



**UNITED STATES BANKRUPTCY COURT  
Eastern District of California  
Honorable René Lastreto II  
Department B – Courtroom #13  
Fresno, California  
Hearing Date: Tuesday, June 24, 2025**

Unless otherwise ordered, all matters before the Honorable René Lastreto II, shall be simultaneously: (1) **In Person** at, Courtroom #13 (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 or their attorneys 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/CourtAppearances>. Each party/attorney 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 and their attorneys who wish to appear remotely must contact the Courtroom Deputy for the Department holding the hearing.

Please also note the following:

- Parties in interest and/or their attorneys 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 who wish to attend by ZoomGov may only listen in to the hearing using the Zoom telephone number. Video participation or observing are not permitted.
- Members of the public and the press may not listen in to trials or evidentiary hearings, though they may attend in person unless otherwise ordered.

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.

**Post-Publication Changes:** 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 any possible updates.

9:30 AM

1. [25-11722](#)-B-11     **IN RE: ESTATE OF NANCY MCNERNEY**  
[CAE-1](#)

ORDER TO SHOW CAUSE WHY CASE SHOULD NOT BE DISMISSED AND  
MONETARY SANCTIONS IMPOSED FOR FILING A FRIVOLOUS PETITION  
5-28-2025    [\[6\]](#)

NO RULING.

2. [25-10345](#)-B-12     **IN RE: KENNETH/BEVERLY ZWART**  
[CAE-1](#)

CONTINUED STATUS CONFERENCE RE: CHAPTER 12 VOLUNTARY PETITION  
2-6-2025    [\[1\]](#)

DAVID JOHNSTON/ATTY. FOR DBT.

NO RULING.

3. [25-10345](#)-B-12     **IN RE: KENNETH/BEVERLY ZWART**  
[DCJ-1](#)

MOTION TO CONFIRM CHAPTER 12 PLAN  
5-6-2025    [\[29\]](#)

BEVERLY ZWART/MV  
DAVID JOHNSTON/ATTY. FOR DBT.  
RESPONSIVE PLEADING

NO RULING.

The Debtor and Trustee have agreed to extend the time for the  
Trustee to object to confirmation. The court notes other objections  
have been filed. This hearing will proceed as a status/scheduling  
conference and set a schedule in light of 11 U.S.C. § 1224.

4. [23-10457](#)-B-11     **IN RE: MADERA COMMUNITY HOSPITAL**  
[HRR-2](#)

CONTINUED MOTION TO ASSUME LEASE OR EXECUTORY CONTRACT  
AND/OR MOTION TO PAY , MOTION FOR RELATED RELIEF  
5-2-2024    [\[1740\]](#)

AMERICAN ADVANCED MANAGEMENT, INC./MV  
RILEY WALTER/ATTY. FOR DBT.  
HAMID RAFATJOO/ATTY. FOR MV.

NO RULING.

5. [23-10457](#)-B-11     **IN RE: MADERA COMMUNITY HOSPITAL**  
[PSJ-56](#)

CONTINUED OMNIBUS OBJECTION TO CLAIMS  
3-28-2025    [[2119](#)]

NICHOLAS RUBIN/MV  
RILEY WALTER/ATTY. FOR DBT.

NO RULING.

6. [23-10457](#)-B-11     **IN RE: MADERA COMMUNITY HOSPITAL**  
[WJH-42](#)

CONTINUED MOTION TO REJECT LEASE OR EXECUTORY CONTRACT  
5-2-2023    [[334](#)]

MADERA COMMUNITY HOSPITAL/MV  
RILEY WALTER/ATTY. FOR DBT.

NO RULING.

7. [25-11064](#)-B-11     **IN RE: CHEEMA INVESTMENTS, LLC**  
[CAE-1](#)

CONTINUED STATUS CONFERENCE RE: CHAPTER 11 SUBCHAPTER V  
VOLUNTARY PETITION  
4-2-2025    [[1](#)]

BEILAL CHATILA/ATTY. FOR DBT.

NO RULING.

8. [25-10088](#)-B-11     **IN RE: AMY CORPUS**  
[FW-2](#)

FURTHER HEARING RE: MOTION TO USE CASH COLLATERAL  
1-14-2025    [[5](#)]

AMY CORPUS/MV  
PETER FEAR/ATTY. FOR DBT.

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

DISPOSITION:     Dropped from the calendar.

No order is required.

On June 12, 2025, the court entered an order confirming the Debtor's Chapter 11 Plan for Reorganization. Doc. #103. Accordingly, this matter is moot and will be DROPPED from the calendar.

9. [25-11088](#)-B-11     **IN RE: CHEEMA BROTHERS LOGISTICS, INC.**  
[CAE-1](#)

CONTINUED STATUS CONFERENCE RE: CHAPTER 11 SUBCHAPTER V  
VOLUNTARY PETITION  
4-2-2025    [[1](#)]

BEILAL CHATILA/ATTY. FOR DBT.

NO RULING.

10. [25-10996](#)-B-11     **IN RE: PARJODH SINGH AND SARAVJEET KAUR**  
[CAE-1](#)

CONTINUED STATUS CONFERENCE RE: CHAPTER 11 SUBCHAPTER V  
VOLUNTARY PETITION  
3-31-2025    [[1](#)]

NO RULING.

11:00 AM

1. [25-11347](#)-B-7      **IN RE: FELICITAS ESQUIVEL**

REAFFIRMATION AGREEMENT WITH GOLDEN 1 CREDIT UNION  
6-4-2025    [\[12\]](#)

JEFFREY ROWE/ATTY. FOR DBT.

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

DISPOSITION:      Denied.

ORDER:              The court will issue an order.

Debtor's counsel will inform debtor that no appearance is necessary.

A Reaffirmation Agreement between Felicitas G. Esquivel ("Debtor") Golden 1 Credit Union ("Creditor") for a 2018 Nissan Pathfinder ("Vehicle") was filed on June 4, 2025. Doc. #12.

11 U.S.C. § 524(c)(6)(A)(ii) states "An agreement between a holder of a claim and the debtor, the consideration for which, in whole or in part, is based on a debt that is dischargeable in a case under this title is enforceable only to any extent enforceable under applicable non-bankruptcy law, whether or not discharge of such debt is waived, only if the court approves such agreement as in the best interest of the debtor."

There is no presumption of undue hardship because the lender is a credit union. While Debtor's initial filings reflected a negative monthly expense deficit, he has since filed an Amended Schedule I & J which reflects his ability to pay the monthly loan payment.

That said, in light of the remaining term, current value, and age of the Vehicle, reaffirmation of this debt is not in the Debtor's best interest. Nothing prevents the Debtor from continuing to make payments to the Creditor nor the Creditor from accepting those payments. Approval of the reaffirmation agreement is DENIED.

2. [25-10764](#)-B-7      **IN RE: LUCETTE MARQUEZ**

REAFFIRMATION AGREEMENT WITH DON ROBERTO JEWELERS, INC.  
6-4-2025    [\[14\]](#)

TIMOTHY SPRINGER/ATTY. FOR DBT.

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

DISPOSITION:      Denied.

ORDER:              The court will issue an order.

Debtor's counsel shall notify the debtor that no appearance is necessary.

A Reaffirmation Agreement between Lucette Marquez ("Debtor") and Don Roberto Jewelers, Inc. for a 14k gold baby bracelet and 1/4k diamond earrings ("Jewelry") was filed on June 4, 2025. Doc. #14.

11 U.S.C. § 524(c)(6)(A)(ii) states "An agreement between a holder of a claim and the debtor, the consideration for which, in whole or in part, is based on a debt that is dischargeable in a case under this title is enforceable only to any extent enforceable under applicable non-bankruptcy law, whether or not discharge of such debt is waived, only if the court approves such agreement as in the best interest of the debtor."

Here, the Jewelry is valued at \$1,000.00. The amount being reaffirmed by Debtor is \$1,518.35 with a 23.40% interest rate. Debtor has negative equity of \$518.35 with approximately 10 months remaining on the loan and negative net monthly income of \$3,970.00 remaining in the budget every month according to the Debtor's schedules.

The court finds no evidence that this Reaffirmation Agreement is in the best interest of the Debtor. Accordingly, approval of the Reaffirmation Agreement between Debtor and Don Roberto Jewelers, Inc. will be DENIED.

3. [25-11376](#)-B-7     **IN RE: MANUEL/ANNA ALVES**

REAFFIRMATION AGREEMENT WITH SANTANDER CONSUMER USA INC.  
5-28-2025    [\[14\]](#)

SCOTT LYONS/ATTY. FOR DBT.

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

DISPOSITION:        Denied.

ORDER:                The court will issue an order.

Debtor's counsel will inform debtor that no appearance is necessary.

A Reaffirmation Agreement between Manuel and Anna Alves ("Debtors") and Santander Consumer USA Inc. for a 2020 Ford Escape ("Vehicle") was filed on May 28, 2025. Doc. #14.

11 U.S.C. § 524(c)(6)(A)(ii) states "An agreement between a holder of a claim and the debtor, the consideration for which, in whole or in part, is based on a debt that is dischargeable in a case under this title is enforceable only to any extent enforceable under applicable non-bankruptcy law, whether or not discharge of such debt is waived, only if the court approves such agreement as in the best interest of the debtor."

Here, the Vehicle is valued at \$13,512.00. The amount being reaffirmed by Debtors is \$23,848.63 with a 19.89% interest rate. Debtors have negative equity of \$10,336.63 with approximately 51 months (over four years) remaining on the loan and only \$2.02 remaining in the budget every month according to the Debtors' schedules.

The court finds no evidence that this Reaffirmation Agreement is in the best interest of the Debtors. Accordingly, approval of the Reaffirmation Agreement between Debtors and Santander Consumer USA Inc. will be DENIED.

1:30 PM

1. [25-10700](#)-B-7     **IN RE: REBECCA OXFORD**  
[AP-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY  
5-16-2025    [\[13\]](#)

BMW FINANCIAL SERVICES NA, LLC./MV  
JERRY LOWE/ATTY. FOR DBT.  
WENDY LOCKE/ATTY. FOR MV.

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

DISPOSITION:     Denied as moot.

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

This motion relates to an executory contract or lease of personal property. The case was filed on March 7, 2025, and the lease was not assumed by the chapter 7 trustee within the time prescribed in 11 U.S.C. § 365(d)(1). Pursuant to § 365(p)(1), the leased property is no longer property of the estate and the automatic stay under § 362(a) has already terminated by operation of law.

According to the Debtor's Statement of Intention, the lease will not be assumed. Doc. #1. Since there is no opposition from the Debtors, the court is unaware of whether Debtors exercised their option to assume the lease under § 365(p)(2).

Movant may submit an order denying the motion and confirming that the automatic stay has already terminated on the grounds set forth above. No other relief is granted. No attorney fees will be awarded in relation to this motion.

2. [25-11110](#)-B-7     **IN RE: JOSE MARTINEZ**  
[SKI-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY  
5-19-2025    [\[12\]](#)

TD BANK, N.A./MV  
ROBERT WILLIAMS/ATTY. FOR DBT.  
SHERYL ITH/ATTY. FOR MV.  
PER ECF ORDER #25 THE HEARING IS VACATED

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

DISPOSITION:        Denied as moot.

ORDER:                The court will issue an order.

An Order Approving Stipulation was entered on June 9, 2025, granting Movant, TD Bank, N.A., relief from the automatic stay. Doc. #25. The motion will be DENIED AS MOOT.

3. [24-11015](#)-B-7     **IN RE: PINNACLE FOODS OF CALIFORNIA LLC**

STATUS CONFERENCE RE: VOLUNTARY PETITION  
4-22-2024    [\[1\]](#)

KEITH OWENS/ATTY. FOR DBT.

NO RULING.

4. [24-11015](#)-B-7     **IN RE: PINNACLE FOODS OF CALIFORNIA LLC**  
[DL-4](#)

MOTION FOR ADMINISTRATIVE EXPENSES  
6-9-2025    [\[569\]](#)

WALTER DAHL/MV  
KEITH OWENS/ATTY. FOR DBT.  
WALTER DAHL/ATTY. FOR MV.

TENTATIVE RULING:        This matter will proceed as scheduled.

DISPOSITION:        Granted.

ORDER:                The minutes of the hearing will be the court's findings and conclusions. Order preparation determined at the hearing.

Walter R. Dahl, Chapter 7 Trustee in the jointly administered cases styled as *In re: Pinnacle Foods of California, LLC, a California limited liability company, and Tyco Group, LLC, and California QSR Management, Inc.* ("Trustee"), moves for allowance of an administrative retention bonus to secure the continued services of a

key employee during and immediately after the imminent sale of the three debtor-corporations. Doc. #569.

The key employee is Michelle Chrysler ("Chrysler"), the Finance and Human Resources Director for debtor-corporation California QSR ("QSR"), which is the managing entity of the other two debtor-corporations affected by this motion ("Pinnacle" and "Tyco"). *Id.* Chrysler currently has an annual salary of \$140,000.00, and the motion proposes to pay Chrysler an additional \$35,000.00 to secure her employment and continued performance of her duties for at least 30 days after the close of the upcoming sale of substantially all the assets of the three debtors. *Id.* The motion is accompanied by a Declaration from Trustee attesting to the need to retain Chrysler's services during the transition in ownership of the three corporation. Doc. #571.

Written opposition was not required and may be presented at the hearing. In the absence of opposition, this motion will be GRANTED.

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

11 U.S.C. § 503(b)(1)(A)(i) allows for the payment, after notice and hearing, of allowed administrative expenses, including the actual, necessary costs and expenses of preserving the estate including "wages, salaries, and commissions for services rendered after the commencement of the case." 11 U.S.C. § 503(b)(1)(A)(i). While § 503 contemplates the payment of retention bonuses for key persons, such payments must pass muster under § 503(c), which bars retention bonuses for insiders unless certain requirements are met. 11 U.S.C. § 503(c). If the purported key person employee is not an insider, retention bonuses are governed by § 503(c)(3):

(c)Notwithstanding subsection (b), there shall neither be allowed, nor paid—

(1)a transfer made to, or an obligation incurred for the benefit of, an insider of the debtor for the purpose of inducing such person to remain with the debtor's business, absent a finding by the court based on evidence in the record that—

(A)the transfer or obligation is essential to retention of the person because the individual has a bona fide job offer from another business at the same or greater rate of compensation;

(B)the services provided by the person are essential to the survival of the business; and

(C)either—

(i)the amount of the transfer made to, or obligation incurred for the benefit of, the person is not greater than an amount

equal to 10 times the amount of the mean transfer or obligation of a similar kind given to nonmanagement employees for any purpose during the calendar year in which the transfer is made or the obligation is incurred; or

(ii) if no such similar transfers were made to, or obligations were incurred for the benefit of, such nonmanagement employees during such calendar year, the amount of the transfer or obligation is not greater than an amount equal to 25 percent of the amount of any similar transfer or obligation made to or incurred for the benefit of such insider for any purpose during the calendar year before the year in which such transfer is made or obligation is incurred;

...

(3) other [non-insider] transfers or obligations [for retention or severance agreements] that are outside the ordinary course of business and not justified by the facts and circumstances of the case, including transfers made to, or obligations incurred for the benefit of, officers, managers, or consultants hired after the date of the filing of the petition.

11 U.S.C. § 503(c). By negative inference, § 503(c) means that transfers such as retention bonuses for key personnel are allowable where (a) the employee is not an insider and (b) the retention agreement is justified by the facts and circumstances of the case. While the court has found no controlling case in this circuit, there appears to be a judicial consensus that the phrase "justified by the facts and circumstances" is consistent with the business judgment rule. See *In re Dana Corp.*, 358 B.R. 567, 576 (Bankr. S.D.N.Y. 2004) and cases cited therein.

The business judgment rule is a "presumption that in making a business decision the directors of a corporation [or, in this case, a Trustee who has assumed the responsibility for running the corporation during liquidation proceedings] acted on an informed basis, in good faith and in the honest belief that the action taken is in the best interests of the company."

...

When applicable, the business decisions of [the Trustee] "will not be disturbed if they can be attributed to any rational business purpose. A court under such circumstances will not substitute its own notions of what is or is not sound business judgment."

*Husted v. Taggart (In re ECS Ref., Inc.)*, 625 B.R. 425, 445-46 (Bankr. E.D. Cal. 2020) (citations omitted).

Trustee declares that Chrysler is not an "insider" of any of the three companies within the meaning of § 503. Doc. #571.

Although Ms. Chrysler has the title of Finance and Human Resources Director of California QSR, she is not a corporate Director, nor a corporate Officer of California QSR. The sole Director and the sole Officer is Imran Damani, who is also the sole shareholder. Ms. Chrysler is not a Manager of either Pinnacle or of Tyco. The sole Manager is Imran Damani, who is also the sole owner of such limited liability companies. In addition, Ms. Chrysler is not a person in control of any of the three debtors; the sole person in control is Imran Damani.

*Id.* The court finds Trustee's Declaration persuasive and is inclined to find that Chrysler is not an insider and that, furthermore, the Trustee's desire to retain Chrysler in her current position for at least 30 days after close of sale to facilitate the transfer of the businesses to their new owners is rational and indicative of sound business judgment. The amount of the proposed retention bonus - \$35,000.00 - is equivalent to three-months' salary for Chrysler, and her retention will last for at least one month after sale closing. The size of the retention bonus, in the court's opinion, is not excessive.

Alternatively, Trustee declares that, even if Chrysler is deemed an insider despite all evidence to the contrary, the retention bonus still passes muster under § 503(c)(1). Doc. #571. While there is no indication that Chrysler currently has a job offer on the table, Trustee asserts his confidence that she will quickly receive a bona fide job offer if she is not awarded the bonus and seeks other employment. *Id.* Trustee declares that "[t]he services being and to be provided by Ms. Chrysler are essential to the survival of the business, and its expected sale." *Id.* Finally, Trustee declares that the debtor-corporations have not offered any retention bonuses during calendar year 2025, and he is unaware of any such bonuses made or incurred in calendar year 2024. *Id.* The court is persuaded that, even if Chrysler is an insider under some theory, her retention nevertheless meets the requirements of § 503(c)(1), and the proposed retention bonus is permissible.

Written opposition was not required, and opposition may be presented at the hearing. In the absence of opposition, the court is inclined to GRANT this motion. Trustee will be authorized to pay a retention bonus to Michele Chrysler subject to the terms and conditions outlined in the motion.

5. [24-11015](#)-B-7      **IN RE: PINNACLE FOODS OF CALIFORNIA LLC**  
[DL-5](#)

MOTION ESTABLISH BIDDING PROCEDURES & TERMS FOR  
GOING-CONCERN SALE OF DEBTORS' BUSINESSES AND/OR MOTION TO  
ESTABLISH CARVE-OUTS , MOTION TO AUTHORIZE DISTRIBUTION OF  
SALES PROCEEDS , MOTION/APPLICATION TO SHORTEN TIME  
6-9-2025    [\[573\]](#)

WALTER DAHL/MV  
KEITH OWENS/ATTY. FOR DBT.  
WALTER DAHL/ATTY. FOR MV.

NO RULING.

Walter R. Dahl ("Trustee"), Chapter 7 Trustee in the jointly administered cases styled as *In re: Pinnacle Foods of California, LLC* ("Pinnacle"), a California limited liability company, Tyco Group, LLC ("Tyco"), and California QSR Management, Inc. ("QSR"), moves for the following relief:

1. To establish bidding procedures and terms for going-concern sale of Debtors' businesses;
2. To establish carve-outs;
3. To authorize distribution of sales proceeds; and
4. To permit a shortened time for Notice of Motion to Approve Sale Free & Clear; Compromise Controversies; Assume & Assign Executory Contracts; and Value Collateral.

Doc. #573. More specifically, Trustee proposes to sell certain assets from the Pinnacle estate and from the QSR at auction. *Id.* The nature of the assets is described as follows:

1. From the Pinnacle estate: All tangible and intangible personal property utilized in or available for utilization in the operation of five currently operating Popeyes restaurants, including but not limited to franchise agreements, real property leasehold interests, inventory, furniture, fixtures and equipment (including ground lease improvements). The Store Number and Location of the five restaurants (four in Fresno and one in Turlock) are provided in the moving papers.
2. From the QSR estate: Supporting back-office software, hardware, and financial records owned and managed by California QSR, which has provided management services to Pinnacle and Tyco.

*Id.* Collectively, these assets will be referred to as the Business Assets. The motion avers that Trustee is negotiating for a Purchase and Sale Agreement ("PSA") that would provide for the purchase of all the Business Assets by Quikserve Cajun, Inc., a California corporation or Assignee, and Quikserve Management Services, Inc., a California corporation or Assignee (collectively "Quikserve" or "the Buyer"). *Id.* Trustee further avers that the PSA would soon be filed once it had been finalized, and that Trustee anticipates that the PSA will provide for a stalking horse price of \$2,000,000.00 for the

Business Assets, subject to over-bidding and court approval. *Id.* The sale is set for July 10, 2025, at 1:30 PM ("the Sale Hearing"). *Id.*

On June 17, 2025, the Trustee submitted the proposed PSA signed by Trustee, the President of Quikserve Cajun, Inc., and the President of Quikserve Management Services, Inc. Doc. #580. The court notes that the PSA is subject to several contingencies stating that Quikserve is not obligated to close on its purchase unless (1) Trustee and Buyer can negotiate amendments and/or extensions to lease agreements governing three of Debtor's stores and (2) Trustee and Buyer can successfully negotiate certain amendments and extensions pertaining to the Franchise Agreements between Debtor and its franchisor, Popeyes Louisiana Kitchens, Inc. ("PLK"). *Id.*

This matter will be called and proceed as scheduled. Written opposition was not required and may be presented at the hearing.

This motion was set for hearing on shortened notice with an OST under the procedure specified in Local Rule of Practice ("LBR") 9014-1(f)(3). Consequently, the creditors, the U.S. Trustee, and any other parties in interest were not required to file a written response or opposition to the motion. If any of these potential respondents appear at the hearing and offer opposition to the motion, the court will set a briefing schedule and a final hearing unless there is no need to develop the record further. If no opposition is offered at the hearing, the court will take up the merits of the motion. Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter.

#### DISCUSSION

##### 1. The Motion To Establish Bidding Procedures and Terms for Going-Concern Sale of Debtors' Businesses.

Trustee first moves for approval of the proposed bidding procedures which will govern the sale. Doc. #573.

Section 363(b)(1) of the Code permits sale of estate property outside the ordinary course of business "after notice and a hearing." What constitutes proper notice and opportunity for a hearing is largely left to the court's discretion. See Code § 102(1); 2 COLLIER ON BANKRUPTCY ¶ 102.02[1] (15th ed. rev. 2007). Section 105 of the Code gives the court the authority to enter orders necessary to carry out the provisions of the Code, including administration of the assets in the court's custody. See 2 COLLIER ON BANKRUPTCY ¶ 105.04 (15th ed. rev. 2005). From these provisions it is clear the court may regulate the mechanism of a sale outside the ordinary course. Indeed, the court may even affect the sale of property by a trustee *in* the ordinary course. Code § 363(c)(1) ("unless the court orders otherwise, the trustee may enter into transactions . . .").

[In re Tex. Rangers Baseball Ptnrs](#), 431 B.R. 706, 710 (Bankr. N.D. Tex. 2010).

In deciding whether to approve § 363 bidding procedures, the primary consideration for the court is whether the sale and the procedures for effecting it represent a sound exercise of business judgment. [7 COLLIER ON BANKRUPTCY P 1108.07](#). A non-exclusive list of factors for the court to consider includes:

1. Whether a sound business purpose exists for the sale;
2. Whether the stalking horse sale price is fair;
3. Whether the debtor (or, in this case, the Trustee) has provided adequate and reasonable notice;
4. Whether the purchaser has acted in good faith;
5. Whether a debtor has sufficient liquidity to survive until confirmation of a plan,
6. Whether an opportunity to sell a debtor's assets will exist as of the time of plan confirmation,
7. Whether there is or will ever be a satisfactory alternative to a proposed sale; and
8. Whether a debtor will "die on the operating table" if the proposed sale is deferred

*Id.* Not all these factors are relevant in the context of a Chapter 7 case where the sale is being conducted by the Trustee. For example, factors 5, 6, and 7 are of no moment here. On the evidence presently before the court, it appears that those factors relevant to this case favor approval of the proposed bidding procedures. While Trustee filed the instant motion for approval under shortened notice, the sale motion and its ancillary motions were filed and properly served more than a month before the proposed July 10 sale hearing date. Doc. #573. Though Trustee is authorized to operate these quick serve restaurant stores temporarily, there is a continuing risk to the value of the business as time passes during this transitional phase. In the absence of any opposition, the court is inclined to GRANT the *Motion To Establish Bidding Procedures and Terms for Going-Concern Sale of Debtors' Businesses*.

## 2. The Motion to Establish Carve-outs.

A carve-out agreement is an agreement by a secured creditor to allow some portion of its lien proceeds to be paid to others, i.e., to carve out its lien position. [In re Harbor Custom Dev., Nos. WW-24-1144-GLS, 3:23-bk-42180-MJH, 2025 Bankr. LEXIS 1059, at \\*11-12 \(B.A.P. 9th Cir. May 2, 2025\)](#) (citations omitted). See *E. Coast Miner LLC v. Nixon Peabody LLP (In re Licking River Mining, LLC)*, 911 F.3d 806, 814 (6th Cir. 2018) ("The Code provisions governing priorities of creditors apply only to distributions of property of the estate. The Code does not govern the rights of creditors to transfer or receive non-estate property."); *Off. Unsecured Creditors' Comm. v. Stern (In re SPM Mfg. Corp.)* 1st Cir. 1993) ("While the debtor and the trustee are not allowed to pay nonpriority creditors ahead of priority creditors, creditors are generally free to do whatever they wish with the bankruptcy dividends they receive, including to share them with other creditors.")

Here, Trustee proposes to distribute the sale proceeds as follows:

1. \$6,411.37 to Administrative Expense Tax Agency Claims.
2. \$35,000.00 to the retention bonus to Michelle Chrysler. See *Item #4, above*.
3. \$100,000.00 as a carve-out for Chapter 7 Trustee fees and expenses.
4. An estimated \$64,444.68 to pay the prepetition rent and related claims of several of Debtor's landlords at 50% of what is owed as a compromise of their claims. There is no indication that any of the landlords have agreed to this compromise.
5. \$1,792,000.00 (the remaining funds) will be divided, with 50% (\$896,000.00) each going to PLK and Flagstar Financial and Leasing, LLC ("Flagstar"). There is no indication that either of these entities have agreed to this compromise, described more fully as follows:
  - a. \$896,000.00 to PLK in compromise of its \$1,313,369.27 claim, in exchange for which Trustee will grant a full and complete release of all claims known and unknown of Debtors and their Estates against PLK. In exchange, PLK will facilitate the assumption and assignment of the franchise agreements to the successful buyer. It is unclear from the motion, but part of the proposed sale involves the assumption and assignment of the franchise agreements with PLK. Though not specifically identified in the motion, the court presumes that the approximately \$1.3 million claim of PLK is the amount to cure defaults as a pre-requisite to assumption and assignment. Counsel will need to clarify the nature of the claim at the hearing.
  - b. \$896,000.00 to Flagstar in compromise of its \$3,074,250.72 first-priority secured claim in order to facilitate the sale and transfer of inventory, furniture, fixture and equipment and other collateral to the successful buyer free and clear of liens, encumbrances, and other interests. Based on the motion, the court again is required to assume that Flagstar consents to a sale free and clear of its' lien in exchange for the proposed compromised amount

Doc. #573. In principle, the court has no issue with the proposed carve-outs *provided* that the affected creditors have agreed to a reduction in what they are properly owed. Unfortunately, at this moment, no such agreements are anywhere to be seen. On June 17, 2025, Trustee filed a Status Report in this case acknowledging that the sale at the proposed price will be inadequate to pay the outstanding claims of PLK, Flagstar, and the various landlords. *Id.* Also, as the tortuous history of this case shows, PLK effectively has veto power over assignment of the franchise agreements to a buyer who does not meet PLK's requirements. *Id.* The motion avers that "PLK has also made it clear that when its franchises are transferred, the transferee (here, Trustee on behalf of Debtors) must satisfy all monetary obligations and execute a broad form release." *Id.*

The motion avers that "Trustee has made substantial progress" on achieving a compromise with PLK, Flagstar, and the landlords by which they will take a substantial haircut in this case. But "substantial progress" does not mean complete agreement. There is no evidence in the motion that agreement has been reached. If the \$100,000.00 carve-out proposal for Chapter 7 Trustee fees and expenses is to be approved, the affected creditors must be willing to do the carving on their own claims, and as of yet, they have not agreed to do so. The court will consider all evidence presented by the Trustee and any other affected parties. Hopefully, the Trustee will have obtained agreed compromises by the hearing date, and if so, the Motion to Establish Carve-Outs will be GRANTED.

The court is mindful that Flagstar's (and any other secured claimant's) interest in collateral may be subject to surcharge under section 506 (c). It appears that through the efforts of the Trustee (and perhaps others) the disposition of these assets is imminent, and Trustee has essentially operated these franchised restaurants for some time, thereby preserving value. In the absence of opposition, the court may find that the surcharge requested is appropriate under the circumstances.

If Trustee does not have the compromises in hand or other evidence the surcharge is appropriate, the court may DENY WITHOUT PREJUDICE or else CONTINUE this specific matter to give Trustee more time to negotiate with the affected creditors.

### 3. The Motion to Authorize Distribution of Sales Proceeds.

This motion will be GRANTED as to the Administrative Tax Agency Claims and the retention bonus for Michelle Chrysler, as they have priority over the carve-outs. The court cannot approve the remainder of the proposed disbursements until the issue of the carve-outs is resolved. Depending on the disposition of the carve-out motion, the motion to authorize distribution may be GRANTED, GRANTED IN PART, DENIED WITHOUT PREJUDICE or CONTINUED.

### 4. Motion to Permit a Shortened Time For Notice of Motion to Approve Sale Free & Clear; Compromise Controversies; Assume & Assign Executory Contracts; and Value Collateral.

The court is not going to provide an advisory opinion on a proposed order shortening time regarding the "to be filed" motions other than the sale or compromise motions until the motions are fully prepared. Other than those motions with minimum notice set forth in the Federal Rules of Bankruptcy Procedure, the court has a procedure where motions can be set on 14 days' notice without the necessity for a separate order. The proposed timeline in Trustee's motion (service by June 26 and hearing on July 10) is in conformance with minimum notice required under LBR 9014-1(f)(2).

6. [24-13335](#)-B-7     **IN RE: LINA SHIRLEY**  
[MJ-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY  
4-30-2025    [\[39\]](#)

AMERICREDIT FINANCIAL SERVICES, INC./MV  
MEHRDAUD JAFARNIA/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.

AmeriCredit Financial Services, Inc. ("Movant") seeks relief from the automatic stay under 11 U.S.C. § 362(d)(1) with respect to a 2014 Ford F150 (VIN: 1FTFW1ET0EFA16799) ("Vehicle"). Doc. #39. Movant also requests waiver of the 14-day stay of Fed. R. Bankr. P. 4001(a)(4). *Id.*

Lina Shirley ("Debtor") did not file opposition and no other party in interest timely filed written opposition. This motion will be GRANTED.

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

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

After review of the included evidence, the court finds that "cause" exists to lift the stay because Debtor has failed to make at least seven (7) pre-petition payments and five (5) post-petition payments. The Movant has produced evidence that Debtor is delinquent at least \$7,572.33. Docs. ##41-42.

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

The 14-day stay of Fed. R. Bankr. P. 4001(a)(4) will be ordered waived because Debtor has failed to make at least twelve (12) pre- and post-petition payments to Movant, and the Vehicle is a depreciating asset.

7. [23-12646](#)-B-7     **IN RE: TIMOTHY/ANDREA PUERNER**  
[EAT-1](#)

MOTION FOR AUTHORITY TO ENTER INTO SUBORDINATE PARTIAL CLAIM  
MORTGAGE AGREEMENT ON REAL PROPERTY  
5-29-2025     [\[46\]](#)

LAKEVIEW LOAN SERVICING, LLC/MV  
ROBERT CERVANTES/ATTY. FOR DBT.  
EDWARD TREDER/ATTY. FOR MV.

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

DISPOSITION:     Denied without prejudice.

ORDER:     The court will issue an order.

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

LBR 9004-2(d) requires (1) exhibits to be filed as a separate exhibit document, (2) an exhibit index stating the page number at which each exhibit is found within the exhibit document, and (3) use of consecutively numbered exhibit pages throughout the exhibit document, including any separator, cover, or divider sheets. Here, the exhibits are attached to the Declaration of Jacqueline VanDerMiller, an assistant secretary working for LoanCare LLC ("Movant") and do not contain an exhibit index. Doc. #48.

For the above reason(s), this motion will be DENIED WITHOUT PREJUDICE.

8. [25-11255](#)-B-7     **IN RE: JONATHAN PENA AND JENNIFER ALDACO**  
[JCS-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY AND/OR MOTION FOR  
ADEQUATE PROTECTION  
5-14-2025    [\[10\]](#)

CREDIT HUMAN FEDERAL CREDIT UNION/MV  
NEIL SCHWARTZ/ATTY. FOR DBT.  
JOHN STEELE/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.

Credit Human Federal Credit Union ("Movant") seeks relief from the automatic stay under 11 U.S.C. § 362(d)(1) with respect to a 1992 Champion HM Builders Co. S1657C, Serial Numbers 09936573646A, 09936573646B ("Property"). Doc. #10. Movant also requests waiver of the 14-day stay of Fed. R. Bankr. P. 4001(a)(4). *Id.*

Jonathan Pena and Jennifer Aldaco ("Debtors") did not file opposition and no other party in interest timely filed written opposition. Debtors' Statement of Intention indicated that the Property would be surrendered.

The court notes the presence of two procedural defects in the moving papers. First, the notice did not comply with LBR 9014-1(d)(3)(B)(i), which requires the notice of hearing to include the names and addresses of persons who must be served with any opposition. The U.S. Trustee's Office was not listed as a person to be served with any opposition. Counsel is advised to review the local rules and ensure procedure compliance in subsequent matters. Doc. #11.

Second, Rules 4001(a)(1) and 9014(b) require a motion for relief from the automatic stay to be served pursuant to Rule 7004, which was done here. Doc. #16. But in Sections 6 and 7 of Movant's *Certificate of Service*, the declarant should have checked the appropriate boxes for first class mail under Rule 7004. *Id.* It appears that Movant did comply with Rule 7004 but failed to check the correct boxes evidencing the same.

As it appears that Debtors' intent is to surrender the Property, the court is willing to overlook these defects in the absence of any objections raised.

This motion was set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of the creditors, the debtor, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. *Cf. Ghazali v. Moran*,

46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See *Boone v. Burk (In re Eliapo)*, 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument. Upon default, factual allegations will be taken as true (except those relating to amount of damages). *Televideo Systems, Inc. v. Heidenthal*, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires that a plaintiff make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

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 Debtors have failed to make at least two (2) complete pre-petition payments. The Movant has produced evidence that Debtors are delinquent at least \$2,020.14. Docs. #12, #14.

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

The request for attorney's fees is denied. Though Movant is over-secured under 11 U.S.C. § 506(b), Movant must separately file and set for hearing a motion for compensation in compliance with the LBR and Federal Rules of Bankruptcy Procedure. If Movant does, then the court will consider that motion on its merits at the appropriate time.

The 14-day stay of Fed. R. Bankr. P. 4001(a)(4) will be ordered waived because Debtor has failed to make at least five (5) pre-petition payments and one (1) post-petition payments to Movant, and the Property is a depreciating asset.

As an informative matter, please be advised that the correct cite for the 14-day stay is Fed. R. Bankr. P. 4001(a)(4) not 4001(a)(3).

9. [25-10570](#)-B-7     **IN RE: DANIEL REYNOSO**  
[DS-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY AND/OR MOTION FOR  
ADEQUATE PROTECTION  
5-9-2025    [\[17\]](#)

CMG MORTGAGE, INC./MV  
LE'ROY ROBERSON/ATTY. FOR DBT.  
DANIEL SINGER/ATTY. FOR MV.

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

DISPOSITION:     Denied without prejudice.

ORDER:             The court will issue an order.

The motion was DENIED WITHOUT PREJUDICE for failure to comply with  
Federal Rules and Local Rules of Practice ("LBR").

LBR 4001-1(a)(3) states "With all motions for relief from stay, the  
movant shall file and serve as a separate document completed Form  
EDC 3-468, *Relief from Stay Summary Sheet*." Here, Movant did not  
file a Relief from Stay Summary Sheet. Had Movant/Declarant  
identified each supporting document that was served, the court could  
have determined if the Relief from Stay Summary Sheet was served. If  
the Relief from Stay Summary Sheet had been served, the deficiency  
could have been corrected by filing the Relief from Stay Summary  
Sheet.

Rules 4001(a)(1) and 9014(b) require a motion for relief from the  
automatic stay to be served pursuant to Rule 7004, which was done  
here. Doc. #21. But in Sections 6 and 7 of Movant's certificate of  
service, the declarant should have checked the appropriate boxes for  
first-class mail under Rule 7004. *Id.* It appears that Movant did  
comply with Rule 7004 but failed to check the correct boxes  
evidencing the same.

For the foregoing reasons, this motion will be DENIED WITHOUT  
PREJUDICE.

10. [21-12473](#)-B-7     **IN RE: BLAIN FARMING CO., INC.**  
[FW-19](#)

MOTION FOR COMPENSATION BY THE LAW OFFICE OF FEAR WADDELL,  
P.C. FOR GABRIEL J. WADDELL, TRUSTEES ATTORNEY(S)  
5-21-2025    [\[313\]](#)

RILEY WALTER/ATTY. FOR DBT.  
GABRIEL WADDELL/ATTY. FOR MV.

**After posting the original pre-hearing dispositions, the court has modified its intended ruling on this matter.**

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

DISPOSITION:     Granted.

ORDER:             The Moving Party shall submit a proposed order that conforms with the opinion below.

Fear Waddell, P.C. ("Applicant") seeks approval of a second and final allowance of compensation under 11 U.S.C. §§ 330 of the Bankruptcy Code for professional services rendered and reimbursement for expenses incurred as attorney for James Salven, Trustee in the above-styled case ("Trustee"). Doc. #313. The Application seeks **\$85,610.50** in attorneys' fees and **\$3,823.40** in expense reimbursement for work performed and expenses incurred between **October 1, 2023, and May 13, 2025**. *Id.* Applicant also requests that the fees and costs previously approved on an interim basis be approved on a final basis. *Id.*

Applicant was employed to perform services under § 327 of the Code pursuant to an order of this court dated November 15, 2021. Doc. #31. The Application is accompanied by:

1. the Declaration of Gabriel Waddell, an attorney employed by Applicant (Doc. #315);
2. a Declaration by Trustee averring that he has reviewed the Application and approves of same (Doc. #316); and
3. Exhibits consisting of
  - a. a Narrative Summary,
  - b. a Detailed Statement of Fees and Expenses in the main bankruptcy case,
  - c. a Detailed Statement of Fees and Expenses in the related adversary proceeding of *Salven v. Brian Blain*,
  - d. a Detailed Statement of Fees and Expenses in the related adversary proceeding of *Salven v. Mechanics Bank*,
  - e. a Detailed Report of Fees and Expenses in the related adversary proceeding of *Salven v. Citizens Business Bank and Franchise Board* ("CBB/FB"), and
  - f. a Detailed Report of Fees, Categorized by Task.

Doc. #317 (Exhibits A-F).

A separate blended rate summary and list of expenses are provided for each of the three statements of fees and expenses incurred in the main case and the two adversaries, and, in the interests of

brevity, no summary of the requested fees will be reproduced here. See Doc. #317 (Exhibits B-E) and Doc. #313 at paragraph 6. Based on the Exhibits, the Applicant billed as follows:

<b>Attorneys' Fees</b>	<b>Hours</b>	<b>Amount</b>
The Main Case (Exh. B)	66.00	\$23,862.50
Salven v. Brian Blain (Exh. C)	15.40	\$53,774.00
Salven v. Mechanics Bank (Exh. D)	9.50	\$3,264.00
Salven v. CBB/FB (Exh. E)	13.60	\$4,710.00
<b>Total</b>	<b>104.50</b>	<b>\$85,610.50</b>

<b>Expenses</b>	<b>Amount</b>
The Main Case (Exh. B)	\$663.38
Salven v. Brian Blain (Exh. C)	\$2,359.54
Salven v. Mechanics Bank (Exh. D)	\$365.16
Salven v. CBB/FB (Exh. E)	\$435.32
<b>Total</b>	<b>\$3,823.40</b>

See generally Doc. #317. The Task Summary outlining the hours billed and fees incurred solely in the main bankruptcy case reflects the following:

<b>Task</b>	<b>Hours</b>	<b>Amount</b>
B110 - Case Administration	1.60	\$630.50
B130 - Asset Disposition	35.20	\$13,114.50
B150 - Meetings/Communications with Creditors	0.80	\$304.00
B160 - Fee/Employment Applications	24.20	\$8,216.00
B310 - Claims Administration and Objections	4.20	\$1,597.50
<b>Total</b>	<b>66.00</b>	<b>\$23,862.50</b>

*Id.*

11 U.S.C. § 330(a)(1)(A) and (B) permit approval of "reasonable compensation for actual, necessary services rendered by . . . [a] professional person, or attorney" and "reimbursement for actual, necessary expenses." 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, considering all relevant factors, including those enumerated in subsections (a)(3)(A) through (E). § 330(a)(3). Previous interim compensation awards under 11 U.S.C. § 331, if any, are subject to final review under § 330.

Applicant's services here included, without limitation: case administration, asset disposition, meetings and communications with creditors, fee and employment applications, and claims administration and objections, as well as the prosecution of three related adversary proceedings. Doc. #317. The court finds the services and expenses reasonable, actual, and necessary. The Trustee has reviewed the Application and finds the requested fees and expenses to be reasonable. Doc. #316.

This motion was set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1). Thus, pursuant to LBR 9014-1(f)(1)(B), the failure of any party in interest (including but

not limited to creditors, the debtor, the U.S. Trustee, or any other properly-served party in interest) to file written opposition at least 14 days prior to the hearing may be deemed a waiver of any such opposition to the granting of the motion. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). When there is no opposition to a motion, the defaults of all parties in interest who failed to timely respond will be entered, and, in the absence of any opposition, the movant's factual allegations will be taken as true (except those relating to amounts of damages). *Televideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917 (9th Cir. 1987). Because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary when an unopposed movant has made a prima facie case for the requested relief. See *Boone v. Burk (In re Eliapo)*, 468 F.3d 592 (9th Cir. 2006).

No party in interest has responded, and the defaults of all such parties are entered.

This Application is GRANTED. The court will approve on a final basis under 11 U.S.C. § 330 compensation in the amount of **\$85,610.50** in fees and **\$3,823.40** in expenses for the period between **October 1, 2023, and May 13, 2025**. The court grants the Application for a total award **\$89,433.90** as an administrative expense of the estate.

Additionally, the court will approve on a final basis the award of \$167,987.00 in fees and \$4,762.83 in expenses, for a combined total of \$172,750.83, previously awarded on an interim basis on November 17, 2023. Doc. #279. The total fees paid to Applicant in this case will be **\$262,184.73**, which the Trustee is authorized and directed to pay such to Applicant from the first available estate funds.

11. [21-12473](#)-B-7     **IN RE: BLAIN FARMING CO., INC.**  
[JES-1](#)

MOTION FOR COMPENSATION FOR JAMES E. SALVEN,  
CHAPTER 7 TRUSTEE(S)  
5-25-2025    [[319](#)]

JAMES SALVEN/MV  
RILEY WALTER/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.

James E. Salven ("Trustee"), Chapter 7 Trustee in this case, requests fees of **\$106,383.53** and costs of **\$472.23** for a total award of \$10,274.60 as statutory compensation and actual and necessary expenses. Doc. 319. The application is accompanied by the Trustee's Declaration and by Exhibits consisting of (A) the Statutory Commission Calculation, (B) a list of Trustee's Expenses, and (C) a list of the proposed reimbursements. Docs. ##320-21.

This motion was set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1). Thus, pursuant to LBR 9014-1(f)(1)(B), the failure of any party in interest (including but not limited to creditors, the debtor, the U.S. Trustee, or any other properly-served party in interest) to file written opposition at least 14 days prior to the hearing may be deemed a waiver of any such opposition to the granting of the motion. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). When there is no opposition to a motion, the defaults of all parties in interest who failed to timely respond will be entered, and, in the absence of any opposition, the movant's factual allegations will be taken as true (except those relating to amounts of damages). *Televideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917 (9th Cir. 1987). Because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary when an unopposed movant has made a prima facie case for the requested relief. *See Boone v. Burk (In re Eliapo)*, 468 F.3d 592 (9th Cir. 2006).

No party in interest timely filed written opposition, and the defaults of all nonresponding parties will be entered. This motion will be GRANTED.

Blain Farming Co., Inc. ("Debtor") filed chapter 7 bankruptcy on October 22, 2025. Doc. #1. Trustee was appointed as interim trustee on that same date and became permanent trustee at the 341 Meeting of Creditors. Doc. #4; Docket generally.

11 U.S.C. § 326 permits the court to allow reasonable compensation to the chapter 7 trustee under § 330 for the trustee's services. Section 326(a) states:

In a case under chapter 7 or 11, other than a case under subchapter V of chapter 11, the court may allow reasonable compensation under section 330 of this title of the trustee for the trustee's services, payable after the trustee renders such services, not to exceed 25 percent on the first \$5,000 or less, 10 percent on any amount in excess of \$5,000 but not in excess of \$50,000, 5 percent on any amount in excess of \$50,000 but not in excess of \$1,000,000, and reasonable compensation not to exceed 3 percent of such moneys in excess of \$1,000,000, upon all moneys disbursed or turned over in the case by the trustee to parties in interest, excluding the debtor, but including all holders of secured claims.

11 U.S.C. § 326(a). To restate these percentages, a Chapter 7 Trustee is entitled a maximum reimbursement of:

1. \$25% of the first \$5,000.00 in disbursements;
2. \$10% of the next \$45,000.00 in disbursements, if any;
3. 5% of the next \$95,000.00 in disbursements, if any;
4. 3% of any further disbursements exceeding \$1,000,000.00.

11 U.S.C. § 330 requires the court to find that the fees requested are reasonable and for actual and necessary services to the estate,

as well as reimbursement for actual and necessary expenses. 11 U.S.C. § 330(a)(1)(A) & (B).

Trustee states that the total disbursements (other than to Debtor) amounted to \$139,159.00. Doc. #207. Trustee seeks statutory reimbursement as follows:

25% of first \$5,000.00	\$1,250.00
10% of next \$45,000.00	\$4,500.00
5% of the next \$950,000.00	\$47,500.00
3% of the remaining \$1,771,150.94	\$53,134.53
<b>TOTAL</b>	<b>\$106,384.53</b>

Doc. #207. These percentages comply with the percentage restrictions imposed by § 326(a). The services performed by Trustee included, but were not limited to:

1. Overseeing \$2.1 million in court-approved sales of 3 pieces of real estate;
2. Payment of approximately \$1.85 million of secured debt;
3. Collection of approximately \$13,500.00 of rents on properties;
4. Interception of approximately \$4,400.00 of refunds through mails;
5. Sale with court approval of approximately \$6,000.00 of miscellaneous vehicles and storage containers of Debtor's property;
6. Sale with court approval of the adversary claim against the Debtor's principal for \$65,000.00; and
7. Employment with court approval of general counsel, accountants, and realtors.

Doc. #322.

*Id.* Trustee also seeks expenses in the sum of \$472.23, consisting of copies, postage, and expenses for Court Call. Doc. #321 (Exhib. B). *Id.* The court finds these fees and expenses reasonable.

The court finds Trustee's services were actual and necessary to the estate, and the fees are reasonable and consistent with § 326(a). The motion will be GRANTED and Trustee will be awarded the requested fees and costs.

12. [25-11076](#)-B-7     **IN RE: HESHAM ALAINI AND ASMAA ALTHAMI**  
[MJ-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY  
5-2-2025    [\[16\]](#)

ACAR LEASING LTD/MV  
JERRY LOWE/ATTY. FOR DBT.  
MEHRDAUD JAFARNIA/ATTY. FOR MV.

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

DISPOSITION:     Denied as moot.

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

This motion relates to an executory contract or lease of personal property. The case was filed on April 3, 2025, and the lease was not assumed by the chapter 7 trustee within the time prescribed in 11 U.S.C. § 365(d)(1). Pursuant to § 365(p)(1), the leased property is no longer property of the estate and the automatic stay under § 362(a) has already terminated by operation of law.

According to Hesham Hasan Alaini and Asmaa Salah's ("Debtors") Statement of Intention, Debtors indicate they intend to assume the lease. Doc. #1. However, since there is no opposition from the Debtors, the court has no indication of whether Debtors exercised their option to assume the lease under § 365(p)(2).

Since the Debtors did not provide any evidence (1) that they provided the written notice required under § 365(p)(2) and (2) that movant was willing to have the Debtors assume the lease, the court will deny the motion on the grounds that no stay is in place.

Movant may submit an order denying the motion and confirming that the automatic stay has already terminated on the grounds set forth above. No other relief is granted. No attorney fees will be awarded in relation to this motion.

13. 25-11180-B-7            **IN RE: DEMETRIO OLMINO-CHIP AND**  
      KMM-1                    **HEIDY SAMAYOA-TAX**

MOTION FOR RELIEF FROM AUTOMATIC STAY  
5-23-2025 [16]

TOYOTA LEASE TRUST/MV  
R. BELL/ATTY. FOR DBT.  
KIRSTEN MARTINEZ/ATTY. FOR MV.

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

DISPOSITION: Denied as moot.

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

This motion relates to an executory contract or lease of personal property. The case was filed on April 11, 2025, and the lease was not assumed by the chapter 7 trustee within the time prescribed in 11 U.S.C. § 365(d)(1). Pursuant to § 365(p)(1), the leased property is no longer property of the estate and the automatic stay under § 362(a) has already terminated by operation of law.

According to Demetrio Olmino-Chip and Heidy Edith Samayoa-Tax's ("Debtors") Statement of Intention, Debtors indicate they do not intend to assume the lease. Doc. #1. Since there is no opposition from the Debtors, the court has no indication that Debtors exercised their option to assume the lease under § 365(p)(2).

Movant may submit an order denying the motion and confirming that the automatic stay has already terminated on the grounds set forth above. No other relief is granted. No attorney fees will be awarded in relation to this motion.

14. 25-10989-B-7      **IN RE: DORICELA AGUIRRE DE ORTEGA**  
KMM-1

MOTION FOR RELIEF FROM AUTOMATIC STAY  
5-15-2025 [17]

NISSAN MOTOR ACCEPTANCE COMPANY LLC/MV  
MARK ZIMMERMAN/ATTY. FOR DBT.  
KIRSTEN MARTINEZ/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.

Nissan Motor Acceptance Company ("Movant") seeks relief from the automatic stay under 11 U.S.C. §§ 362(d)(1) and (d)(2) with respect

to a 2020 Nissan Rogue Sport, (V.I.N. JN1BJ1CV5LW545764) ("Vehicle"). Doc. #17.

Doricela Aguirre De Ortega ("Debtor") did not oppose. No other party in interest timely filed written opposition. This motion will be GRANTED.

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

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

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

After review of the included evidence, the court finds that "cause" exists to lift the stay because Debtor has failed to make at least four (4) complete pre-petition payments and one (1) post-petition payment. The Movant has produced evidence that Debtor is delinquent at least \$2,191.70. Docs. #18, #21.

The court also finds that the Debtor does not have any equity in the Vehicle and the Vehicle is not necessary to an effective reorganization because Debtor is in chapter 7. The Vehicle is valued at \$15,575.00 and Debtor owes \$15,781.89. Doc. #18.

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

15. [25-11496](#)-B-7     **IN RE: ANN GRABER**  
[SLL-1](#)

MOTION TO COMPEL ABANDONMENT  
5-15-2025    [\[10\]](#)

ANN GRABER/MV  
STEPHEN LABIAK/ATTY. FOR DBT.

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

DISPOSITION:     Granted.

ORDER:             The Moving Party shall submit a proposed order after hearing.

Ann Graber ("Debtor") moves for an order compelling chapter 7 trustee Irma C. Edmonds ("Trustee") to abandon the estate's interest in property used in the operation of Debtor's "teaching/ministry business" (collectively, the "Business Assets"). Doc. #10 et seq.

This motion was set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1). Thus, pursuant to LBR 9014-1(f)(1)(B), the failure of any party in interest (including but not limited to creditors, the debtor, the U.S. Trustee, or any other properly-served party in interest) to file written opposition at least 14 days prior to the hearing may be deemed a waiver of any such opposition to the granting of the motion. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). When there is no opposition to a motion, the defaults of all parties in interest who failed to timely respond will be entered, and, in the absence of any opposition, the movant's factual allegations will be taken as true (except those relating to amounts of damages). *Televideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917 (9th Cir. 1987). Because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary when an unopposed movant has made a prima facie case for the requested relief. *See Boone v. Burk (In re Eliapo)*, 468 F.3d 592 (9th Cir. 2006).

No party in interest timely filed written opposition, and the defaults of all nonresponding parties will be entered. This motion will be GRANTED.

11 U.S.C. § 554(b) provides that "on request of a party in interest and after notice and a hearing, the court may order the trustee to abandon any property of the estate that is burdensome to the estate or that is of inconsequential value and benefit to the estate."

To grant a motion to abandon property, the bankruptcy court must find either that: (1) the property is burdensome to the estate or (2) of inconsequential value and inconsequential benefit to the estate. *In re Vu*, 245 B.R. 644, 647 (B.A.P. 9th Cir. 2000). As one court noted, "an order compelling abandonment 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." *In re K.C. Mach. & Tool Co.*, 816 F.2d 238, 246 (6th Cir. 1987). In evaluating a proposal to abandon property, it is the interests of the estate and the creditors that have primary consideration, not the interests of the debtor. *In re Johnson*, 49 F.3d 538, 541 (9th Cir. 1995) (noting that the debtor is not mentioned in § 554). *In re Galloway*, No. AZ-13-1085-PaKiTa, 2014 Bankr. LEXIS 3626, at \*16-17 (B.A.P. 9th Cir. 2014).

Debtor is the owner and operator of ANN GRABER STUDIO, a teaching/ministry business. Doc. #12. Debtor seeks to compel Trustee to abandon the Business Assets, which are listed in the schedules as follows:

Asset	Value	Exempt CCP § 703	Lien	Net
2 Violins valued at \$1,000.00 together; 1 Cell [sic] valued at \$500.00; and 1 Upright Piano valued at \$2,000.00	\$3,500.00	\$3,500.00 703.140(b) (3)	\$0.00	\$0.00
Wells Fargo Checking #2652	\$1,000.00	\$1,000.00 703.140(b) (5)	\$0.00	\$0.00
Wells Fargo Savings Account	\$50.00	\$50.00 703.140(b) (5)	\$0.00	\$0.00

Doc. #1 (Schedule A/B). The court notes that the filing actually refers to a "Cell" valued at \$500.00 but assumes this should be "Cello" from the context. None of the Business Assets are encumbered by any secured creditors. Doc. #1 (Schedule D). Debtor exempted all the Business Assets for their full value as tools of the trade under Cal. Code Civ. Proc. § 703.140(b) (3) and (b) (5). Doc. #1 (Schedule C).

Debtor certifies that Debtor was qualified and eligible to claim the exemptions under applicable law and understands that if for any reason it is determined that Debtor is not qualified to claim an exemption in the property listed, or if there is some other error in the exemption claimed, Trustee may demand that Debtor compensate the estate for any damage caused by the claimed exemption. Debtor agrees to not amend the exemptions affecting the Business Assets unless Trustee stipulated to that amendment or such relief is granted by further order of the court. *Id.*

No party in interest has responded, and the defaults of all nonresponding parties are entered. The court finds that the Business Assets are of inconsequential value and benefit to the estate. The Business Assets were accurately scheduled and is encumbered or exempted in their entirety. Therefore, the court intends to GRANT this motion.

The order shall specifically include the property to be abandoned.

16. [25-10499](#)-B-7     **IN RE: JEFFREY REICH**  
[MEZ-1](#)

MOTION FOR ORDER DISQUALIFYING SHANE REICH FROM  
REPRESENTATION OF PAMELA REICH  
5-23-2025    [\[65\]](#)

JEFFREY REICH/MV  
PETER BUNTING/ATTY. FOR DBT.  
RESPONSIVE PLEADING

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

DISPOSITION:       Continued to Tuesday, July 29, 2025, at 1:30 PM

ORDER:               The court will prepare the order.

Jeffrey Kane Reich ("Debtor" or "Jeffrey") moves for an order disqualifying attorney Shane Reich ("Shane") from representing Pamela Reich ("Pamela") or any other third party in these proceedings. Doc. #65. Pamela is Jeffrey's estranged wife, Shane's mother, a Creditor in this Chapter 7 proceeding, and the Plaintiff in the adversary proceeding, *AP Case No. 25-01022*, a dischargeability action. *ID.*

Customarily, the court would deny this motion to disqualify on procedural grounds. The Notice accompanying the motion states:

The hearing on this Motion is being served on 14 days' notice, pursuant to Local Bankruptcy Rule 9014-1(f)(2)(C). Therefore, no party in interest shall be required to file written opposition to the motion. Opposition, if any, shall be presented at the hearing on the motion.

Doc. #66. But in fact, the motion was filed and noticed on May 23, 2025, with a hearing date of June 24, 2025, which is more than 28 days. *Id.* Consequently, noticing should have complied with LBR 9014-1(f)(1), which states that any response to a motion must be in writing and filed at least 14 days prior to the hearing date and that failure to do so may be deemed a waiver of opposition, and, in the absence of any opposition at all, the court may rule on the motion without need for a hearing. LBR 9014-1(f)(1).

Notwithstanding the erroneous statement in the notice indicating that written response prior to the hearing date was not required, Shane filed a Response in Opposition, along with a Declaration executed by himself and on behalf of Pamela. Docs. ##97-98. While the Response substantively addressed the issues raised in the motion, Shane also requested "additional time to fully brief the matter, file supplemental opposition papers and potentially pursue other relief as may be scheduled by this Court at the hearing." Doc. #97.

Rather than deny this motion without prejudice for the noticing error, which would be the court's normal course of action, the court

elects to grant Shane's request for a continuance so that Shane may fully brief the somewhat complex professional responsibility issues implicated by this motion. Accordingly, this matter is hereby CONTINUED to July 29, 2025, at 1:30 p.m. No later than July 15, 2025, Shane will file any supplementary briefs or other relevant documentation. If Jeffrey elects to file a Reply, it must be filed with the court on or before July 22, 2025.

17. [25-10499](#)-B-7     **IN RE: JEFFREY REICH**  
[SR-2](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY AND/OR MOTION TO  
CONFIRM TERMINATION OR ABSENCE OF STAY  
5-27-2025    [[72](#)]

PAMELA REICH/MV  
PETER BUNTING/ATTY. FOR DBT.  
SHANE REICH/ATTY. FOR MV.  
RESPONSIVE PLEADING

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

DISPOSITION:        Continued to Tuesday, July 29, 2025, at 1:30 PM

ORDER:                The court will prepare the order.

Since there is a pending motion to disqualify the attorney who filed this motion and since movant's counsel requested additional time to brief the disqualification issues, this matter is hereby CONTINUED to July 29, 2025, at 1:30 PM to be heard in conjunction with the Debtor's *Motion for Order Disqualifying Shane Reich from Representation of Pamela Reich (MEZ-1)*. See Item #16, above.

No further submissions concerning this motion will be considered without leave of this court since it was fully noticed under LBR 9014-1 (f)(1). The court finds good cause and compelling circumstances to extend the stay through the continued hearing date under 11 U.S.C. § 362(e) subject to further extension. Those circumstances are the pending motion to disqualify movant's counsel (*Item #16* above) and movant's counsel's request for additional time to oppose the disqualification motion.

18. [25-10499](#)-B-7     **IN RE: JEFFREY REICH**  
[SR-3](#)

AMENDED OBJECTION TO DEBTOR'S CLAIM OF EXEMPTIONS,  
AMENDED MOTION TO CLAIM EXEMPTIONS BY NON-DEBTOR SPOUSE  
6-2-2025    [\[87\]](#)

PAMELA REICH/MV  
PETER BUNTING/ATTY. FOR DBT.  
SHANE REICH/ATTY. FOR MV.

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

DISPOSITION:     Continued to Tuesday, July 29, 2025, at 1:30 PM

ORDER:             The court will prepare the order.

This matter is hereby CONTINUED to July 29, 2025, at 1:30 PM to be heard in conjunction with the Debtor's *Motion for Order Disqualifying Shane Reich from Representation of Pamela Reich (MEZ-1)*. See Item #16, above.

Any Response to this Objection shall be filed on or before July 15, 2025. Any Reply by Movant shall be filed on or before July 22, 2025.

19. [24-11629](#)-B-7     **IN RE: GUSTAVO/LINDA LEAL**  
[FW-2](#)

MOTION TO EMPLOY GOULD AUCTION AND APPRAISAL COMPANY AS AUCTIONEER, AUTHORIZING SALE OF PROPERTY AT PUBLIC AUCTION AND AUTHORIZING PAYMENT OF AUCTIONEER FEES AND EXPENSES  
6-13-2025    [\[87\]](#)

PETER FEAR/MV  
JOEL WINTER/ATTY. FOR DBT.  
GABRIEL WADDELL/ATTY. FOR MV.  
OST 6/13/25

TENTATIVE RULING:     This matter will proceed as scheduled.

DISPOSITION:     Granted.

ORDER:             The minutes of the hearing will be the court's findings and conclusions. Order preparation determined at the hearing.

Chapter 7 trustee Peter Fear ("Trustee") seeks authorization to (a) employ Gould Auction and Appraisal Company ("Auctioneer") under 11 U.S.C. § 328; (b) sell the estate's interest in a 2019 Lexus GX 470 ("the Vehicle") at public auction under § 363(b)(1); and (c) compensate Auctioneer under §§ 327(a) and 328. Doc. #87. The auction will be held on or after June 29, 2025, beginning at 9:00 a.m. at

6200 Price Way, Bakersfield, California. *Id.* The Debtors ("Debtors") Gustavo and Linda Leal. *Id.*

Written opposition was not required and may be presented at the hearing. In the absence of opposition, this motion will be GRANTED.

This motion was set for hearing on shortened notice with an OST under the procedure specified in Local Rule of Practice ("LBR") 9014-1(f)(3). Consequently, the creditors, the U.S. Trustee, and any other parties in interest were not required to file a written response or opposition to the motion. If any of these potential respondents appear at the hearing and offer opposition to the motion, the court will set a briefing schedule and a final hearing unless there is no need to develop the record further. If no opposition is offered at the hearing, the court will take up the merits of the motion. Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter.

#### Employment and Compensation

This motion affects the proposed disposition of estate assets and Auctioneer. Under Fed. R. Civ. P. ("Civ. Rule") 21 (Rule 7021 incorporated in contested matters under Rule 9014(c)), the court will exercise its discretion to add Auctioneer as a party.

LBR 9014-1(d)(5)(B)(iii) permits joinder of requests for authorization to employ a professional, i.e., auctioneer, for sale of estate property at public auction, and allowance of fees and expenses for such professional under 11 U.S.C. §§ 327, 328, 330, 363, and Rules 6004-05.

11 U.S.C. § 327 allows the trustee, with the court's approval, to employ one or more attorneys, accountants, auctioneers, or other professional persons to represent or assist the trustee in carrying out the trustee's duties. The professional is required to be a disinterested person and neither hold nor represent interests adverse to the estate. § 327(a).

11 U.S.C. § 328(a) permits employment of "a professional person under section 327" 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." Section 328(a) further "permits a professional to have the terms and conditions of its employment pre-approved by the bankruptcy court, such that the bankruptcy court may alter the agreed-upon compensation only 'if such terms and conditions and conditions prove to have been improvident in light of developments not capable of being anticipated at the time of the fixing of such terms and conditions.'" *In re Circle K Corp.*, 279 F.3d 669, 671 (9th Cir. 2002).

Under these sections, Trustee requests to employ and compensate Auctioneer by paying:

1. a 15% commission on the gross proceeds from the sale;
2. an additional 10% premium to be paid by the buyer;
3. an additional 3% fee paid to the online service Proxibid by buyer if the buyer makes use of that service;
4. estimated expenses for pickup and storage not to exceed \$250.00, and
5. reimbursement for "extraordinary expenses" not to exceed \$500.00 without further order from the court.

Doc. #87 ("the Employment Terms").

Trustee and Jerry Gould, Auctioneer's owner, filed declarations attesting that Auctioneer is a disinterested person as defined in § 101(14) and does not hold any interests adverse to the estate in accordance with § 327(a). Docs. ##89-90. With respect to Debtor, Auctioneer is not a creditor, equity security holder, insider, investment banker for a security of the debtor within the three years before the petition date, or an attorney for such investment banker, and within two years of the petition date was not a director, officer, or employee of the Debtor or an investment banker. *Id.* Auctioneer does not have an interest materially adverse to the interest of the estate, creditors, Debtor, equity security holders, an investment banker for a security of the debtors, or any other party in interest, and had not served as an examiner in this case. *Id.* Auctioneer does not have any connection with any creditors, parties in interests, their attorneys, accountants, the U.S. Trustee, or anyone employed by the U.S. Trustee. *Id.* Additionally, no agreement exists between Auctioneer or any other person for the sharing of compensation received by Auctioneer in connection with the services rendered. *Id.*

Trustee declares that it is necessary to employ Auctioneer to liquidate Vehicle. Doc. #89. Trustee believes that the proposed fees and expenses for services are reasonable and customary for the services to be rendered by Auctioneer. *Id.* Auctioneer will assist Trustee by generally performing and assisting Trustee in matters customarily done and performed by auctioneers in connection with an auction sale of property. *Id.*

The court will authorize Auctioneer's employment pursuant to 11 U.S.C. §§ 327(a), 328 and authorize Trustee to pay commission and reimbursement for ordinary and extraordinary expenses to Auctioneer according to the Employment Terms outlined above.

#### Proposed Sale

11 U.S.C. § 363(b)(1) allows the trustee to "sell, or lease, other than in the ordinary course of business, property of the estate." Proposed sales under 11 U.S.C. § 363(b) are reviewed to determine whether they are: (1) in the best interests of the estate resulting from a fair and reasonable price; (2) supported by a valid business judgment; and (3) proposed in good faith. *In re Alaska Fishing Adventure, LLC*, 594 B.R. 883, 887 (Bankr. D. Alaska 2018) citing *240 North Brand Partners, Ltd. v. Colony GFP Partners, Ltd. P'ship (In re 240 N. Brand Partners, Ltd.)*, 200 B.R. 653, 659 (B.A.P. 9th Cir. 1996); *In re Wilde Horse Enters., Inc.*, 136 B.R. 830, 841 (Bankr.

C.D. Cal. 1991). In the context of sales of estate property under § 363, a bankruptcy court "should determine only whether the trustee's judgment was reasonable and whether a sound business justification exists supporting the sale and its terms." *Alaska Fishing Adventure, LLC*, 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.*, citing *In re Psychometric Sys., Inc.*, 367 B.R. 670, 674 (Bankr. D. Colo. 2007); *In re Bakalis*, 220 B.R. 525, 531-32 (Bankr. E.D.N.Y. 1998).

Here, Vehicle is listed in the Schedules as having 50,000 miles and is valued at \$36,732.00. Doc. #1 (Sched. A/B). Vehicle does not appear to have any encumbrances. Doc. #1 (Sched. D). Debtor has claimed a \$7,500.00 exemption in the Vehicle pursuant to C.C.P. § 704.010. Doc. #1 (Sched. C).

The motion does not list a proposed sale price but rather seeks the best price that can be obtained at open auction. However, expenses are limited to an absolute maximum of \$750.00, auctioneer commission is limited to 15%, and Debtor's exemption is limited to \$7,500.00. Given the Vehicle's estimated value is \$36,732.00, the court concludes that the auction will almost inevitably produce at least some net proceeds for the estate.

Trustee believes that using the auction process to sell Vehicle will result in the quickest liquidation for the best possible price because it will be exposed to many prospective purchasers. Doc. #89. Based on Trustee's experience, this could yield the highest net recovery to the estate, both in terms of time efficiency and the amount that will be realized from the sale. *Id.*

Sale by auction under these circumstances should maximize potential recovery for the estate such that the sale of the Vehicle would be in the best interests of the estate if it will provide liquidity to the estate that can be distributed for the benefit of unsecured claims. The sale appears to be supported by a valid business judgment and proposed in good faith. Therefore, this sale is an appropriate exercise of Trustee's business judgment and will be given deference.

### Conclusion

This matter will be called and proceed as scheduled. In the absence of opposition, :U: motion will be GRANTED. Trustee will be permitted to employ Auctioneer, sell the Vehicle at public auction, and pay Auctioneer for its services as outlined above. If the sale is completed, Trustee will be authorized to compensate Auctioneer according to the Employment Terms described above.