

UNITED STATES BANKRUPTCY COURT
Eastern District of California
Honorable René Lastreto II
Hearing Date: Friday, July 6, 2018
Place: Department B - Courtroom #13
Fresno, 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. The court may continue the hearing on the matter, set a briefing schedule or enter other orders appropriate for efficient and proper resolution of the matter. The original moving or objecting party shall give notice of the continued hearing date and the deadlines. The minutes of the hearing will be the court's findings and conclusions.

Final Ruling: Unless otherwise ordered, there will be no hearing on these matters. The final disposition of the matter is set forth in the ruling and it will appear in the minutes. The final ruling may or may not finally adjudicate the matter. If it is finally adjudicated, the minutes constitute the court's findings and conclusions. If the parties stipulate to continue the hearing on the matter or agree to resolve the matter in a way inconsistent with the final ruling, then the court will consider vacating the final ruling only if the moving party notifies chambers before 4:00 p.m. (Pacific time) at least one business day before the hearing date: Department A-Kathy Torres (559)499-5860; Department B-Jennifer Dauer (559)499-5870. If a party has grounds to contest a final ruling under FRCP 60(a)(FRBP 9024) because of the court's error ["a clerical mistake (by the court) or a mistake arising from (the court's) oversight or omission"] the party shall notify chambers (contact information above) and any other party affected by the final ruling by 4:00 p.m. (Pacific time) one business day before the hearing.

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

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

9:30 AM

1. [15-14225](#)-B-7 IN RE: LETICIA CAMACHO
[JES-3](#)

MOTION FOR COMPENSATION FOR JAMES E. SALVEN, ACCOUNTANT(S)
6-5-2018 [[129](#)]

JAMES SALVEN/MV
GLEN GATES

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

DISPOSITION: Granted.

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

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

James E. Salven shall be awarded fees of \$1,954.00 and costs of \$192.68.

2. [15-13932](#)-B-7 **IN RE: VICTOR PASNICK**
[JES-3](#)

MOTION FOR COMPENSATION FOR JAMES E. SALVEN, ACCOUNTANT(S)
6-5-2018 [[368](#)]

JAMES SALVEN/MV
PETER FEAR

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

DISPOSITION: Granted.

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

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

The motion will be GRANTED. Trustee's accountant, James E. Salven, requests fees of \$17,475.00 and costs of \$509.30 for a total of \$17,984.30 for services rendered as accountant for the estate from June 6, 2016 through April 23, 2018.

11 U.S.C. § 330(a)(1)(A) & (B) permits approval of "reasonable compensation for actual necessary services rendered by . . .[a] professional person" and "reimbursement for actual, necessary expenses." Movant's services included, without limitation: (1) Searching for properties and reviewing the tax implications on the properties, (2) Inputting and reviewing sale data, (3) Reviewing settlements and sales for tax effects, and (4) Finalizing final returns. The court finds the services reasonable and necessary and the expenses requested actual and necessary.

Movant shall be awarded \$17,475.00 in fees and \$509.30 in costs.

3. [18-12337](#)-B-7 **IN RE: GENESIS POOLS, INC.**
[HRH-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
6-21-2018 [[10](#)]

CIT BANK, N.A./MV
RILEY WALTER
RAFFI KHATCHADOURIAN/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 will be DENIED WITHOUT PREJUDICE. The moving papers were not served on the trustee of record. Federal Rule of Bankruptcy Procedure 9014.

On June 21, 2018 (Doc. No. 6), Peter L. Fear, Chapter 7 Trustee filed a Resignation of Appointment as Trustee. That same day, appointment of a successor trustee was filed, assigning Randell Parker as the Chapter 7 Trustee in the case. Creditor CIT Bank, N.A. filed and served its motion on June 21, 2018, and served the incorrect trustee. Therefore, the motion will be denied without prejudice.

4. [18-11943](#)-B-7 **IN RE: REBECCA BAKER**
[RPZ-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
6-7-2018 [[21](#)]

PENNYMAC LOAN SERVICES, LLC/MV
SCOTT LYONS
ROBERT ZAHRADKA/ATTY. FOR MV.
RESPONSIVE PLEADING

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

DISPOSITION: Granted.

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

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

468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered (except the trustee, who timely filed an opposition (doc. #31) and then withdrew it (doc. #33)) and the matter will be resolved without oral argument. Upon default, factual allegations will be taken as true (except those relating to amount of damages). Televideo Systems, Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires that a plaintiff make a prima facie showing that they are entitled to the relief sought, which the movant has done here.

The movant, Pennymac Loan Services, LLC, seeks relief from the automatic stay under § 362(d)(4) with respect to a piece of real property located at 3277 Whittier Avenue in Clovis, CA 93611.

Under 11 U.S.C. § 362(d)(4), if the court finds that the debtor's filing of the petition was part of a scheme to delay, hinder, or defraud creditors that involved either transfer of all or part ownership of, or other interest in, such real property without the consent of the secured creditor or court approval OR multiple bankruptcy filings affecting such real property, if recorded in compliance with applicable state laws governing notices of interests or liens in real property, an order entered under this section shall be binding in any other case under this title purporting to affect such real property filed not later than 2 years after the date of the entry of such order by the court, inter alia.

After review of the included evidence, the court finds that the debtor's filing of the petition was part of a scheme to delay, hinder, or defraud creditors that involved the transfer of all or part ownership of the subject real property without the consent of the secured creditor or court approval. On or about February 14, 2013, Craig Stephen Henry, an unmarried man, executed a promissory note in the amount of \$108,262.00, which was made payable to Kings Mortgage Services, Inc. Doc. #25. The promissory note is secured by a deed of trust encumbering the property located at 3277 Whittier Avenue in Clovis, CA 93611 ("Property"). *Id.* On May 10, 2018, an unauthorized quitclaim deed was executed by Mr. Henry, purporting to transfer an interest in the Property to Mr. Henry and the debtor as tenants in common, as a "gift" for no consideration. Doc. #26. On or about May 15, 2018, the debtor filed her petition for relief. Doc. #1.

The Court having rendered findings of fact and conclusions of law pursuant to Fed. R. Civ. P. 52, as incorporated by Fed. R. Bankr. P. 7052:

IT IS ORDERED that the automatic stay of 11 U.S.C. § 362(a) is vacated with respect to the real property located at 3277 Whittier Avenue in Clovis, CA 93611; and

IT IS FURTHER ORDERED, pursuant to 11 U.S.C. § 362(d)(4), that the filing of the petition was part of a scheme to delay, hinder, or defraud creditors that involved either transfer of all or part ownership of, or other interest in, the aforesaid real property without the consent of the secured creditor or court approval.

NO OTHER FORM OF ORDER OR PROVISIONS WILL BE ENTERED.

The 14-day stay of Fed. R. Bankr. P. 4001(a)(3) will be ordered waived.

5. [18-11559](#)-B-7 **IN RE: AUSTIN DEVINE**
[RLM-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
6-7-2018 [[12](#)]

STATE FARM MUTUAL AUTOMOTIVE
INSURANCE COMPANY/MV
R. BELL
RICHARD MAHFOUZ/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 will be DENIED WITHOUT PREJUDICE. The form and/or content of the notice do not comply with LBR 9014-1(d)(3)(B)(iii).

Counsel is reminded that new Local Rules became effective September 26, 2017. New Rule 9014-1(d)(3)(B) in particular requires the moving party to include more information in Notices than the old Rule 9014-1(d)(3) did. The court urges counsel to review the new rules in order to be compliant in future matters. The new rules can be accessed on the court's website at <http://www.caeb.circ9.dcn/LocalRules.aspx>.

6. [17-14781](#)-B-7 **IN RE: JORGE/SELMA GONZALEZ**
[JES-3](#)

MOTION TO SELL
5-31-2018 [[40](#)]

JAMES SALVEN/MV
PETER FEAR
IRMA EDMONDS/ATTY. FOR MV.

TENTATIVE RULING: This matter will proceed for higher and better bids only.

DISPOSITION: Granted.

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

This motion was 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.

This motion is GRANTED. It appears that the sale of the real property located at 1836 Houston Avenue, Clovis, CA is a reasonable exercise of the trustee's business judgment. The sale of the property is subject to over bid in \$5,000.00 amounts. Interested parties should bring a \$35,000.00 cashier's check made payable to the Gonzalez bankruptcy estate to the hearing. The trustee shall submit a proposed order after the hearing.

7. [11-17285](#)-B-7 **IN RE: OGANES/ANAIID HAKOPYAN**
[PBB-2](#)

MOTION TO AVOID LIEN OF JPMORGAN CHASE BANK, N.A.
6-4-2018 [[28](#)]

OGANES HAKOPYAN/MV
PETER BUNTING

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

DISPOSITION: Granted.

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

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

prima facie showing that they are entitled to the relief sought, which the movant has done here.

A judgment was entered against the debtor in favor of JPMorgan Chase Bank, N.A. in the sum of \$60,775.70 on November 12, 2010. Doc. #31. The abstract of judgment was recorded with Fresno County on May 19, 2011. *Id.* That lien attached to the debtor's interest in a commercial real property in Fresno, CA. The motion will be granted pursuant to 11 U.S.C. § 522(f)(1)(A). The subject real property had an approximate value of \$100,000.00 as of the petition date. Doc. #1. The unavoidable liens totaled \$98,643.50 on that same date, consisting of a first deed of trust in favor of Mid Valley Services, Inc. Doc. #1, Schedule D. The debtor claimed an exemption pursuant to Cal. Civ. Proc. Code § 703.140(b)(5) in the amount of \$4,292.28. Doc. #25, amended Schedule C.

The respondent holds a judicial lien created by the recordation of an abstract of judgment in the chain of title of the subject real property. After application of the arithmetical formula required by 11 U.S.C. § 522(f)(2)(A), there is no equity to support the judicial lien. Therefore, the fixing of this judicial lien impairs the debtor's exemption of the real property and its fixing will be avoided subject to 11 U.S.C. § 349(b)(1)(B).

8. [11-17285](#)-B-7 **IN RE: OGANES/ANAIID HAKOPYAN**
[PBB-3](#)

MOTION TO AVOID LIEN OF JPMORGAN CHASE BANK, N.A.
6-4-2018 [\[33\]](#)

OGANES HAKOPYAN/MV
PETER BUNTING

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

DISPOSITION: Granted.

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

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

1987). Constitutional due process requires that a plaintiff make a prima facie showing that they are entitled to the relief sought, which the movant has done here.

A judgment was entered against the debtor in favor of JPMorgan Chase Bank, N.A. in the sum of \$60,775.70 on November 12, 2010. Doc. #31. The abstract of judgment was recorded with Fresno County on May 19, 2011. *Id.* That lien attached to the debtor's interest in a rental real property in Fresno, CA. The motion will be granted pursuant to 11 U.S.C. § 522(f)(1)(A). The subject real property had an approximate value of \$90,000.00 as of the petition date. Doc. #1. The unavoidable liens totaled \$169,749.00 on that same date, consisting of a first deed of trust in favor of American Home Mortgage Services. Doc. #1, Schedule D. The debtor claimed an exemption pursuant to Cal. Civ. Proc. Code § 703.140(b)(5) in the amount of \$1.00. Doc. #25, amended Schedule C.

The respondent holds a judicial lien created by the recordation of an abstract of judgment in the chain of title of the subject real property. After application of the arithmetical formula required by 11 U.S.C. § 522(f)(2)(A), there is no equity to support the judicial lien. Therefore, the fixing of this judicial lien impairs the debtor's exemption of the real property and its fixing will be avoided subject to 11 U.S.C. § 349(b)(1)(B).

9. [11-17285](#)-B-7 **IN RE: OGANES/ANAIID HAKOPYAN**
[PBB-4](#)

MOTION TO AVOID LIEN OF JPMORGAN CHASE BANK, N.A.
6-4-2018 [\[38\]](#)

OGANES HAKOPYAN/MV
PETER BUNTING

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

DISPOSITION: Granted.

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

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

Televideo Systems, Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires that a plaintiff make a prima facie showing that they are entitled to the relief sought, which the movant has done here.

A judgment was entered against the debtor in favor of JPMorgan Chase Bank, N.A. in the sum of \$60,775.70 on November 12, 2010. Doc. #31. The abstract of judgment was recorded with Fresno County on May 19, 2011. *Id.* That lien attached to the debtor's interest in a residential real property in Fresno, CA. The motion will be granted pursuant to 11 U.S.C. § 522(f)(1)(A). The subject real property had an approximate value of \$180,000.00 as of the petition date. Doc. #48. The unavoidable liens totaled \$267,011.00 on that same date, consisting of a first deed of trust in favor of BAC Home Loans (doc. #1, Schedule D) and a second deed of trust in favor of Bank of the West (*id.*). The debtor claimed an exemption pursuant to Cal. Civ. Proc. Code § 704.130(b)(1) in the amount of \$10,000.00. Doc. #25, amended Schedule C.

The respondent holds a judicial lien created by the recordation of an abstract of judgment in the chain of title of the subject real property. After application of the arithmetical formula required by 11 U.S.C. § 522(f)(2)(A), there is no equity to support the judicial lien. Therefore, the fixing of this judicial lien impairs the debtor's exemption of the real property and its fixing will be avoided subject to 11 U.S.C. § 349(b)(1)(B).

10. [17-13296](#)-B-7 **IN RE: LARRY CHAMPAGNE**
[FW-2](#)

MOTION TO COMPROMISE CONTROVERSY/APPROVE SETTLEMENT
AGREEMENT WITH LARRY B. CHAMPAGNE, MICHELLE CHAMPAGNE AND
DOROTHY BUTLER
6-8-2018 [\[58\]](#)

ROBERT HAWKINS/MV
DAVID JENKINS
PETER SAUER/ATTY. FOR MV.

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

DISPOSITION: Granted.

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

This objection 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.

It appears from the moving papers that the trustee has considered the standards of In re Woodson, 839 F.2d 610, 620 (9th Cir. 1987) and In re A & C Properties, 784 F.2d 1377, 1381 (9th Cir. 1986):

- a. the probability of success in the litigation;
- b. the difficulties, if any, to be encountered in the matter of collection;
- c. the complexity of the litigation involved, and the expense, inconvenience and delay necessarily attending it; and
- d. the paramount interest of the creditors and a proper deference to their reasonable views in the premises.

Accordingly, it appears that the compromise pursuant to Federal Rule of Bankruptcy Procedure 9019 is a reasonable exercise of the trustee's business judgment. The order should be limited to the claims compromised as described in the motion.

The trustee requests approval of a settlement agreement between the estate and the debtor, his non-filing spouse, and his mother-in-law.

Under the terms of the compromise, the debtor, his wife, and his mother-in-law shall pay to the trustee the sum of \$25,000.00 in order to resolve the trustee's fraudulent conveyance allegations. The debtor shall pay to the trustee \$8,000.00 to resolve the trustee's claim for non-exempt vehicle interest and promptly file his 2017 tax returns and turnover seven-twelfths of any tax refunds. The trustee shall make no further claim of interest stemming from the real property transfers or the debtor's vehicle. The parties shall release each other from any claims arising from any transfer of real property by debtor, as grantor, to his wife and mother-in-law as grantee or the nonexempt equity in the debtor's vehicle.

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

The court concludes that the Woodson factors balance in favor of approving the compromise. That is: the probability of success is tipped in favor of the trustee as to the Yale avenue property, but

success is uncertain as to the East Thomas and North Linden properties; collection will be very easy because counsel for the debtor is holding the \$33,000.00 in his trust account; the litigation is not complex but resorting to litigation may decrease the net to the estate due to the legal fees; and the creditors will greatly benefit from the net to the estate as the settlement is very close to the anticipated maximum recovery if the trustee would be successful in litigation; the settlement is equitable and fair.

Therefore, the court concludes the compromise to be in the best interests of the creditors and the estate. The court may give weight to the opinions of the trustee, the parties, and their attorneys. In re Blair, 538 F.2d 849, 851 (9th Cir. 1976). Furthermore, the law favors compromise and not litigation for its own sake. *Id.* Accordingly, the motion will be granted.

This ruling is not authorizing the payment of any fees or costs associated with the litigation.

11. [18-11698](#)-B-7 **IN RE: MICHAEL HERNANDEZ**
[AP-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
6-7-2018 [[22](#)]

BANK OF AMERICA, N.A./MV
SCOTT LYONS
JAMIE HANAWALT/ATTY. FOR MV.
RESPONSIVE PLEADING

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Granted.

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

This motion was filed and served pursuant to Local Rule of Practice ("LBR") 9014-1(f)(1) and will proceed as scheduled.

The movant, Bank of America, N.A., seeks relief from the automatic stay under § 362(d)(1) with respect to a piece of real property located at 845 Kavanaugh Street, Hanford, CA 93230.

11 U.S.C. § 362(d)(1) allows the court to grant relief from 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). The movant bears the burden of proof on this issue. 11 U.S.C. § 362(g). Persistent failure to make payments can be cause for stay relief. Price v. Del. State Police Fed. Credit Union (In re Price), 370 F.3d 362, 373 (3rd Cir. 2004).

After review of the included evidence, the court concludes that "cause" exists to lift the stay and there is a lack of adequate protection because debtor has missed at least three payments, totaling to \$2,076.75. The debtor filed a timely opposition stating that they would be current on the payments owed to movant before the hearing date. Doc. #31. This matter will proceed in order for movant to verify that debtor is current on the payments owed to movant.

Since there is equity in the collateral based on movant's proof, no relief under 11 U.S.C. § 362(D)(2) is available. Notably, the motion claims equity is declining because of missed payments, but no evidence is presented quantifying that decline.

If the debtor is not current by the hearing date, the court may grant the motion as follows:

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)(3) IS NOT waived. No exigency appears and there is equity in the property.

12. [16-14199](#)-B-7 **IN RE: HARLAN/VIRGINIA TYLER**
[FW-5](#)

MOTION TO APPROVE STIPULATION RESOLVING DISPUTED PROOF OF
CLAIM NO. 10
6-6-2018 [\[57\]](#)

JAMES SALVEN/MV
RILEY WALTER
PETER FEAR/ATTY. FOR MV.

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

DISPOSITION: Granted.

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

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

Televideo Systems, Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires that a plaintiff make a prima facie showing that they are entitled to the relief sought, which the movant has done here.

This motion is GRANTED. The stipulation between Ferrer, Poirot & Wasnbrough, PA and Aylstock, Witkin, Kreis & Overholtz ("Parties") and the trustee is approved. The stipulation provides that the Parties are secured creditors of the debtor, whose claim is secured by the proceeds of a personal injury claim; the Proof of Claim filed by the Parties (claim #10) is erroneous and will be modified and reduced as follows: the correct amount for fees is \$63,898.43 and the correct amount for costs is \$5,245.41 for a total secured claim of \$69,143.84; and the trustee is authorized to include and pay the Parties' secured claim a total of \$69,143.84 when making distribution in this case, and all remaining monies ordered to be set aside shall be released to the payment of general unsecured claims.

10:30 AM

1. [18-11990](#)-B-11 **IN RE: CENTRO CRISTIANO AGAPE DE BAKERSFIELD
INC
[DMG-2](#)**

MOTION TO APPROVE STIPULATION FOR ADEQUATE PROTECTION
PAYMENTS
6-22-2018 [[13](#)]

CENTRO CRISTIANO AGAPE DE
BAKERSFIELD INC/MV
D. GARDNER
OST 6/27/18

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Granted.

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

This motion was filed and served pursuant to Local Rule of Practice ("LBR") 9014-1(f)(3) and an order shortening time (doc. #23) and will proceed as scheduled. Unless opposition is presented at the hearing, the court intends to enter the respondents' defaults and grant the motion. If opposition is presented at the hearing, the court will consider the opposition and whether further hearing is proper pursuant to LBR 9014-1(f)(2). The court will issue an order if a further hearing is necessary.

This motion is GRANTED. The stipulation between the parties is approved. Debtor will pay Trinity United Methodist Church ("TUMC") \$1,500.00 monthly in adequate protection payments from June 2018 through the effective date of any confirmed plan of reorganization. The payment shall be due on the 15th of each month. If the payment is late, TUMC may seek relief from the automatic stay with respect to the subject property in accordance with the terms of the stipulation. Additional terms and conditions and rights and responsibilities of the parties are contained in the stipulation.

The court notes that the notice of motion was deficient for two reasons.

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

Second, the notice did not contain the kind of detailed language necessary under LBR 9014-1(f)(3). LBR 9014-1(f)(3) states that "[u]nless otherwise ordered, when the time for service is shortened to fewer than fourteen (14) days, no written opposition is required." The notice instead, states, "[o]pposition, if any, may be filed and/or stated up to and including the time of hearing." The language in the notice does not clearly notify the respondent or any other party that no written opposition is necessary and that they must appear at the hearing in order to oppose.

11:30 AM

1. [18-12053](#)-B-7 IN RE: RAYMOND AHUMADA

PRO SE REAFFIRMATION AGREEMENT WITH NOBLE CREDIT UNION
6-14-2018 [[15](#)]

NO RULING.