonment of estate property for which a hearing is contemplated must provide notice to the parties listed in Rule 6007(a)).

Accordingly, the court requires all creditors and parties in interest described in Rule 6007(a), and the trustee pursuant to Rule 9014(a), to be provided notice of a motion requesting abandonment under Rule 6007(b). In this case, all creditors and parties in interest described in Rule 6007(a) and Rule 9014(a) have not received notice of the motion. The court will deny the motion without prejudice for lack of sufficient notice.

For matters requiring notice to all creditors and parties in interest, the court prefers that a current copy of the ECF master address list, accessible through PACER, be attached to the certificate of service to indicate that notice has been transmitted to all creditors and parties in interest. The copy of the master address list should indicate a date near in time to the date of service of the notice.

6. [17-14028](#)-A-7     **IN RE: SALVADOR/MARISELA MELENDREZ**  
[JES-1](#)

MOTION TO SELL  
4-3-2018    [[18](#)]

JAMES SALVEN/MV  
ROSALINA NUNEZ

### **Tentative Ruling**

**Motion:** Sell Property

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

**Disposition:** Granted

**Order:** Prepared by moving party

**Property:** Vehicles described below

**Buyer:** Debtors

**Sale Price:**

–2013 Toyota RAV4: \$10,884 (\$3000 cash plus accounting for liens of \$7884)

–2008 Toyota Corolla: \$4522 (\$3000 cash plus \$1522 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.

7. [18-10332](#)-A-7     IN RE: BEVERLY MOYERS  
[JAD-1](#)

MOTION TO RECONSIDER DISMISSAL OF CASE  
4-23-2018    [[16](#)]

BEVERLY MOYERS/MV  
JESSICA DORN  
DISMISSED

### **Tentative Ruling**

**Motion:** Reconsider Order Dismissing Chapter 7  
**Notice:** LBR 9014-1(f)(2); no written opposition required  
**Disposition:** Granted with conditions  
**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).

### **DISCUSSION**

#### Failure to Specify Grounds

Federal Rule 9013 provides, "A request for an order, except when an application is authorized by the rules, shall be by written motion, unless made during a hearing. **The motion shall state with particularity the grounds therefor**, and shall set forth the relief or order sought. Every written motion, other than one which may be considered ex parte, shall be served by the moving party within the time determined under Rule 9006(d). . . ." (emphasis added).

Local Bankruptcy Rules amplify this requirement. "A) Motion or Other Request for Relief. **The application, motion, contested matter, or other request for relief shall set forth the relief or order sought and shall state with particularity the factual and legal grounds therefor. Legal grounds for the relief sought means citation to the statute, rule, case, or common law doctrine that forms the basis of the moving party's request but does not include a discussion of those authorities or argument for their applicability.**" LBR 9013-1(d)(3)(A) (emphasis added).

Here, the motion does not specify the grounds for relief. But the court construes this as a request for relief under Rule 60(b).

#### **On the Merits**

Rule 60(b) provides, "On motion and just terms, the court may relieve a party or its legal representative from a final judgment, order, or proceeding for the following reasons: (1) mistake, inadvertence, surprise, or excusable neglect . . ." Fed. R. Civ. P. 60(b), incorporated by Fed. R. Bankr. P. 9024.

When considering such a motion the court should consider "all relevant circumstances." *Pioneer Investment Servs. Co. v. Brunswick Assocs. Ltd. Partnership*, 507 US 380, 395 (1993). Factors to be considered include: "[1] prejudice to the nondefaulting party if relief is granted; [2] lack of a meritorious defense by the defaulting party; and [3] culpable conduct by the defaulting party causing the default [See *TCI Group Life Ins. Plan v. Knoebber* (9th Cir. 2001) 244 F3d 691, 696 (overruled on other grounds as recognized in *NewGen, LLC v. Safe Cig, LLC* (9th Cir. 2016) 840 F3d 606, 616); *Gucci America, Inc. v. Gold Center Jewelry* (2nd Cir. 1998) 158 F3d 631, 634]." O'Connell and Stevenson, *Federal Civil Procedure Before Trial, California and Ninth Circuit Editions*, Setting Aside a Default or a Default Judgment § 6:187 (Rutter Group 2018).

Here, the debtor admits the factual grounds for dismissal, i.e. failure to attend the meeting of creditors. But she contends that she planned to convert her case to Chapter 13 prior to the date of the dismissal but failed to do so because "due to a mistake made in calculating the deadline to file the conversion." Moyers decl. ¶¶ 4-5, April 23, 2018, ECF # 18. She now proposes a 35-month plan, which provides for monthly payments of \$631, and results in a dividend of 100% to her unsecured creditors. Though the evidentiary showing is in support of the motion is thin, the court will grant the motion.

But the court intends to attach conditions to the order granting relief. Fed. R. Civ. P. 60(b) ("just terms"). "The purpose of such conditions is to rectify any prejudice to the nondefaulting party resulting from the default and delay ... most commonly, the additional expenses in obtaining the default and the hearing on the motion for relief, and the introduction of new issues. [*Nilsson, Robbins et al. v. Louisiana Hydrolec*, supra, 854 F2d at 1546]." *Federal Civil Procedure Before Trial* at § 6:225. Those conditions are set forth in the order that follows this ruling.

#### **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.

Beverly Moyer's motion 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 with the following conditions: (1) not later than May 15, 2018, the debtor shall file and serve and serve on all creditors, the case trustee and the United States Trustee a motion to convert the case, Fed. R. Bankr. P. 1017(f); (2) that motion shall be noticed under LBR 9014-1(f)(2) and shall be set for hearing on May 30, 2018, at 9:00 a.m.; (3) successful prosecution of the motion to convert on May 30, 2018; (4)

if converted to Chapter 13, not later than 7 days after the order of conversion is filed, the debtor shall serve the order for conversion on the case on all creditor and shall file a certificate of service so indicating; (5) if converted, the debtor shall cooperate with the Chapter 13 trustee and shall provide all required documents to the trustee in a timely manner and without extension; (6) if converted the debtor shall file all documents necessary, e.g. Chapter 13 plan,, in a timely manner and without extension; (7) the debtor shall appear at the first scheduled meeting of creditors and all continued meetings; and (8) the debtor shall confirm a plan that provides a 100% dividend to allowed unsecured creditors not later than 90 days after the order of conversion.

IT IS FURTHER ORDERED that if the debtor fails to comply with paragraphs (1)-(4) of the previous paragraph the Clerk of the Court **shall** dismiss the case without further notice and if the debtor fails to comply with any of the other conditions in the previous paragraph the Chapter 13 trustee **may** seek dismissal of this case by declaration and without further notice.

8. [15-11835](#)-A-7     **IN RE: JAMES/JAMIE CANNON**  
[KDG-26](#)

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

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

**No Ruling**

9. [18-10542](#)-A-7     **IN RE: PHYLLISHA GOMEZ**  
[TMT-1](#)

OPPOSITION RE: TRUSTEE'S MOTION TO DISMISS FOR FAILURE TO  
APPEAR AT SEC. 341(A) MEETING OF CREDITORS  
3-28-2018    [\[14\]](#)

### **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.

### **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 14, 2018, at 8:30 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).

10. [16-13443](#)-A-7     **IN RE: R.L. SURGENER, INC.**  
[KDG-10](#)

MOTION FOR COMPENSATION BY THE LAW OFFICE OF KLEIN,  
DENATALE, GOLDNER, COOPER, ROSENLIB & KIMBALL, LLP FOR LISA  
HOLDER, TRUSTEES ATTORNEY(S)  
4-10-2018    [[149](#)]

LEONARD WELSH

### **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, Klein, DeNatale, Goldner, Cooper, Rosenlieb, & Kimball, LLP, general counsel 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 \$13,338.00 and reimbursement of expenses in the amount of \$699.03.

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.

The court also approves on a final basis all prior applications for interim fees and costs that the court has allowed under § 331 on an interim basis. And the court will authorize the trustee to pay the applicant the 20% holdback amount of \$5,085.60 that was approved as part of the applicant's first interim fee application.

#### **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, Goldner, Cooper, Rosenlieb, & Kimball, LLP'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 \$13,338.00 and reimbursement of expenses in the amount of \$699.00. The court also approves on a final basis all prior applications for interim fees and costs that the court has allowed under § 331 on an interim basis.

IT IS FURTHER ORDERED that the trustee is authorized to pay the applicant the 20% holdback amount of \$5,085.60, which amount was approved as part of the applicant's first interim fee application.

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.



11. [18-10848](#)-A-7     **IN RE: JUSTIN CRUZ AND ANNA MOTT**  
[PPR-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY  
3-30-2018    [\[10\]](#)

NASA FEDERAL CREDIT UNION/MV  
PETER BUNTING  
ALEXANDER MEISSNER/ATTY. FOR MV.  
NON-OPPOSITION

### **Final Ruling**

**Motion:** Stay Relief

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

**Disposition:** Granted

**Order:** Civil minute order

**Subject:** 2010 Acura TL Sedan 4D

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). A non-opposition has been filed, and no other opposition 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.

NASA Federal 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 a 2010 Acura TL Sedan 4D, 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. [18-10649](#)-A-7     **IN RE: SA MOUA**  
[NLL-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY  
3-16-2018    [\[19\]](#)

U.S. BANK NATIONAL  
ASSOCIATION/MV  
NANCY LEE/ATTY. FOR MV.  
DISMISSED, CLOSED

#### **Final Ruling**

**Motion:** Stay Relief

**Disposition:** Denied as moot

**Order:** Civil minute order

#### **MOOTNESS STANDARDS**

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. Env'tl. 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)).

#### **RELIEF UNDER SECTION 362(d)(1) AND (2)**

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.

#### **RELIEF UNDER SECTION 362(d)(4)**

The movant requests relief from the automatic stay under § 362(d)(4). Section 362(d)(4) authorizes binding, in rem relief from stay with to respect real property "if the court finds that the filing of the petition was part of a scheme to delay, hinder, or defraud creditors that involved either—(A) transfer of all or part ownership of, or other interest in, such real property without the consent of the secured creditor or court approval; or (B) multiple bankruptcy filings affecting such real property." 11 U.S.C. § 362(d)(4). An order entered under this subsection must be recorded in compliance with state law to "be binding in any other case under this title purporting to affect such real property filed not later than 2 years after the date of the entry of such order." *Id.*

However, similar to paragraphs (1)–(3) of § 362(d), paragraph (4) provides a basis for relief from the automatic stay. Subsection (d)(4) begins with following language: "On request of a party in interest . . . , the court shall grant relief *from the stay provided under subsection (a)* of this section, such as by terminating, annulling, modifying, or conditioning such stay—(4) with respect to a *stay of an act* against real property under subsection (a) . . . , if the court finds that the filing of the petition was part of a scheme to delay, hinder, or defraud creditors . . . ." *Id.* § 362(d)(4) (emphases added).

Based on its plain language, paragraph (4) of § 362(d) is one of several disjunctive grounds for relief *from the automatic stay* under § 362(a). It cannot be the basis for relief in a vacuum when no stay exists. Although relief under § 362(d)(4) may be binding in a subsequent bankruptcy case, a prerequisite to such relief is an extant automatic stay under § 362(a).

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 this case has been dismissed, the automatic stay no longer exists. The court cannot grant relief from a non-existent stay under § 362(d)(4). The motion will be denied as moot.

#### **CIVIL MINUTE ORDER**

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

The present motion for relief from the stay has been presented to the court. Having considered the motion together with papers filed in support and opposition to it, and having heard the arguments of counsel, if any, and good cause appearing,

IT IS ORDERED that the motion is denied as moot.

13. [18-11155](#)-A-7     **IN RE: ADRIANA/ALISHA RUIZ**  
[VVF-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY  
4-19-2018    [[10](#)]

HONDA LEASE TRUST/MV  
WILLIAM OLCOTT  
VINCENT FROUNJIAN/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:** 2017 Honda Accord

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.

Honda Lease Trust'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 2017 Honda Accord, 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.

14. [18-10259](#)-A-7     **IN RE: CARLEE JOHNSON**  
[NLL-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY  
4-9-2018    [[26](#)]

HOME POINT FINANCIAL  
CORPORATION/MV  
MARK ZIMMERMAN  
NANCY LEE/ATTY. FOR MV.  
NON-OPPOSITION

#### **Final Ruling**

**Motion:** Stay Relief

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

**Disposition:** Granted

**Order:** Civil minute order

**Subject:** 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). 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.

Home Point Financial Corporation'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 6220 W Buena Vista Ct., Visalia, 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.

15. [18-10863](#)-A-7     **IN RE: ROBERTO/MICAELA CARDIEL**  
[NLL-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY  
4-4-2018    [[11](#)]

THE BANK OF NEW YORK MELLON/MV  
ROBERT WILLIAMS  
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:** 7909 Doney Street, 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.

The Bank of New York Mellon'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 7909 Doney Street, 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.

16. [18-10667](#)-A-7      **IN RE: DIANE HARRIS**

MOTION FOR RELIEF FROM AUTOMATIC STAY  
4-17-2018    [[26](#)]

BRIDGECREST CREDIT COMPANY,  
LLC/MV  
LAYNE HAYDEN  
KRISTIN ZILBERSTEIN/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:** 2015 Chrysler 200 FWD 4C

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.

Bridgecrest Credit Company, 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. The automatic stay is vacated with respect to the property described in the motion, commonly known as 2015 Chrysler 200 FWD 4C, 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.

17. [15-13569](#)-A-7     **IN RE: AMY PADILLA**  
[KDG-7](#)

MOTION FOR COMPENSATION BY THE LAW OFFICE OF KLEIN,  
DENATALE, GOLDNER, COOPER, ROSENLIEB AND KIMBALL, LLP FOR  
LISA HOLDER, TRUSTEES ATTORNEY(S)  
4-10-2018    [[111](#)]

NEIL SCHWARTZ

### Final Ruling

**Application:** Allowance of First and 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, Klein DeNatale, counsel 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 \$23,434.50 and reimbursement of expenses in the amount of \$382.32.

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 \$23,434.50 and reimbursement of expenses in the amount of \$382.32.

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.

18. [18-11471](#)-A-7     **IN RE: ARTURO/MARIA DE LOS ANGELES MACIAS**  
[GT-1](#)

MOTION TO COMPEL ABANDONMENT  
4-24-2018    [\[15\]](#)

ARTURO MACIAS/MV  
GRISELDA TORRES  
OST 4/27/18

### **Tentative Ruling**

**Motion:** Compel Abandonment of Property of the Estate

**Notice:** LBR 9014-1(f)(3) and order shortening time; no written opposition required

**Disposition:** Granted only as to the business and such business assets described in the motion

**Order:** Prepared by moving party pursuant to the instructions below

**Business Description:** Arturo Macias Handyman, a sole proprietorship

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).

Property of the estate may be abandoned under § 554 of the Bankruptcy Code if property of the estate is "burdensome to the estate or of inconsequential value and benefit to the estate." See 11 U.S.C. § 554(a)-(b); Fed. R. Bankr. P. 6007(b). Upon request of a party in interest, the court may issue an order that the trustee abandon property of the estate if the statutory standards for abandonment are fulfilled.

The business described above is either burdensome to the estate or of inconsequential value to the estate. An order compelling abandonment of such business is warranted. The order will compel abandonment of only the business and its assets that are described in the motion.

19. [17-12389](#)-A-7     **IN RE: DON ROSE OIL CO., INC.**  
[BBR-6](#)

MOTION TO EMPLOY T. SCOTT BELDEN AS SPECIAL COUNSEL  
4-11-2018    [\[817\]](#)

TRUDI MANFREDO/MV  
RILEY WALTER  
TRUDI MANFREDO/ATTY. FOR MV.

### **No Ruling**

20. [18-11240](#)-A-7     **IN RE: DIANA XAVIER**  
[KDG-1](#)

MOTION TO COMPEL ABANDONMENT  
5-2-2018    [[22](#)]

TONY XAVIER/MV  
JUSTIN HARRIS  
JACOB EATON/ATTY. FOR MV.  
OST 5/3/18

### **Tentative Ruling**

**Motion:** Compel Abandonment of Property of the Estate

**Notice:** LBR 9014-1(f)(3) and order shortening time; no written opposition required

**Disposition:** Granted only as to the business and such business assets described in the motion

**Order:** Prepared by moving party pursuant to the instructions below

**Business and Business Assets to be Abandoned:** Xavier Livestock, a sole proprietorship of debtor's spouse, Tony M. Xavier, and all assets subject to the lien of Rabo AgriFinance, LLC's lien as more fully described in paragraph 5 of the motion

**Business Assets Not Abandoned:** All business assets not subject to Rabo AgriFinance, LLC's lien as more fully described in paragraph 6 of the motion

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).

Property of the estate may be abandoned under § 554 of the Bankruptcy Code if property of the estate is "burdensome to the estate or of inconsequential value and benefit to the estate." See 11 U.S.C. § 554(a)-(b); Fed. R. Bankr. P. 6007(b). Upon request of a party in interest, the court may issue an order that the trustee abandon property of the estate if the statutory standards for abandonment are fulfilled.

Xavier Livestock, a sole proprietorship of debtor's spouse, Tony M. Xavier, and all assets subject to the lien of Rabo AgriFinance, LLC's lien, as more fully described in paragraph 5 of the motion, are either burdensome to the estate or of inconsequential value to the estate. An order compelling abandonment of such business is warranted. The order will compel abandonment of only the business and its assets that are described in the motion.