

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

Honorable Fredrick E. Clement  
Fresno Federal Courthouse  
510 19th Street, Second Floor  
Bakersfield, California

**PRE-HEARING DISPOSITIONS**

**DAY:** WEDNESDAY  
**DATE:** JULY 3, 2019  
**CALENDAR:** 9:45 A.M. CHAPTER 7 CASES

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

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

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

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

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

1. [18-10627](#)-A-7     **IN RE: MICHAEL YANCEY**  
[LNH-3](#)

MOTION FOR COMPENSATION FOR LISA NOXON HOLDER, TRUSTEES  
ATTORNEY(S)  
6-10-2019    [\[86\]](#)

D. GARDNER

### **Tentative Ruling**

**Application:** Allowance of First and Final Compensation and Expense Reimbursement

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

**Disposition:** Approved

**Order:** Civil minute order

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

### **COMPENSATION AND EXPENSES**

In this Chapter 7 case, Lisa Holder, counsel for the trustee, has applied for an allowance of first and final compensation and reimbursement of expenses. The application requests that the court allow compensation in the amount of \$4,336.50 and reimbursement of expenses in the amount of \$147.17.

Section 330(a) of the Bankruptcy Code authorizes "reasonable compensation for actual, necessary services" rendered by a trustee, examiner or professional person employed under § 327 or § 1103 and "reimbursement for actual, necessary expenses." 11 U.S.C. § 330(a)(1). Reasonable compensation is determined by considering all relevant factors. See *id.* § 330(a)(3).

The court finds that the compensation and expenses sought are reasonable, and the court will approve the application on a final basis as to the amounts requested.

### **CIVIL MINUTE ORDER**

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

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

Lisa Holder's application for allowance of final compensation and reimbursement of expenses has been presented to the court. Having

entered the default of respondent for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the application,

IT IS ORDERED that the application is approved on a final basis. The court allows final compensation in the amount of \$4,336.50 and reimbursement of expenses in the amount of \$147.17.

IT IS FURTHER ORDERED that the trustee is authorized without further order of this court to pay from the estate the aggregate amount allowed by this order in accordance with the Bankruptcy Code and the distribution priorities of § 726.

2. [18-11949](#)-A-7      **IN RE: MOGUL ENERGY PARTNERS I, LLC**  
[DMG-7](#)

MOTION FOR COMPENSATION FOR D. MAX GARDNER, DEBTORS  
ATTORNEY(S)  
6-12-2019    [\[165\]](#)

D. GARDNER

**Tentative Ruling**

**Application:** Allowance of Second Interim and Final Compensation and Expense Reimbursement

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

**Disposition:** Approved in part

**Order:** Civil minute order

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

**COMPENSATION AND EXPENSES**

In this Chapter 7 case, converted from Chapter 11 by an order entered on November 13, 2018 (ECF No. 145), D. Max Gardner, counsel for the debtor in possession during the Chapter 11 portion of the case, has applied for a second interim and final allowance of compensation and reimbursement of expenses. The applicant requests that the court allow compensation in the amount of \$7,347 and reimbursement of expenses in the amount of \$163.85. The applicant also asks that the court allow on a final basis all prior applications for fees and costs that the court has previously allowed on an interim basis.

Section 330(a) of the Bankruptcy Code authorizes "reasonable compensation for actual, necessary services" rendered by counsel for the debtor in possession in a Chapter 11 case and "reimbursement for actual, necessary expenses." 11 U.S.C. § 330(a)(1). Reasonable

compensation is determined by considering all relevant factors. See *id.* § 330(a)(3).

With one exception, the court finds that the compensation and expenses sought are reasonable, and the court will approve the application on a final basis.

The exception is that the applicant's time sheets include two time entries dated November 15, 2018 (for \$465) and November 19, 2018 (for \$620), totaling \$1,085. ECF No. 168 at 5. Those time entries are for work performed after this case was converted to chapter 7 and the chapter 7 trustee was already appointed, on November 13, 2018. ECF Nos. 145 & 146. As such, the applicant's client, the debtor, was no longer in charge of the bankruptcy estate. The chapter 7 trustee came to be in charge of the estate starting on November 13, 2018. See ECF No. 146. Thus, the estate is not responsible for paying the applicant for his services representing the debtor after November 13, 2018. Nor does this court have authority to approve compensation of professionals not employed by the estate.

Accordingly, the interim compensation and expenses sought by the applicant will be approved, with the exception of \$1,085, representing the last two time entries in the movant's time records in support of this application. The total approved on this interim application then is \$6,262 (\$7,347 - \$1,085). This second interim compensation is approved on final basis as well.

The court approves on a final basis all prior applications for interim fees and costs that the court has allowed under § 331 on an interim basis.

#### **CIVIL MINUTE ORDER**

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

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

D. Max Gardener's application for allowance of second interim and final compensation and reimbursement of expenses has been presented to the court. Having entered the default of respondent for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the application,

IT IS ORDERED that the application is approved in part on a final basis. The court allows final compensation in the amount of \$6,262 and reimbursement of expenses in the amount of \$163.85. The applicant is authorized to draw on any retainer held. The court also approves on a final basis all prior applications for interim fees and costs that the court has allowed under § 331 on an interim basis.

IT IS FURTHER ORDERED that the debtor in possession is authorized to pay the fees allowed by this order from available funds only if the

estate is administratively solvent and such payment will be consistent with the priorities of the Bankruptcy Code.

3. [18-11949](#)-A-7     **IN RE: MOGUL ENERGY PARTNERS I, LLC**  
[LNH-2](#)

MOTION TO SELL AND/OR MOTION FOR COMPENSATION FOR COLDWELL  
BANKER BEST REALTY, BROKER(S)  
6-5-2019    [\[159\]](#)

JEFFREY VETTER/MV  
D. GARDNER  
LISA HOLDER/ATTY. FOR MV.

**Tentative Ruling**

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

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

**Disposition:** Granted

**Order:** Prepared by moving party

**Property:** wind farm real property, 16214 Tehachapi Willow Springs  
Rd., Tehachapi, CA

**Buyer:** Magnelan Management, LLC

**Sale Price:** \$850,000

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

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55(c), *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

Section 363(b)(1) of Title 11 authorizes sales of property of the estate "other than in the ordinary course of business." 11 U.S.C. § 363(b)(1); *see also In re Lionel Corp.*, 722 F.2d 1063, 1071 (2d Cir. 1983) (requiring business justification). The moving party is the Chapter 7 trustee and liquidation of property of the estate is a proper purpose. *See* 11 U.S.C. § 704(a)(1). As a result, the court will grant the motion. The stay of the order provided by Federal Rule of Bankruptcy Procedure 6004(h) will be waived.

Section 330(a) of Title 11 authorizes "reasonable compensation for actual, necessary services" rendered by a professional person employed under § 327 and "reimbursement for actual, necessary expenses." 11 U.S.C. § 330(a). Reasonable compensation is determined by considering all relevant factors. *See id.* § 330(a)(3). The court finds that the compensation sought is reasonable and will approve the application.

4. [19-12261](#)-A-7     **IN RE: KIMBERLY/SAMANTHA GARRETT-CAIN**  
[APN-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY  
6-5-2019    [\[12\]](#)

FORD MOTOR CREDIT COMPANY/MV  
WILLIAM OLCOTT  
AUSTIN NAGEL/ATTY. FOR MV.

### **Final Ruling**

**Motion:** Stay Relief

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

**Disposition:** Granted

**Order:** Civil minute order

**Subject:** 2015 Honda Civic vehicle

Unopposed motions are subject to the rules of default. Fed. R. Civ. P.55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

### **STAY RELIEF**

Section 362(d)(2) authorizes stay relief if the debtor lacks equity in the property and the property is not necessary to an effective reorganization. 11 U.S.C. § 362(d)(2). Chapter 7 is a mechanism for liquidation, not reorganization, and, therefore, property of the estate is never necessary for reorganization. *In re Casgul of Nevada, Inc.*, 22 B.R. 65, 66 (B.A.P. 9th Cir. 1982). In this case, the aggregate amount due all liens (\$14,465) exceeds the value of the collateral (\$13,117) and the debtor has no equity in the property. The motion will be granted, and the 14-day stay of Federal Rule of Bankruptcy Procedure 4001(a)(3) will be waived. No other relief will be awarded.

### **CIVIL MINUTE ORDER**

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

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

Ford Motor Credit Company's motion for relief from the automatic stay has been presented to the court. Having entered the default of respondent for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the motion,

IT IS ORDERED that the motion is granted. The automatic stay is vacated with respect to the property described in the motion, commonly known as a 2015 Honda Civic vehicle, as to all parties in interest. The 14-day stay of the order under Federal Rule of Bankruptcy Procedure 4001(a)(3) is waived. Any party with standing may pursue its rights against the property pursuant to applicable non-bankruptcy law.

IT IS FURTHER ORDERED that no other relief is awarded. To the extent that the motion includes any request for attorney's fees or other costs for bringing this motion, the request is denied.

5. [19-10962](#)-A-7      **IN RE: MOSES AGUILAR**  
[JMV-2](#)

MOTION TO SELL AND/OR MOTION FOR COMPENSATION FOR GOULD  
AUCTION AND APPRAISAL COMPANY, AUCTIONEER(S)  
6-4-2019    [\[51\]](#)

JEFFREY VETTER/MV  
PATRICK KAVANAGH  
JEFFREY VETTER/ATTY. FOR MV.

#### **Final Ruling**

**Motion:** Sell Property and Compensate Auctioneer (Gould Auction & Appraisal Company)

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

**Disposition:** Granted

**Order:** Prepared by moving party

**Property:** 1957 Chevrolet vehicle

**Sale Type:** Public auction

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

#### **SECTION 363(b) SALE**

Section 363(b)(1) of Title 11 authorizes sales of property of the estate "other than in the ordinary course of business." 11 U.S.C. § 363(b)(1); *see also In re Lionel Corp.*, 722 F.2d 1063, 1071 (2d Cir. 1983) (requiring business justification). The moving party is the Chapter 7 trustee and liquidation of property of the estate is a proper purpose. *See* 11 U.S.C. § 704(a)(1). As a result, the court will approve the sale. The stay of Fed. R. Bankr. P. 6004(h) will be waived.

## COMPENSATION OF AUCTIONEER

The trustee filed a motion to employ the proposed auctioneer concurrently with the filing of this motion. ECF No. 47. The court approved the auctioneer's employment by an order entered on June 20, 2019. ECF No. 60.

Federal Rule of Bankruptcy Procedure 6005 requires the court to "fix the amount or rate of compensation" whenever the court authorizes the employment of an auctioneer. The court will approve the compensation of the auctioneer, in accordance with the terms of compensation provided for in the court's order approving the employment of the auctioneer. See ECF No. 60.

6. [15-14163](#)-A-7      **IN RE: DANNY/BEVERLY ALLEN**  
[DMG-1](#)

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  
6-5-2019    [\[83\]](#)

JEFFREY VETTER/MV  
ROBERT WILLIAMS  
D. GARDNER/ATTY. FOR MV.

## Final Ruling

**Motion:** Sell Property and Employ and Compensate Auctioneer (Gould Auction & Appraisal Company)

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

**Disposition:** Granted

**Order:** Prepared by moving party

**Property:** vehicles, trailers, tractors, machinery, equipment

**Sale Type:** Public auction

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

## SECTION 363(b) SALE

Section 363(b)(1) of Title 11 authorizes sales of property of the estate "other than in the ordinary course of business." 11 U.S.C. § 363(b)(1); *see also In re Lionel Corp.*, 722 F.2d 1063, 1071 (2d Cir. 1983) (requiring business justification). The moving party is the Chapter 7 trustee and liquidation of property of the estate is a proper purpose. See 11 U.S.C. § 704(a)(1). As a result, the court



will grant the motion and approve the sale. The stay of Fed. R. Bankr. P. 6004(h) will be waived.

#### **SECTION 328(a) EMPLOYMENT AND COMPENSATION**

The Chapter 7 trustee may employ an auctioneer that does not hold or represent an interest adverse to the estate and that is disinterested. 11 U.S.C. §§ 101(14), 327(a). The auctioneer satisfies the requirements of § 327(a), and the court will approve the auctioneer's employment.

Federal Rule of Bankruptcy Procedure 6005, moreover, requires the court to "fix the amount or rate of compensation" whenever the court authorizes the employment of an auctioneer. Section 328(a) authorizes employment of a professional on any reasonable terms and conditions of employment. Such reasonable terms include a fixed or percentage fee basis. The court finds that the compensation sought is reasonable and will approve the application.

7. [18-13672](#)-A-7     **IN RE: ARTURO/EMILIA GONZALEZ**  
[MET-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY  
6-5-2019    [[103](#)]

BANK OF THE WEST/MV  
PATRICK KAVANAGH  
MARY TANG/ATTY. FOR MV.  
DISCHARGED 4/2/19

#### **Final Ruling**

**Motion:** Stay Relief

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

**Disposition:** Granted in part and denied in part as moot

**Order:** Civil minute order

**Subject:** 2011 GMC Sierra 1500 Crew vehicle

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

#### **AS TO THE DEBTOR**

The motion is denied as moot. The stay that protects the debtor terminates at the entry of discharge. 11 U.S.C. § 362(c)(2). In this case, discharge has been entered. As a result, the motion is moot as to the debtor.

## **AS TO THE ESTATE**

Section 362(d)(2) authorizes stay relief if there is no equity in the property and the property is not necessary to an effective reorganization. 11 U.S.C. § 362(d)(2). Chapter 7 is a mechanism for liquidation, not reorganization, and, therefore, property of the estate is never necessary for reorganization. *In re Casgul of Nevada, Inc.*, 22 B.R. 65, 66 (B.A.P. 9th Cir. 1982). In this case, the aggregate amount due all liens (\$12,707) exceeds the value of the collateral (\$9,991) and the debtor has no equity in the property. The motion will be granted, and the 14-day stay of Federal Rule of Bankruptcy Procedure 4001(a)(3) will be waived. No other relief will be awarded.

## **CIVIL MINUTE ORDER**

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

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

Bank of the West's motion for relief from the automatic stay has been presented to the court. Having entered the default of respondent for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the motion,

IT IS ORDERED that the motion is granted in part and denied as moot in part. The automatic stay is vacated with respect to the interest of the trustee in the property described in the motion, commonly known as a 2011 GMC Sierra 1500 Crew vehicle. Relief from the automatic stay as to the interest of the debtor in such property is denied as moot given the entry of the discharge in this case. 11 U.S.C. § 362(c)(2)(C).

IT IS FURTHER ORDERED that the 14-day stay of the order under Federal Rule of Bankruptcy Procedure 4001(a)(3) is waived. Any party with standing may pursue its rights against the property pursuant to applicable non-bankruptcy law.

IT IS FURTHER ORDERED that no other relief is awarded. To the extent that the motion includes any request for attorney's fees or other costs for bringing this motion, the request is denied.

8. [19-11872](#)-A-7     **IN RE: JUAN LARIOS**  
[JHW-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY  
5-17-2019    [\[10\]](#)

TD AUTO FINANCE LLC/MV  
NEIL SCHWARTZ  
JENNIFER WANG/ATTY. FOR MV.

### **Final Ruling**

**Motion:** Stay Relief

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

**Disposition:** Granted

**Order:** Civil minute order

**Subject:** 2016 Toyota Camry vehicle

Unopposed motions are subject to the rules of default. Fed. R. Civ. P.55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

### **STAY RELIEF**

Section 362(d)(2) authorizes stay relief if the debtor lacks equity in the property and the property is not necessary to an effective reorganization. 11 U.S.C. § 362(d)(2). Chapter 7 is a mechanism for liquidation, not reorganization, and, therefore, property of the estate is never necessary for reorganization. *In re Casgul of Nevada, Inc.*, 22 B.R. 65, 66 (B.A.P. 9th Cir. 1982). In this case, the aggregate amount due all liens (\$23,206) exceeds the value of the collateral (\$13,775) and the debtor has no equity in the property. The motion will be granted, and the 14-day stay of Federal Rule of Bankruptcy Procedure 4001(a)(3) will be waived. No other relief will be awarded.

### **CIVIL MINUTE ORDER**

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

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

TD Auto Finance, LLC's motion for relief from the automatic stay has been presented to the court. Having entered the default of respondent for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the motion,

IT IS ORDERED that the motion is granted. The automatic stay is vacated with respect to the property described in the motion, commonly known as a 2016 Toyota Camry vehicle, as to all parties in interest. The 14-day stay of the order under Federal Rule of Bankruptcy Procedure 4001(a)(3) is waived. Any party with standing may pursue its rights against the property pursuant to applicable non-bankruptcy law.

IT IS FURTHER ORDERED that no other relief is awarded. To the extent that the motion includes any request for attorney's fees or other costs for bringing this motion, the request is denied.

9. [19-11774](#)-A-7      **IN RE: LUIS/ANA MEDINA**  
[LKW-1](#)

MOTION TO REDEEM  
5-23-2019    [\[14\]](#)

LUIS MEDINA/MV  
LEONARD WELSH

#### **Final Ruling**

**Motion:** Authorize Redemption of Tangible Personal Property

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

**Disposition:** Granted

**Order:** Prepared by moving party

**Property:** 2007 GMC Sierra vehicle

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

Pursuant to § 722, an individual debtor in Chapter 7 may redeem tangible personal property from a lien on such property by paying the lienholder the amount of the allowed secured claim. 11 U.S.C. § 722. The tangible personal property must be "intended primarily for personal, family, or household use." *Id.*

Additionally, the property must have been exempted under § 522 or abandoned under § 554. *Id.* And the lien on the property must "secur[e] a "dischargeable consumer debt." *Id.*

The redemption price is the amount of the allowed secured claim, which amount is "determined based on the replacement value of such property as of the date of the filing of the petition without deduction for costs of sale or marketing." *Id.* § 506(a)(2).

The debtor requests authority to redeem tangible personal property, described in the motion, from the lien on such property. See Fed. R. Bankr. P. 6008. The property has been claimed exempt (or abandoned). The court values the property at the amount set forth in the motion (the redemption price). No party in interest has disputed whether the debt is dischargeable. The court will grant the motion and authorize the proposed redemption.

10. [19-10589](#)-A-7     **IN RE: MOISES PALMA ALMENDARES AND NOEMI PALMA**  
[PLG-1](#)

MOTION TO AVOID LIEN OF BMO HARRIS BANK, N.A.  
5-30-2019    [\[15\]](#)

MOISES PALMA ALMENDARES/MV  
STEVEN ALPERT

### **Final Ruling**

**Motion:** Avoid Lien that Impairs Exemption

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

**Disposition:** Granted

**Order:** Prepared by moving party

**Judicial Lien Avoided:** \$119,444.31

**All Other Liens (non-avoidable):** \$207,059.81

**Exemption:** \$100,000

**Value of Property:** \$286,000

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

Section 522(f) of the Bankruptcy Code authorizes the court to avoid a lien "on an interest of the debtor in property to the extent that such lien impairs an exemption to which the debtor would have been entitled." 11 U.S.C. § 522(f)(1). There are four elements to avoidance of a lien that impairs an exemption: (1) there must be an exemption to which the debtor would have been entitled; (2) the property must be listed on the schedules and claimed as exempt; (3) the lien must impair the exemption claimed; and (4) the lien must be a judicial lien or nonpossessory, nonpurchase-money security interest in property described in § 522(f)(1)(B). *Goswami v. MTC Distrib. (In re Goswami)*, 304 B.R. 386, 390-91 (B.A.P. 9th Cir. 2003). Impairment is statutorily defined: a lien impairs an exemption "to the extent that the sum of - (i) the lien; (ii) all other liens on the property; and (iii) the amount of the exemption that the debtor could claim if there were no liens on the property;

exceeds the value that the debtor's interest in the property would have in the absence of any liens." 11 U.S.C. § 522(f)(2)(A).

The responding party's judicial lien, all other liens, and the exemption amount together exceed the property's value by an amount greater than or equal to the judicial lien. As a result, the responding party's judicial lien will be avoided entirely.

11. [19-11692](#)-A-7     **IN RE: REX/RACHEL MCELHANEY**  
[PPR-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY  
5-14-2019    [\[12\]](#)

NASA FEDERAL CREDIT UNION/MV  
PATRICK KAVANAGH  
DIANA TORRES-BRITO/ATTY. FOR MV.  
NON-OPPOSITION

### **Final Ruling**

**Motion:** Stay Relief

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

**Disposition:** Granted

**Order:** Civil minute order

**Subject:** 2009 Dodge Ram pickup vehicle

Unopposed motions are subject to the rules of default. Fed. R. Civ. P.55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

### **STAY RELIEF**

Section 362(d)(2) authorizes stay relief if the debtor lacks equity in the property and the property is not necessary to an effective reorganization. 11 U.S.C. § 362(d)(2). Chapter 7 is a mechanism for liquidation, not reorganization, and, therefore, property of the estate is never necessary for reorganization. *In re Casgul of Nevada, Inc.*, 22 B.R. 65, 66 (B.A.P. 9th Cir. 1982). In this case, the aggregate amount due all liens (\$18,068) exceeds the value of the collateral (\$17,850) and the debtor has no equity in the property. The motion will be granted, and the 14-day stay of Federal Rule of Bankruptcy Procedure 4001(a)(3) will be waived. No other relief will be awarded.

## **CIVIL MINUTE ORDER**

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

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

NASA Federal Credit Union's motion for relief from the automatic stay has been presented to the court. Having entered the default of respondent for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the motion,

IT IS ORDERED that the motion is granted. The automatic stay is vacated with respect to the property described in the motion, commonly known as a 2009 Dodge Ram pickup vehicle, as to all parties in interest. The 14-day stay of the order under Federal Rule of Bankruptcy Procedure 4001(a)(3) is waived. Any party with standing may pursue its rights against the property pursuant to applicable non-bankruptcy law.

IT IS FURTHER ORDERED that no other relief is awarded. To the extent that the motion includes any request for attorney's fees or other costs for bringing this motion, the request is denied.

12. [18-14142](#)-A-7     **IN RE: DALIAN CONSTRUCTION, INC.**  
[FRB-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY  
6-18-2019    [\[20\]](#)

WELLS FARGO VENDOR FINANCIAL  
SERVICES, LLC/MV  
LEONARD WELSH  
GERRICK WARRINGTON/ATTY. FOR MV.

### **Tentative Ruling**

**Motion:** Stay Relief

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

**Disposition:** Granted

**Order:** Civil minute order

**Subject:** John Deere 210LE Skip Loader, Bobcat S220 Skid Steer Loader, and Bobcat S770 Skid Steer Loader

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

## **STAY RELIEF**

Section 362(d)(2) authorizes stay relief if the debtor lacks equity in the property and the property is not necessary to an effective reorganization. 11 U.S.C. § 362(d)(2). Chapter 7 is a mechanism for liquidation, not reorganization, and, therefore, property of the estate is never necessary for reorganization. *In re Casgul of Nevada, Inc.*, 22 B.R. 65, 66 (B.A.P. 9th Cir. 1982). In this case, the aggregate amount due all liens (\$36,905) exceeds the value of the collateral (\$24,000) and the debtor has no equity in the property. The motion will be granted, and the 14-day stay of Federal Rule of Bankruptcy Procedure 4001(a)(3) will be waived. No other relief will be awarded.

## **CIVIL MINUTE ORDER**

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

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

Wells Fargo Vendor Financial Services, LLC's motion for relief from the automatic stay has been presented to the court. Having entered the default of respondent for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the motion,

IT IS ORDERED that the motion is granted. The automatic stay is vacated with respect to the property described in the motion, commonly known as John Deere 210LE Skip Loader, Bobcat S220 Skid Steer Loader, and Bobcat S770 Skid Steer Loader, as to all parties in interest. The 14-day stay of the order under Federal Rule of Bankruptcy Procedure 4001(a)(3) is waived. Any party with standing may pursue its rights against the property pursuant to applicable non-bankruptcy law.

IT IS FURTHER ORDERED that no other relief is awarded. To the extent that the motion includes any request for attorney's fees or other costs for bringing this motion, the request is denied.



13. [18-13182](#)-A-7     **IN RE: WANDA CLEMMONS**  
[RSW-3](#)

MOTION TO COMPEL ABANDONMENT  
6-19-2019    [\[109\]](#)

WANDA CLEMMONS/MV  
ROBERT WILLIAMS

**Tentative Ruling**

**Motion:** Compel Abandonment of Property of the Estate  
**Notice:** LBR 9014-1(f)(2); no written opposition required  
**Disposition:** Granted  
**Order:** Prepared by moving party

**Real Property Description:** 44094 Old Stage Road, Posey, CA 93260

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

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

The real property described above is either burdensome to the estate or of inconsequential value to the estate. The property has a value of \$311,062 and it is subject to a mortgage in the amount of \$289,239.91, outstanding property taxes in the amount of \$16,211, and an exemption claim in the amount of \$13,335.91. An order compelling abandonment is warranted.