



UNITED STATES BANKRUPTCY COURT
Eastern District of California
Honorable Jennifer E. Niemann
Hearing Date: Wednesday, June 12, 2024
Department A – Courtroom #11
Fresno, California

Unless otherwise ordered, all matters before the Honorable Jennifer E. Niemann shall be simultaneously: (1) **In Person** at, Courtroom #11 (Fresno hearings only), (2) via **ZoomGov Video**, (3) via **ZoomGov Telephone**, and (4) via **CourtCall**. You may choose any of these options unless otherwise ordered or stated below.

All parties who wish to appear at a hearing remotely must sign up by 4:00 p.m. **one business day** prior to the hearing. Information regarding how to sign up can be found on the **Remote Appearances** page of our website at <https://www.caeb.uscourts.gov/Calendar/RemoteAppearances>. Each party who has signed up will receive a Zoom link or phone number, meeting I.D., and password via e-mail.

If the deadline to sign up has passed, parties who wish to appear remotely must contact the Courtroom Deputy for the Department holding the hearing.

Please also note the following:

- Parties in interest may connect to the video or audio feed free of charge and should select which method they will use to appear when signing up.
- Members of the public and the press appearing by ZoomGov may only listen in to the hearing using the zoom telephone number. Video appearances are not permitted.
- Members of the public and the press may not listen in to trials or evidentiary hearings, though they may appear in person in most instances.

To appear remotely for law and motion or status conference proceedings, you must comply with the following guidelines and procedures:

1. Review the [Pre-Hearing Dispositions](#) prior to appearing at the hearing.
2. Parties appearing via CourtCall are encouraged to review the [CourtCall Appearance Information](#).

If you are appearing by ZoomGov phone or video, please join at least 10 minutes prior to the start of the calendar and wait with your microphone muted until the matter is called.

Unauthorized Recording is Prohibited: Any recording of a court proceeding held by video or teleconference, including "screen shots" or other audio or visual copying of a hearing is prohibited. Violation may result in sanctions, including removal of court-issued media credentials, denial of entry to future hearings, or any other sanctions deemed necessary by the court. For more information on photographing, recording, or broadcasting Judicial Proceedings, please refer to Local Rule 173(a) of the United States District Court for the Eastern District of California.

INSTRUCTIONS FOR PRE-HEARING DISPOSITIONS

Each matter on this calendar will have one of three possible designations: No Ruling, Tentative Ruling, or Final Ruling. These instructions apply to those designations.

No Ruling: All parties will need to appear at the hearing unless otherwise ordered.

Tentative Ruling: If a matter has been designated as a tentative ruling it will be called, and all parties will need to appear at the hearing unless otherwise ordered. The court may continue the hearing on the matter, set a briefing schedule, or enter other orders appropriate for efficient and proper resolution of the matter. The original moving or objecting party shall give notice of the continued hearing date and the deadlines. The minutes of the hearing will be the court's findings and conclusions.

Final Ruling: Unless otherwise ordered, there will be no hearing on these matters. The final disposition of the matter is set forth in the ruling and it will appear in the minutes. The final ruling may or may not finally adjudicate the matter. If it is finally adjudicated, the minutes constitute the court's findings and conclusions.

Orders: Unless the court specifies in the tentative or final ruling that it will issue an order, the prevailing party shall lodge an order within 14 days of the final hearing on the matter.

THE COURT ENDEAVORS TO PUBLISH ITS RULINGS AS SOON AS POSSIBLE. HOWEVER, CALENDAR PREPARATION IS ONGOING AND THESE RULINGS MAY BE REVISED OR UPDATED AT ANY TIME PRIOR TO 4:00 P.M. THE DAY BEFORE THE SCHEDULED HEARINGS. PLEASE CHECK AT THAT TIME FOR POSSIBLE UPDATES.

1. [23-12321](#)-A-7 **IN RE: REHAN KHAN AND AMY LEE**
[SKI-2](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY, MOTION/APPLICATION TO CONFIRM
TERMINATION OR ABSENCE OF STAY
5-9-2024 [\[33\]](#)

EXETER FINANCE LLC/MV
PETER BUNTING/ATTY. FOR DBT.
SHERYL ITH/ATTY. FOR MV.
DISCHARGED 01/22/2024; RESPONSIVE PLEADING

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

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

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

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

The motion will be GRANTED IN PART as to the trustee's interest and DENIED AS MOOT IN PART as to the debtors' interest pursuant to 11 U.S.C. § 362(c)(2)(C). The debtors' discharge was entered on January 22, 2024. Doc. #16. The motion will be GRANTED IN PART for cause shown as to the chapter 7 trustee.

The movant, Exeter Finance LLC ("Movant"), seeks relief from the automatic stay under 11 U.S.C. § 362(d)(1) and (d)(2) with respect to a 2010 Toyota Corolla, VIN: 1NXBE4EE3AZ282999 ("Vehicle"). Doc. #33. The debtors do not oppose the motion. Doc. #41. The Vehicle was voluntarily surrendered to Movant on March 13, 2024. Decl. of Nancy Wafer, Doc. #38.

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

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

After review of the included evidence, the court finds that "cause" exists to lift the stay because the debtors have failed to make at least four complete post-petition payments. Movant has produced evidence that the debtors are delinquent by at least \$1,624.88 plus late fees and recovery fees of \$275.31. Wafer Decl., Doc. #38.

The court also finds that the debtors do not have any equity in the Vehicle and the Vehicle is not necessary to an effective reorganization because the debtors are in chapter 7. The Vehicle is valued at \$7,925.00 and the debtors owe \$12,097.52. Wafer Decl., Doc. #38.

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

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

2. [24-10728](#)-A-7 **IN RE: ALFREDO FELIX ESPINOZA**
[PFT-1](#)

OPPOSITION RE: TRUSTEE'S MOTION TO DISMISS FOR FAILURE TO APPEAR AT
SEC. 341(A) MEETING OF CREDITORS
4-30-2024 [\[12\]](#)

RABIN POURNAZARIAN/ATTY. FOR DBT.

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

DISPOSITION: Conditionally denied.

ORDER: The court will issue the order.

The chapter 7 trustee's motion to dismiss is CONDITIONALLY DENIED.

The debtor shall attend the meeting of creditors rescheduled for July 8, 2024 at 4:00 p.m. If the debtor fails to do so, the chapter 7 trustee may file a declaration with a proposed order and the case may be dismissed without a further hearing.

The time prescribed in Federal Rules of Bankruptcy Procedure 1017(e)(1) and 4004(a) for the chapter 7 trustee and the U.S. Trustee to object to the debtor's discharge or file motions for abuse, other than presumed abuse, under 11 U.S.C. § 707, is extended to 60 days after the conclusion of the meeting of creditors.

3. [24-10440](#)-A-7 **IN RE: ZAC FANCHER**

OPPOSITION/OBJECTION TO CHAPTER 7 TRUSTEE'S REPORT OF NO DISTRIBUTION FILED
BY DEBTOR ZAC ZANE FANCHER
5-2-2024 [\[15\]](#)

ZAC FANCHER/ATTY. FOR MV.
RESPONSIVE PLEADING

NO RULING.

4. [24-10543](#)-A-7 **IN RE: MICHAEL RAZO AND ANA APOLONG**
[JES-1](#)

MOTION TO EMPLOY BAIRD AUCTIONS AND APPRAISALS AS AUCTIONEER, AUTHORIZING
SALE OF PROPERTY AT PUBLIC AUCTION AND AUTHORIZING PAYMENT OF AUCTIONEER
FEES AND EXPENSES
5-13-2024 [\[18\]](#)

JAMES SALVEN/MV
STEPHEN LABIAK/ATTY. FOR DBT.

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

DISPOSITION: Granted.

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

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

James E. Salven ("Trustee"), the chapter 7 trustee of the bankruptcy estate of Michael Razo and Ana Apalong (together, "Debtors"), moves the court for an order authorizing: (1) the employment of Baird Auctions & Appraisals ("Auctioneer"); (2) the sale of a 2008 Toyota Tundra (the "Property") at public auction on or after July 2, 2024 at Auctioneer's location at 1328 N. Sierra Vista Ave, Suite. B, Fresno, California; and (3) the estate to pay Auctioneer's commission and expenses. Tr.'s Mot., Doc. #18.

Pursuant to 11 U.S.C. § 363(b)(1), the trustee, after notice and a hearing, may "use, sell, or lease, other than in the ordinary course of business, property of the estate." Proposed sales under § 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, 594 B.R. 883, 887 (Bankr. D. Alaska 2018) (citing 240 N. Brand Partners, Ltd. v. Colony GFP Partners, L.P. (In re 240 N. Brand Partners, Ltd.), 200 B.R. 653, 659 (B.A.P. 9th Cir. 1996)). "In the context of sales of estate property under § 363, a bankruptcy court 'should determine only whether the trustee's judgment [is] reasonable and whether a sound business justification exists supporting the sale and its terms.'" Alaska Fishing Adventure, 594 B.R. at 889 (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. at 889-90 (quoting In re Psychometric Sys., Inc., 367 B.R. 670, 674 (Bankr. D. Colo. 2007)).

Trustee believes that approval of the sale on the terms set forth in the motion is in the best interests of creditors and the estate. Decl. of James E. Salven, Doc. #20. Trustee's experience indicates that a sale of the Property at public auction will yield the highest net recovery to the estate. Id. The proposed sale is made in good faith.

Section 327(a) of the Bankruptcy Code provides, in relevant part, "the trustee, with the court's approval, may employ . . . auctioneers . . . that do not hold or represent an interest adverse to the estate, and that are disinterested persons, to represent or assist the trustee in carrying out the trustee's duties under this title." 11 U.S.C. § 327(a). The trustee may, with the court's approval, employ an auctioneer on any reasonable terms and conditions of employment, including on a retainer, on an hourly basis, on a fixed or percentage fee basis, or on a contingent fee basis. 11 U.S.C. § 328(a). An application to employ a professional on terms and conditions to be pre-approved by the court must unambiguously request approval under § 328. See Circle K. Corp. v. Houlihan, Lokey, Howard & Zukin, Inc., 279 F.3d 669, 671 (9th Cir. 2002).

The court finds that Auctioneer is a disinterested person as defined by 11 U.S.C. § 101(14) and does not hold or represent an interest adverse to the estate. Decl. of Jeffrey S. Baird, Doc. #21. Trustee requires Auctioneer's services to advertise the sale of the Property, assist in storing the Property until sold, and assist in other matters related to the auction sale of the Property. Salven Decl., Doc. #20. Trustee has agreed to pay Auctioneer a commission of 15% of the gross sale price, 10% of the buyer's premium of the gross sale price and estimated expenses of \$500.00. Id. Trustee unambiguously requests pre-approval of payment to Auctioneer pursuant to § 328. Tr.'s Mot., Doc. #18; Salven Decl., Doc. #20.

Accordingly, this motion is GRANTED. Trustee's business judgment is reasonable and the proposed sale of the Property at public auction is in the best interests of creditors and the estate. The arrangement between Trustee and Auctioneer is reasonable in this instance. Trustee is authorized to sell the Property on the terms set forth in the motion. Trustee is authorized to employ and pay Auctioneer for services as set forth in the motion. Trustee shall submit a form of order that specifically states that employment of Auctioneer has been approved pursuant to 11 U.S.C. § 328.

MOTION TO COMPROMISE CONTROVERSY/APPROVE SETTLEMENT AGREEMENT WITH
ELIZABETH LLAMAS AND THE CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS
5-15-2024 [\[63\]](#)

IRMA EDMONDS/MV
ANTHONY ASEBEDO/ATTY. FOR DBT.
LORIS BAKKEN/ATTY. FOR MV.

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

DISPOSITION: Granted.

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

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

Irma Edmonds ("Trustee"), the chapter 7 trustee of the bankruptcy estate of Elizabeth Llamas ("Debtor"), moves the court for an order pursuant to Federal Rule of Bankruptcy Procedure 9019, approving the compromise of all claims and disputes that have incurred as a result of abuse to Debtor by members of The Church of Jesus Christ of Latter-day Saints ("Church"). Doc. #63.

Debtor filed this bankruptcy case on April 20, 2020. Doc. #1. The bankruptcy case closed on August 7, 2020. Doc. #25. On January 11, 2021, Debtor retained special counsel ("Counsel") to represent her in prosecuting a claim for personal injuries and damages ("Claim") as a result of abuse by members of the Church. Decl. of Evan Smola, Doc. #65. Debtor's bankruptcy case was reopened on February 23, 2023 to allow for the administration of claims for the benefit of the creditors of Debtor's estate. Doc. #30. In her amended schedules, Debtor disclosed the Claim against the Church as a personal injury claim with a value of "unknown" and a claimed exemption "to the extent necessary for the support of the Debtor, her spouse, and her dependents". Doc. #63. After extensive settlement negotiations, the Church and Counsel have proposed to settle the Claim for \$800,000.00, to which the debtor consents and which Trustee has accepted. SMola Decl., Doc. #65; Decl. of Irma C. Edmonds, Doc. #66. The bankruptcy estate will receive a net settlement amount of \$478,773.89 after the payment of Counsel's fees and costs. Id. The net settlement amount will be sufficient to pay all administrative expenses, all filed claims and provide a significant surplus to Debtor. Id.

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

It appears from the moving papers that Trustee has considered the standards of A & C Properties and Woodson. Doc. #63. The terms of the settlement with the Church obviates the need to litigate the Claim. Smola Decl., Doc. #65. Trustee believes that collection of the proceeds of a judgment at trial would not be an issue, but the costs of litigation could consume any amount that would be recovered. Id. The settlement offer is reasonable and allows the estate certainty of recovery of payment. Id. The settlement allows Trustee to collect \$478,773.89 for the bankruptcy estate without the expense, uncertainty, or delay of costly litigation and results in a significant savings in time and administrative expenses. Edmonds Decl., Doc. #66. Trustee believes in her business judgment that the settlement is fair, reasonable, and obtains an economically advantageous result for the estate. Id. The court concludes that the Woodson factors balance in favor of approving the compromise, and the compromise is in the best interests of the creditors and the estate.

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

6. [20-11452](#)-A-7 **IN RE: ELIZABETH LLAMAS**
[BLF-4](#)

MOTION FOR COMPENSATION BY THE LAW OFFICE OF HURLEY MCKENNA & MERTZ FOR
EVAN SMOLA, SPECIAL COUNSEL(S)
5-15-2024 [\[69\]](#)

ANTHONY ASEBEDO/ATTY. FOR DBT.

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

DISPOSITION: Granted.

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

This motion was set for hearing on at least 28 days' notice prior to the hearing date pursuant to Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of creditors, the debtor, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by

the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument. Upon default, factual allegations will be taken as true (except those relating to amount of damages). Televideo Sys., Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires a moving party make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

Irma C. Edmonds ("Trustee"), the chapter 7 trustee of the bankruptcy estate of Elizabeth Llamas, moves the court for an order authorizing payment of \$320,000.00 in professional fees to The Law Office of Hurley McKenna & Mertz ("HMM") and Pintas & Mullins Law Firm ("PM" and, together with HMM, "Special Counsel") and \$1,226.11 in costs. Doc. #69.

Section 330(a)(1) of the Bankruptcy Code authorizes "reasonable compensation for actual, necessary services rendered" and "reimbursement for actual, necessary expenses" to a "professional person." 11 U.S.C. § 330(a)(1). In determining the amount of reasonable compensation to be awarded to a professional person, the court shall consider the nature, extent, and value of such services, taking into account all relevant factors. 11 U.S.C. § 330(a)(3).

The court previously approved employment of Special Counsel as special litigation counsel to represent the debtor and the bankruptcy estate in connection with a claim for personal injuries and damages ("Claim") incurred as a result of abuse to the debtor by members of The Church of Jesus Christ of Latter-day Saints ("Church"). Order, Doc. #58; Decl. of Irma C. Edmonds, Doc. #72. The order granted compensation in the amount of 40% of all amounts collected from the claims and reimbursement of costs, only if there is a recovery. Order, Doc. #58. The fee agreement states that HMM and PM will each receive 50% of the legal fees collected. Id.; Ex. A, Doc. #73.

A settlement with the Church was reached in the amount of \$800,000.00. Id. The approved compromise (matter #5 above) provides for the payment of \$320,000.00 in attorney's fees and \$1,226.11 in costs to Special Counsel. Doc. ##63, 69. The court finds the compensation of \$320,000.00 and reimbursement for costs of \$1,226.11 in connection with the Claim are reasonable, actual, and necessary and should be allowed on a final basis.

Accordingly, this motion is GRANTED.

7. [24-10872](#)-A-7 **IN RE: EMMA GOMEZ GARCIA**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES
5-16-2024 [\[28\]](#)

\$34.00 FILING FEE PAID 5/21/24

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

DISPOSITION: The order to show cause will be vacated.

ORDER: The court will issue an order.

The record shows that the amendment filing fees have been paid.

MOTION FOR RELIEF FROM AUTOMATIC STAY
5-13-2024 [\[15\]](#)

VOLVO CAR FINANCIAL SERVICES LLC/MV
TIMOTHY SPRINGER/ATTY. FOR DBT.
GARRY MASTERSON/ATTY. FOR MV.

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

DISPOSITION: Granted.

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

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

The movant, Volvo Car Financial Services LLC ("Movant"), seeks relief from the automatic stay under 11 U.S.C. § 362(d)(1) with respect to a 2021 Polestar Polestar 2, VIN: LPSED3KA7ML019305 (the "Vehicle"). Doc. #15.

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 the debtor leases the Vehicle and has failed to make at least three complete pre- and post-petition lease payments. Movant has produced evidence that the debtor is delinquent by at least \$1,975.44, including a return check fee of \$30.00. Decl. of Dennis Cruik, Doc. #17. According to the debtor's Statement of Intention, the debtor will not be assuming the lease with Movant. Doc. #1.

Accordingly, the motion will be granted pursuant to 11 U.S.C. § 362(d)(1) to permit Movant to gain immediate possession of the Vehicle pursuant to applicable law. No other relief is awarded.

The 14-day stay of Fed. R. Bankr. P. 4001(a)(3) will be ordered waived because the debtor has failed to make at least three pre- and post-petition payments to Movant in accordance with the lease agreement and the debtor does not intend to assume the lease with Movant.

9. [24-10979](#)-A-7 **IN RE: EUGENE PROANO**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES
5-17-2024 [\[30\]](#)

\$34.00 FILING FEE PAID 5/24/24

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

DISPOSITION: The order to show cause will be vacated.

ORDER: The court will issue an order.

The record shows that the amendment filing fees have been paid.

10. [24-10982](#)-A-7 **IN RE: DANIEL/TAMMY LUQUIN**
[PBB-1](#)

MOTION TO COMPEL ABANDONMENT AND/OR MOTION FOR RIGHT TO USE FICTITIOUS
BUSINESS NAME
5-28-2024 [\[18\]](#)

TAMMY LUQUIN/MV
PETER BUNTING/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 shall submit a proposed
order after hearing.

This motion was filed and served on at least 14 days' notice prior to the hearing date 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 a further hearing is proper pursuant to LBR 9014-1(f)(2). The court will issue an order if a further hearing is necessary.

Daniel Cruz Luquin and Tammy Lea Luquin (together, "Debtors"), the chapter 7 debtors in this case, move the court to compel the chapter 7 trustee to abandon business equipment, inventory and the right to use fictitious business name "T.L. Luquin" that Tammy Lea Luquin uses in her notary business (collectively, the "Property"). Doc. #18. Debtors asserts that there is not enough non-exempt equity in the Property and the Property therefore has no value to the bankruptcy estate. Id.

11 U.S.C. § 554(b) permits the court, on request of a party in interest and after notice and a hearing, to order the trustee to abandon property that is burdensome to the estate or of inconsequential value and benefit to the estate. Vu v. Kendall (In re Vu), 245 B.R. 644, 647 (B.A.P. 9th Cir. 2000). To grant a motion to abandon property, the bankruptcy court must find either that the property is (1) burdensome to the estate or (2) of inconsequential value and inconsequential benefit to the estate. Id. (citing Morgan v. K.C. Mach. & Tool Co. (In re K.C. Mach. & Tool Co.), 816 F.2d 238, 245 (6th Cir. 1987)). However,

"an order compelling abandonment [under § 554(b)] is the exception, not the rule. Abandonment should only be compelled in order to help the creditors by assuring some benefit in the administration of each asset. . . . Absent an attempt by the trustee to churn property worthless to the estate just to increase fees, abandonment should rarely be ordered." Id. (quoting K.C. Mach. & Tool Co., 816 F.2d at 246).

Here, Debtors do not allege that the Property is burdensome to the estate. Motion, Doc. #18. Therefore, Debtors must establish that the Property is of inconsequential value and benefit to the estate. 11 U.S.C. § 554(b); Vu, 245 B.R. at 647. Amongst Debtors' Property is a 2005 Chevrolet Silverado valued at \$4,278.00 and is not encumbered by any lien. Am. Schedule A/B, Doc. #15; Schedule D, Doc. #1. Under California Civil Procedure Code § 704.010, Debtors claim a \$7,500.00 exemption in the 2005 Chevrolet Silverado. Am. Schedule C, Doc. #15; Decl. of Tammy Lea Luquin, Doc. #21. Further, the only non-exempt asset is the goodwill of the business, which Ms. Luquin states has no value because Ms. Luquin has no employees and the business is completed entirely by Ms. Luquin's manual labor. Luquin Decl., Doc. #21. Any assets used in Ms. Luquin's regular course of business are either property of her son, the State of California or her landlord. Id. The court finds that Debtors have met their burden of establishing by a preponderance of the evidence that the Property is of inconsequential value and benefit to the estate.

Accordingly, subject to opposition being raised at the hearing, this motion will be GRANTED. The order shall specifically identify the property abandoned.

11. [23-10789](#)-A-7 **IN RE: KEE LEE**
[BLF-4](#)

MOTION FOR COMPENSATION FOR LORIS L. BAKKEN, TRUSTEES ATTORNEY(S)
4-19-2024 [\[54\]](#)

PETER BUNTING/ATTY. FOR DBT.
LORIS BAKKEN/ATTY. FOR MV.

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

DISPOSITION: Granted.

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

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

Loris L. Bakken, ("Movant"), attorney for chapter 7 trustee Irma C. Edmonds ("Trustee"), requests allowance of final compensation and reimbursement for expenses for services rendered from July 19, 2023 through June 12, 2024. Doc. #54. Movant provided legal services valued at \$23,719.88, and requests compensation for a reduced amount of \$21,080.00. Id. Movant requests reimbursement for expenses in the amount of \$79.88. Id. This is Movant's first and final fee application.

Section 330(a)(1) of the Bankruptcy Code authorizes "reasonable compensation for actual, necessary services rendered" and "reimbursement for actual, necessary expenses" to a "professional person." 11 U.S.C. § 330(a)(1). In determining the amount of reasonable compensation to be awarded to a professional person, the court shall consider the nature, extent, and value of such services, taking into account all relevant factors. 11 U.S.C. § 330(a)(3).

Movant's services included, without limitation: (1) providing counsel to Trustee as to the administration of the chapter 7 case; (2) reviewing and analyzing various documents investigating the debtor's ownership and valuation of her residence; (3) assisting in employing realtor and other administration in connection with selling the debtor's residence; (4) preparing and filing employment and fee applications; and (5) general case administration. Decl. of Loris L. Bakken, Doc. #57; Ex. A, Doc. #56. The court finds the compensation and reimbursement sought are reasonable, actual, and necessary.

This motion is GRANTED on a final basis. The court allows final compensation in the amount of \$21,080.00 and reimbursement for expenses in the amount of \$79.88. Trustee is authorized to make a combined payment of \$21,159.88 representing compensation and reimbursement, to Movant. Trustee is authorized to pay the amount allowed by this order from available funds only if the estate is administratively solvent and such payment is consistent with the priorities of the Bankruptcy Code.

12. [23-10789](#)-A-7 **IN RE: KEE LEE**
[BLF-5](#)

MOTION FOR ADMINISTRATIVE EXPENSES
5-8-2024 [[60](#)]

IRMA EDMONDS/MV
PETER BUNTING/ATTY. FOR DBT.
LORIS BAKKEN/ATTY. FOR MV.

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

DISPOSITION: Granted.

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

This motion was set for hearing on at least 28 days' notice prior to the hearing date pursuant to Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of creditors, the debtor, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-

mentioned parties in interest are entered and the matter will be resolved without oral argument. Upon default, factual allegations will be taken as true (except those relating to amount of damages). Televideo Sys., Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires a moving party make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

Irma C. Edmonds ("Trustee"), the chapter 7 trustee of the bankruptcy estate of Kee Lee, moves the court for an order authorizing the payment of \$7,147.00 to the Internal Revenue Service for estimated income tax due for the 2024 tax year and \$80.00 to the Franchise Tax Board for estimated income tax due for the 2024 tax year. Doc. #60.

11 U.S.C. § 503(b)(1)(B) states that, after notice and a hearing, administrative expenses shall be allowed for "any tax [] incurred by the estate, whether secured or unsecured, including property taxes . . . except a tax of a kind specified in section 507(a)(8) of this title[.]" "Pursuant to this subsection of § 503, a claim is entitled to allowance as an administrative expense if two requirements are satisfied: the tax must be incurred by the estate and the tax must not be a tax of a kind specified in § 507[(a)(8)]." Towers for Pacific-Atlantic Trading Co. v. United States (In re Pacific-Atlantic Trading Co.), 64 F.3d 1292, 1298 (9th Cir. 1995). Here, Trustee has shown that the tax was incurred by the estate, and the tax is not a tax of the kind specified in § 507(a)(8). Decl. of Irma C. Edmonds, Doc. #62.

Accordingly, this motion is GRANTED. The estate is authorized to pay \$7,147.00 to the Internal Revenue Service and \$80.00 to the Franchise Tax Board as administrative expense claims.

13. [23-10789](#)-A-7 **IN RE: KEE LEE**
[JES-2](#)

MOTION FOR COMPENSATION FOR JAMES E. SALVEN, ACCOUNTANT(S)
5-13-2024 [\[64\]](#)

JAMES SALVEN/MV
PETER BUNTING/ATTY. FOR DBT.

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

DISPOSITION: Granted.

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

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

requires a moving party make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

James E. Salven ("Movant"), certified public accountant for chapter 7 trustee Irma C. Edmonds ("Trustee"), requests allowance of final compensation and reimbursement for expenses for services rendered from August 1, 2023 through May 13, 2024. Doc. #64; Order, Doc. #44. Movant provided accounting services valued at \$3,248.00, and requests compensation for that amount. Doc. #64. Movant requests reimbursement for expenses in the amount of \$193.70. Doc. #64. This is Movant's first and final fee application.

Section 330(a)(1) of the Bankruptcy Code authorizes "reasonable compensation for actual, necessary services rendered" and "reimbursement for actual, necessary expenses" to a "professional person." 11 U.S.C. § 330(a)(1). In determining the amount of reasonable compensation to be awarded to a professional person, the court shall consider the nature, extent, and value of such services, taking into account all relevant factors. 11 U.S.C. § 330(a)(3).

Movant's services included, without limitation: (1) conflict review and prepare employment application; (2) research acquisition dates and tax basis; (3) research and analyze tax effect of sales and input data to process tax returns; and (4) prepare, file and serve fee application. Ex. A & B, Doc. #66; Decl. of James E. Salven, Doc. #68. The court finds the compensation and reimbursement sought are reasonable, actual, and necessary.

This motion is GRANTED on a final basis. The court allows final compensation in the amount of \$3,248.00 and reimbursement for expenses in the amount of \$193.70. Trustee is authorized to make a combined payment of \$3,441.70, representing compensation and reimbursement, to Movant. Trustee is authorized to pay the amount allowed by this order from available funds only if the estate is administratively solvent and such payment is consistent with the priorities of the Bankruptcy Code.