UNITED STATES BANKRUPTCY COURT
Eastern District of California
Honorable René Lastreto II
Hearing Date: Tuesday, July 14, 2020
Place: Department B – Courtroom #13
Fresno, California

ALL APPEARANCES MUST BE TELEPHONIC
(Please see the court's website for instructions.)

Pursuant to District Court General Order 618, no persons are permitted to appear in court unless authorized by order of the court until further notice. All appearances of parties and attorneys shall be telephonic through CourtCall. The contact information for CourtCall to arrange for a phone appearance is: (866) 582-6878.

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.

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. 20-10800-B-11 **IN RE: 4-S RANCH PARTNERS, LLC**

CONTINUED STATUS CONFERENCE RE: CHAPTER 11 VOLUNTARY PETITION
3-2-2020 [1]

RENO FERNANDEZ/ATTY. FOR DBT.
RESPONSIVE PLEADING

NO RULING.

2. 20-10800-B-11 **IN RE: 4-S RANCH PARTNERS, LLC**
MF-3

CHAPTER 11 DISCLOSURE STATEMENT FILED BY DEBTOR 4-S RANCH PARTNERS, LLC
6-1-2020 [95]

RENO FERNANDEZ/ATTY. FOR DBT.
RESPONSIVE PLEADING

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Objections sustained in part. Disclosure Statement is not approved.

ORDER: Court will issue the order.

The parties are advised that the Judicial Law Clerk for this Department, Mr. Leatham, has accepted a position with the Wanger Jones Helsley ("WJH") law firm. WJH represents creditor Sandton Credit Solutions Master Fund IV, LP, who has objected to the disclosure statement. Mr. Leatham was screened from working on this matter. Nevertheless, the parties are urged to consult with their clients and determine whether they will ask the court to recuse from this matter notwithstanding the screening process involving Mr. Leatham.

Debtor 4-S Ranch Partners, LLC ("4-S") asks the court to approve its Disclosure Statement filed with the proposed plan on or about June 1, 2020. Both the United States Trustee ("UST") and major secured creditor Sandton Credit Solutions Master Fund IV ("Sandton") have objected. No other party in interest has filed an objection.

Defaults of all responding parties except UST and Sandton shall be entered. See Fed. R. Civ. P. 55 (incorporated into bankruptcy proceedings by Fed. R. Bankr. P. 7055 and into contested matters by Fed. R. Bankr. P. 9014(c)).

UST objects arguing first that the liquidation analysis in the Disclosure Statement is incomplete. UST asserts that since the Disclosure Statement discusses the risk of no distribution to unsecured creditors, a more complete liquidation analysis is needed. Specifically, the liquidation value of the 500,000 acre-feet of stored water and equipment scheduled with a $2.5 million value should be more thoroughly discussed.

Second, UST contends the Disclosure Statement reveals the Plan violates the law since it does not clearly state the mandatory quarterly fees remitted to the UST under 28 U.S.C. § 1930(a)(6) must be paid until conversion and dismissal. UST urges that the Disclosure Statement leaves open a potential plan provision arguably subjecting payment of the fees to the whim of satisfying other administrative claims.

Sandton agrees with UST's objection about the Liquidation Analysis. Also, Sandton objects because the Disclosure Statement does not fully discuss the impact of Sandton's pending stay relief motion on prospects of plan confirmation. In addition, Sandton states it objects to consideration of the Disclosure Statement and Plan until its stay relief motion is adjudicated.

4-S filed an "Omnibus" Reply which has been reviewed by the court. The reply addressed most of the objections and included 4-S conceding some additional discussion would be added to the Disclosure Statement:

- Liquidation values for water delivery systems, which 4-S claims are fixtures, will be added.
- Calculations of a potential deficiency balance allegedly owed by the Stephen Sloan estate will be added.
- Language about payment of UST quarterly fees not subject to "the claim allowance process" will be added.
- A brief discussion of the impact on reorganization if Sandton's stay relief motion will be added.

Disclosure Statements must contain "adequate information." Section 1125 defines "adequate information" in subdivision (a)(1) and defines "investor of claims or interests of the relevant class" in subdivision (a)(2). For our purposes, though, the court must consider "the complexity of the case, the benefit of additional information to creditors and other parties in interest, and the cost of providing additional information" in determining whether there is "adequate information." Section 1125(a)(1). Also, a disclosure statement can be approved "without a valuation of the debtor or an appraisal of the debtor's assets." Section 1125(b)

The court agrees with objectors that *some* additional disclosure is needed. So, the court SUSTAINS the objections in part. But the

amount of additional disclosure may not be as much as objectors contend.

First, a more complete liquidation analysis is needed. The disclosure statement is vague about true liquidation values and contains speculation that unsecured creditors would receive nothing in a liquidation. That said, an appraised value of assets is unnecessary.

At the same time there is no explanation of the difference between scheduled and liquidation values other than the vague "liquidation results in lower value" statements. Additional explanation is warranted since scheduled values are so high. 4-S lists real property with a $500 million value, $200 million for the stored water, $435,000 in land improvements and $2.6 million in equipment. What these assets may be worth upon liquidation is the crucial inquiry. Additional disclosure is needed here.

4-S's reply cogently discusses the link between water rights valuation and 4-S remaining a going concern. This discussion is enough of an explanation for the reason for the valuation differences and should be included in the disclosure statement. 4-S conceded additional liquidation value information will be added to the disclosure statement.

Second, some additional disclosure is needed about the impact of Sandton's stay relief motion. Should the motion be granted, a completely different reorganization scenario may be necessary. But this should not be a burdensome requirement. "[A]dequate information need not include such information [helpful to a hypothetical reasonable investor] about any other possible or proposed plan. . . ." Section 1125(a)(1). A very simple explanation of the scenarios that may occur if Sandton's stay relief motion is granted or denied should be enough. 4-S's reply concedes this.

Third, a clear statement about the debtor's obligation to pay UST fees is needed. The fees must be paid no later than the effective date of the plan for plan confirmation. Section 1129(a)(12). 4-S's reply states the disclosure statement will be revised to clarify the obligation to pay UST fees is not subject to "the claim allowance process."

Fourth, the debtor's discussion of when certain events would occur is vague. On page 4 lines 7-20 debtor discusses potential changes to its status relating to water storage. The debtor discusses efforts to become a Groundwater Sustainability Agency ("GSA") and certification to accept water from the Central Valley Project. The impact of these changes and when they may occur is not discussed. This is important information about the longevity of the debtor to perform the plan, if confirmed.

The court overrules Sandton's "objection" that the plan confirmation process here should be suspended during the stay relief litigation. Sandton provides no authority for that proposition. That objection is not a disclosure issue anyway. The court agrees a simple

explanation of what would happen if the stay relief motion were granted is needed.

Finally, though the court does not approve this disclosure statement, the changes needed are minimal. The reality here is Sandton needs no further disclosure to determine its interests concerning the proposed plan. Sandton is allegedly owed over $57 million and knows a lot about the debtor; or can access information easily.

The unsecured claimants in this case are few and sophisticated. They are: three attorneys or law firms, an accountant, PG&E, and a well service contractor with a relatively small claim. This case, by itself, is not complex. 4-S wants a year to either sell or refinance. 4-S's principal may have co-debtor liability based on guarantees, but that matters little at this stage. A lengthy disclosure statement is unneeded and not beneficial to the creditors here.

Nevertheless, this disclosure statement does not contain "adequate information" as set forth above. The objections are SUSTAINED IN PART.

3. 20-11606-B-11 **IN RE: MICHAEL PENA**
RPM-1

MOTION FOR RELIEF FROM AUTOMATIC STAY
6-16-2020 [24]

FORD MOTOR CREDIT COMPANY LLC/MV
JUSTIN HARRIS/ATTY. FOR DBT.
RANDALL MROCZYNSKI/ATTY. FOR MV.

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

DISPOSITION: Dropped from calendar.

NO ORDER REQUIRED: Resolved by stipulation of the parties. Doc. #40, 42.

4. 16-13345-B-11 **IN RE: JONATHAN/PATRICIA MAYER**
CHI-2

MOTION FOR RELIEF FROM AUTOMATIC STAY AND/OR MOTION FOR RELIEF FROM CO-DEBTOR STAY
6-11-2020 [299]

JOSE MARQUEZ/MV
PETER FEAR/ATTY. FOR DBT.
JOHN HAMMERSTRAND/ATTY. FOR MV.

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

DISPOSITION: Denied without prejudice.

ORDER: The minutes of the hearing will be the court's findings and conclusions. The court will issue the order.

This motion is DENIED WITHOUT PREJUDICE. Constitutional due process requires that the movant make a *prima facie* showing that they are entitled to the relief sought. Here, the moving papers do not present "sufficient factual matter, accepted as true, to 'state a claim to relief that is plausible on its face.'" In re Tracht Gut, LLC, 503 B.R. 804, 811 (9th Cir. BAP, 2014), citing Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009), and Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 570 (2007).

The debtors were not served. The debtors as debtors-in-possession have an interest in the estate property at issue in this motion. They must be given notice of the motion. So, the motion is DENIED WITHOUT PREJUDICE.

5. 18-13677-B-9 **IN RE: COALINGA REGIONAL MEDICAL CENTER, A CALIFORNIA LOCAL HEALTH CARE DISTRICT**
WJH-11

CONTINUED MOTION TO REJECT LEASE OR EXECUTORY CONTRACT
5-6-2020 [559]

COALINGA REGIONAL MEDICAL CENTER, A CALIFORNIA LOCAL
RILEY WALTER/ATTY. FOR DBT.

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

DISPOSITION: Granted.

ORDER: The prevailing party shall prepare an order conforming with this ruling.

The parties are advised that the Judicial Law Clerk for this Department, Mr. Leatham, has accepted a position with the Wanger Jones Helsley ("WJH") law firm. WJH represents the debtor. Mr. Leatham was screened from working on this matter. Nevertheless, the parties are urged to consult with their clients and determine

whether they will ask the court to recuse from this matter notwithstanding the screening process involving Mr. Leatham.

Coalinga Regional Medical Center ("Debtor") asks the court to authorize rejection of a July 25, 2017 contract ("contract") with Med One Capital Funding, LLC ("Med One"). The contract is a purported lease of medical equipment.

This hearing was continued by stipulation from May 27, 2020 to July 14, 2020. The stipulation and order continuing the hearing (doc. #575) said opposition was due June 30, 2020. Med One did not file opposition. Med One's default will be entered. See, Fed. R. Bankr. P. 7055 (incorporating Fed. R. Civ. P. 55) which is applicable in contested matters under Fed. R. Bankr. P. 9014(c). Factual allegations in the motion are therefore accepted as true (except those related to damages). Televideo Systems v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987).

The Ninth Circuit is deferential to a Trustee's (or Debtor-in-Possession's) business judgment that a contract or unexpired lease should be rejected. In re Pomona Valley Med. Group, 476 F.3d 665, 670 (9th Cir. 2007). Sandra Earls, the debtor's CEO, testified here by declaration (doc. #561) that the equipment leased from Med One is no longer needed. Also, the equipment is not being used by the debtor's lessee. The testimony is uncontradicted.

Though the court grants the motion, there is no finding express or implied that the lease at issue is a "true lease." Many factors suggest otherwise applying Utah's Commercial Code as required under the lease. See, Utah Code Ann. § 70A-1a-203 (LexisNexis 2020) which is identical to California's version, Cal. Com. Code § 1203 (Deering's 2020), with one irrelevant exception. Facts suggest it is a "finance lease" including: the debtor cannot terminate the lease; debtor becomes the owner for nominal additional consideration at the end of the lease; the lease itself refers to the lease as a "finance lease."

The motion is GRANTED. Med One shall file any claim related to the rejection of the lease within 30 calendar days of entry of the order. The court makes no finding on the character of the lease.

6. 17-13797-B-9 **IN RE: TULARE LOCAL HEALTHCARE DISTRICT**
WJH-13

CONTINUED OMNIBUS OBJECTION TO CLAIMS
11-22-2019 [1718]

TULARE LOCAL HEALTHCARE DISTRICT/MV
RILEY WALTER/ATTY. FOR DBT.
CONTINUED TO 8/18/20 PER ECF ORDER #2226. RESPONSIVE PLEADING.

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

DISPOSITION: Continued to August 18, 2020 at 9:30 a.m. Doc. #2226.

NO ORDER REQUIRED.

7. 17-13797-B-9 **IN RE: TULARE LOCAL HEALTHCARE DISTRICT**
WJH-18

CONTINUED OBJECTION TO CLAIM OF TULARE HOSPTALIST GROUP, CLAIM NUMBER 231
1-8-2020 [1784]

TULARE LOCAL HEALTHCARE DISTRICT/MV
RILEY WALTER/ATTY. FOR DBT.
CONTINUED TO 9/22/20 PER ECF ORDER #2219

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

DISPOSITION: Continued to September 22, 2020 at 9:30 a.m. Doc. #2219.

NO ORDER REQUIRED.

8. 17-13797-B-9 **IN RE: TULARE LOCAL HEALTHCARE DISTRICT**
WJH-19

CONTINUED OBJECTION TO CLAIM OF GUPTA-KUMAR MEDICAL PRACTICE, CLAIM NUMBER 232
1-8-2020 [1789]

TULARE LOCAL HEALTHCARE DISTRICT/MV
RILEY WALTER/ATTY. FOR DBT.
CONTINUED TO 9/22/20 PER ECF ORDER #2218

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

DISPOSITION: Continued to September 22, 2020 at 9:30 a.m. Doc. #2218.

NO ORDER REQUIRED.

9. 17-13797-B-9 **IN RE: TULARE LOCAL HEALTHCARE DISTRICT**
WJH-25

CONTINUED OBJECTION TO CLAIM OF INPATIENT HOSPITAL GROUP, INC., CLAIM NUMBER 230
1-10-2020 [1834]

TULARE LOCAL HEALTHCARE DISTRICT/MV
RILEY WALTER/ATTY. FOR DBT.
CONTINUED TO 9/22/20 PER ECF ORDER #2220

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

DISPOSITION: Continued to September 22, 2020 at 9:30 a.m. Doc. #2220.

NO ORDER REQUIRED.

10. 17-13797-B-9 **IN RE: TULARE LOCAL HEALTHCARE DISTRICT**
WJH-33

CONTINUED OBJECTION TO CLAIM OF MED ONE CAPITAL FUNDING, LLC, CLAIM NUMBER 203
1-13-2020 [1886]

TULARE LOCAL HEALTHCARE DISTRICT/MV
RILEY WALTER/ATTY. FOR DBT.
CONTINUED TO 8/18/20 PER ECF ORDER #2217

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

DISPOSITION: Continued to September 22, 2020 at 9:30 a.m. Doc. #2217.

NO ORDER REQUIRED.

11. 17-13797-B-9 **IN RE: TULARE LOCAL HEALTHCARE DISTRICT**
WJH-4

CONTINUED MOTION TO FILE AMENDED PROOF OF CLAIM
4-10-2020 [2126]

DEPARTMENT OF HEALTH CARE SERVICES/MV
RILEY WALTER/ATTY. FOR DBT.
GRANT LIEN/ATTY. FOR MV.
RESPONSIVE PLEADING

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Denied without prejudice for procedural deficiencies.

ORDER: The court will issue the order.

The parties are advised that the Judicial Law Clerk for this Department, Mr. Leatham, has accepted a position with the Wanger Jones Helsley ("WJH") law firm. WJH represents the debtor. Mr. Leatham was screened from working on this matter. Nevertheless, the parties are urged to consult with their clients and determine whether they will ask the court to recuse from this matter notwithstanding the screening process involving Mr. Leatham.

Though the motion is denied without prejudice, the court will treat this hearing as a scheduling conference to discuss scheduling of this motion and the related claim objection filed by the District.

The California Department of Health Care Services ("DHCS") asks for leave to amend claim 197 which was filed before the bar date. The original claim, signed by Steven A. Oldham a staff attorney at DHCS, was in an "undetermined amount" and purportedly was for "Overpayment of supplemental reimbursement under the Medi-Cal (California Medicaid Program." The claim also states it was for "Equitable recoupment from Medi-Cal payments." The alleged overpayments were under a program providing supplemental reimbursements for outpatient services rendered by qualified providers to Medi-Cal beneficiaries. The District provided outpatient services to Medi-Cal beneficiaries during the relevant period.

The original claim was supported by a declaration of Shelia Mendiola who, since 2015, has been employed as section chief of Medi-Cal Supplemental Payment Section. She also testified that she is the custodian of records for the Supplemental Reimbursement for Public Outpatient Hospital Services Program. She stated as of April 5, 2018 - when claim 197 was filed - "[f]inal reconciliations are still pending for [this debtor] for all program years beginning in . . . fiscal year 2002-03 until the bankruptcy filing in September 2017." She also stated that the final reconciliation may result in a determination of overpayment or underpayment. Timing for completion of the reconciliations, she testified, were then unknown.

This motion asks to amend claim 197 to allege over $5.5 million in overpayments owed by the District. This may not be a "final" number

since DHCS claims that audited cost reports are not available for the 2016-2017 fiscal year. The proposed amended claim is supported by an amended declaration of Ms. Mendiola who essentially states that though DHCS did not know the "final reconciliation" when the original claim was filed; they do now.

The District opposes this motion urging the purported amendment is untimely since a Plan of Adjustment has been confirmed and this amendment post-dates the confirmation. Other creditors will be prejudiced by allowing the amendment alleging a multi-million dollar claim now, the District contends. The District also proposes the court follow the decisions in other circuits putting a high burden of proof on similar late claim amendments.

This claim litigation already has an entangled and extensive history. Over a year ago, the District filed an objection to claim 197. See WJH-4. The District contended the claim should be disallowed for two reasons: the claim does not specify an alleged overpayment amount, and the District would ordinarily provide information DHCS needs to reconcile reimbursement payments. Doc. #1512. The District reserved other grounds for objection if it became necessary to assert them.

The District did not file a notice of hearing on its objection until several months later. Doc. #1948. DHCS's assigned counsel was changed and the District agreed to continue the hearing on the objection for a month. Doc. #2091. Before that hearing date, DHCS filed opposition to the District's claim objection (doc. #2130) and this motion. Doc. ##2126-2129. Shortly thereafter, DHCS and the District agreed that this motion should be ruled upon before further claim litigation. So, the parties agreed that the hearing on the claim objection be continued to September 1, 2020. Doc. #2146. The hearing date on this motion was continued to this calendar. Doc. #2205.

DHCS filed this motion using the same Docket Control Number as the District's motion, WJH-4. That is improper, confusing to the parties and the court, and is grounds to deny the motion without prejudice.

This motion is a motion countering the claim objection. The motion asks to amend the claim that is the subject of the objection. One ground for the objection is the lack of specificity in the original claim. These motions may be filed when opposition to the original motion/objection is due. LBR 9014-1(i). Even so, a counter motion must have a separate Docket Control Number. LBR 9014-1(c)(4). So, this motion is denied without prejudice. LBR 9014-1(l).

The court also notes the "reply" declaration of Ms. Mendiola is unsigned. Doc. #2229.

Guidehouse Managed Services LLC *fka* Navigant Cymetrix Corporation filed a joinder in the District's opposition to this motion. Doc. #2230. Given the ruling, the joinder is irrelevant. It is late, filed July 10, 2020 after pleadings closed on this motion. It would be stricken but for the disposition here. The motion is DENIED WITHOUT PREJUDICE.

11:00 AM

1. 20-11160-B-7 **IN RE: JESSICA CARRASCO**

PRO SE REAFFIRMATION AGREEMENT WITH GOLDEN 1 CREDIT UNION
6-15-2020 [15]

TIMOTHY SPRINGER/ATTY. FOR DBT.

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

DISPOSITION: Denied.

ORDER: The court will issue an order.

Counsel shall inform his client that no appearance is necessary at this hearing.

Debtor was represented by counsel when she entered into the reaffirmation agreement. Pursuant to 11 U.S.C. § 524(c)(3), "'if the debtor is represented by counsel, the agreement *must* be accompanied by an affidavit of the debtor's attorney' attesting to the referenced items before the agreement will have legal effect." *In re Minardi*, 399 B.R. 841, 846 (Bankr. N.D. Ok. 2009) (emphasis in original). In this case, the debtor's attorney affirmatively represented that he could not recommend the reaffirmation agreement. Therefore, the agreement does not meet the requirements of 11 U.S.C. § 524(c) and is not enforceable.

1:30 PM

1. 20-11706-B-7 **IN RE: ANDREW/LUCINDA GONZALES**
BPN-1

MOTION FOR RELIEF FROM AUTOMATIC STAY
6-3-2020 [12]

LOS ANGELES FEDERAL CREDIT UNION/MV
NEIL SCHWARTZ/ATTY. FOR DBT.
BRUCE NEEDLEMAN/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 is DENIED WITHOUT PREJUDICE for failure to comply with the Local Rules of Practice ("LBR").

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.

2. 18-13224-B-7 **IN RE: ANTHONY CORRAL**
JES-5

MOTION FOR COMPENSATION FOR JAMES E. SALVEN, CHAPTER 7 TRUSTEE(S)
5-26-2020 [136]

JAMES SALVEN/MV
DAVID JENKINS/ATTY. FOR DBT.
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. 11 U.S.C. §§ 326 and 330 allow reasonable compensation to the chapter 7 trustee for the trustee's services. 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.

Chapter 7 Trustee James Salven ("Trustee") requests statutory fees of $24,000.00 and costs of $992.49 for a total of $24,992.49 as statutory compensation and actual and necessary expenses. In this case, Trustee conducted the § 341 meeting of creditors, employed a real estate broker, sold property free and clear of liens, and filed an adversary proceeding to remove liens from estate property.

The court finds Trustee's services were actual and necessary to the estate, and the fees are reasonable. The motion is GRANTED and Trustee is awarded the requested fees and costs.

3. 20-10024-B-7 **IN RE: SUKHJINDER SINGH**

MOTION TO DISMISS CASE
5-28-2020 [19]

ANGELO KOUKLIS/MV
LAYNE HAYDEN/ATTY. FOR DBT.
JAMES PEEL/ATTY. FOR MV.
WITHDRAWN

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

DISPOSITION: Dropped from calendar.

NO ORDER REQUIRED: Movant withdrew the motion. Doc. #27.

4. 19-10529-B-7 **IN RE: BRENT/CHRISTINA KUTZBACH**
FW-6

MOTION FOR COMPENSATION BY THE LAW OFFICE OF FEAR WADDELL, P.C. FOR PETER A. SAUER, TRUSTEES ATTORNEY(S)
6-15-2020 [101]

PETER BUNTING/ATTY. FOR DBT.

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

DISPOSITION: Granted.

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

This motion was set for hearing on 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 counsel, The Law Office of Fear Waddell, P.C. for Peter A. Sauer, requests fees of $10,733.50 and costs of $626.90 for a total of $11,360.40 for services rendered from February 27, 2019 through June 12, 2020. Doc. #101.

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) Preparation of employment and fee applications for various professionals, (2) Selling the debtor's sole proprietorship bicycle shop, (3) Selling the debtor's homestead, and (4) Administering claims against the estate. The court finds the services reasonable and necessary and the expenses requested actual and necessary.

Movant shall be awarded $10,733.50 in fees and $626.90 in costs.

5. 19-10529-B-7 **IN RE: BRENT/CHRISTINA KUTZBACH**
JES-3

MOTION FOR COMPENSATION FOR JAMES E. SALVEN, ACCOUNTANT(S)
6-9-2020 [92]

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

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

DISPOSITION: Granted.

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

This motion was set for hearing on 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 Salven, requests fees of $1,250.00 and costs of $504.67 for a total of $1,754.67 for services rendered from February 28, 2020 through June 8, 2020. Doc. #92.

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) Preparation of employment and fee applications, (2) Searching passport for tax basis and acquisition date, (3) Inputting data in to system, and (4) Finalizing and printing tax returns and clearance letters. The court finds the services reasonable and necessary and the expenses requested actual and necessary.

Movant shall be awarded $1,250.00 in fees and $504.67 in costs.

6. 18-15143-B-7 **IN RE: RUSSELL/PAMELA NEWTON**
FW-4

MOTION TO EMPLOY JAMES BULGER AS SPECIAL COUNSEL
6-3-2020 [33]

JAMES SALVEN/MV
SCOTT LYONS/ATTY. FOR DBT.
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. Pursuant to 11 U.S.C. § 327(e), the trustee may employ, with the court's approval and for a specified special purpose, an attorney that has represented the debtor if it is in the best interest of the estate and if the attorney does not represent nor hold an adverse interest to the debtor or to the estate with respect to the matter on which such attorney is to be employed. Trustee wishes to employ Seber Bulger LLP ("Counsel") to advise him with regard to a personal injury claim the debtor sustained pre-petition. Doc. #33.

After review of the evidence the court finds that Counsel does not represent nor hold an adverse interest to the debtor or to the estate with respect to the matter on which Counsel is to be employed.

Trustee is authorized to employ Counsel for the purposes stated above, and the payment, if any, to which Counsel is entitled to shall be a 40% contingency fee, plus costs and expenses. Proposed counsel and the Trustee are reminded of the court's authority to review this arrangement under § 328(a).

7. 19-14943-B-7 **IN RE: PEDRO/ERNESTINA CARRILLO**
JES-1

MOTION TO SELL
6-15-2020 [17]

JAMES SALVEN/MV
SCOTT LYONS/ATTY. FOR DBT.

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

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). 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. 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, No. 16-00327-GS, 2018 WL 6584772, at *2 (Bankr. D. Alaska Dec. 11, 2018); citing 240 North Brand Partners, Ltd. v. Colony GFP Partners, LP (In re 240 N. Brand Partners, Ltd.), 200 B.R. 653, 659 (9th Cir. BAP 1996) citing In re Wilde Horse Enterprises, 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, 2018 WL 6584772, at *4, 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 Systems, Inc., 367 B.R. 670, 674 (Bankr. D. Colo. 2007), citing In re Bakalis, 220 B.R. 525, 531-32 (Bankr. E.D.N.Y. 1998).

The chapter 7 trustee asks this court for authorization to sell a 2001 Chevrolet Tahoe and a 2010 Ford Focus ("Vehicles") back to debtors, subject to higher and better bids at the hearing, for $2,500.00. Doc. #17.

It appears that the sale of the Vehicles is in the best interests of the estate, for a fair and reasonable price, supported by a valid business judgment, and proposed in good faith.

8. 20-12047-B-7 **IN RE: GONZALO HUERTA AND MARIA GOMEZ DE HUERTA**
ALG-1

MOTION TO COMPEL ABANDONMENT
6-18-2020 [7]

GONZALO HUERTA/MV
JANINE ESQUIVEL OJI/ATTY. FOR DBT.
JANINE ESQUIVEL/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 is DENIED WITHOUT PREJUDICE for failure to comply with the Local Rules of Practice ("LBR").

LBR 9014-1(e)(2) requires a proof of service, in the form of a certificate of service, to be filed with the Clerk of the court concurrently with the pleadings or documents served, or not more than three days after the papers are filed.

In this case, no proof of service was filed. Therefore, this motion is DENIED WITHOUT PREJUDICE.

9. 20-11858-B-7 **IN RE: VIRGINIA REYES**
EML-1

MOTION TO REDEEM
6-13-2020 [24]

VIRGINIA REYES/MV
EVAN LIVINGSTONE/ATTY. FOR DBT.

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

DISPOSITION: Denied without prejudice.

ORDER: The minutes of the hearing will be the court's findings and conclusions. The court will issue the order.

This motion is DENIED WITHOUT PREJUDICE. The chapter 7 trustee was not served. See doc. #27. Because the property to be redeemed is estate property, the chapter 7 trustee has an interest in it and must be given notice of the hearing.

10. 20-10059-B-7 **IN RE: HEATHER/STEPHEN CLAY**
JES-2

MOTION FOR TURNOVER OF PROPERTY
6-11-2020 [27]

JAMES SALVEN/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. 11 U.S.C. § 541(a)(1) defines property of the estate as "all legal or equitable interests of the debtor in property as of the commencement of the case."

11 U.S.C. § 542(a) requires debtor to turn over property of the estate that was in their possession, custody or control during the case or its value.

Trustee contends that debtors have equity over and above any encumbrance or exemption claimed in a 2005 Trailbay Trailer. Doc. #27. Trustee seeks an order requiring debtors to immediately turnover the asset to the estate for liquidation. Id. The Trustee's demand has not resulted in the debtors' turning over the asset. Debtors have not opposed.

Debtors shall turnover the 2005 Trailbay Trailer to Trustee within seven days of the entry of this order. Failure to do so will result in an order to show cause why this case should not be dismissed, the debtors cited for contempt or other relief by subsequent motion or adversary proceeding.

11. 19-12363-B-7 **IN RE: MICHAEL TODD**
TCS-2

MOTION FOR CONTEMPT
6-4-2020 [22]

MICHAEL TODD/MV
TIMOTHY SPRINGER/ATTY. FOR DBT.

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

DISPOSITION: The motion is dismissed.

ORDER: The court will issue the order.

Movant filed a request to withdraw the motion on July 7, 2020. Doc. #27. The court will deem the withdrawal a request to dismiss the motion for contempt under Fed. R. Civ. P. 41(a)(1)(A)(i) (applicable to contested matters under Fed. R. Bankr. P. 7041 and 9014(c)). The court will issue an order dismissing the motion.

12. 15-11070-B-7 **IN RE: SHAWN KNIGHT**
FW-2

MOTION TO EMPLOY ELLIS T. HAYS II AS SPECIAL COUNSEL
6-10-2020 [44]

PETER FEAR/MV
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. Pursuant to 11 U.S.C. § 327(e), the trustee may employ, with the court's approval and for a specified special purpose, an attorney that has represented the debtor if it is in the best interest of the estate and if the attorney does not represent nor hold an adverse interest to the debtor or to the estate with respect to the matter on which such attorney is to be employed.

The chapter 7 trustee ("Trustee") wishes to employ Ellis Hays of the law firm Ferrer Poirot Wansbrough ("Counsel") nunc pro tunc to advise him about a pre-petition injury claim. Doc. #44. Debtor's injury was joined to a class action lawsuit against the manufacturer of the medication which allegedly caused the injury. Id.

"Whether to grant or deny a nunc pro tunc application is committed to the discretion of the bankruptcy court." In re Gutterman, 239 B.R. 828, 831 (Bankr. N.D. Cal. 1999) (citing Atkins v. Wain, 69 F.3d 970, 974 (9th Cir. 1995). "Retroactive approval should be limited to situations in which 'exceptional circumstances' exist." In re THC Corp., 837 F.2d 389, 392 (9th Cir. 1988). For the court to find 'exceptional circumstances,' Movant must (1) satisfactorily explain their failure to receive prior judicial approval and (2)

demonstrate that their services benefitted the bankrupt estate in a significant manner. Id.

After review of the evidence, the court finds that 'exceptional circumstances' exist to justify retroactive employment. The first prong is satisfied because Counsel was not "aware of the Debtor's bankruptcy until after the Debtor's eligibility for a points award was made known, due in part to the Debtor's not informing us that he had previously filed for bankruptcy." Doc. #47. Debtor did not pursue legal action until June 11, 2018. Id.

The second prong is satisfied because through their services Counsel has vigorously pursued the injury claim, resulting in the debtor qualifying for an award. Doc. #44. If successful, the gross award will be $104,509.65. Doc. #47.

After review of the evidence, the court finds that Counsel does not represent nor hold an adverse interest to the debtor or to the estate with respect to the matter on which Counsel is to be employed.

Trustee is authorized to employ Counsel for the purposes stated above and in the motion; Counsel shall be employed effective June 11, 2018, and the payment, if any, to which Counsel is entitled to shall be a 40% contingency fee, plus costs and expenses. Proposed counsel and the Trustee are reminded of the court's authority to reconsider the fee arrangement under § 328 (a).

13. 15-11070-B-7 **IN RE: SHAWN KNIGHT**
FW-3

MOTION TO COMPROMISE CONTROVERSY/APPROVE SETTLEMENT AGREEMENT WITH MDL
6-11-2020 [50]

PETER FEAR/MV
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. 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 various defendants on the other hand, in a multi-district pharmaceutical litigation. The claims were precipitated by the ingestion of a medication by the debtor, from which he developed medical issues.

The settlement was reached pursuant to a settlement determination process involving a point system, reviewed by the court presiding over the litigation.

Under the terms of the compromise, the trustee and debtor have stipulated "to permit the Debtor to claim an exemption in $15,000.00 of the net proceeds of the settlement . . . ." Doc. #50. Trustee believes debtor would not be entitled to any amount of the settlement proceeds; debtor believes some amount of the proceeds could be exempted. Id.

On a motion by the trustee and after notice and a hearing, the court may approve a compromise or settlement. Fed. R. Bankr. P. 9019. Approval of a compromise must be based upon considerations of fairness and equity. 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 not assured as it may be possible that debtor could exempt a portion of the settlement proceeds; collection will not be an issue give that the issue is the amount of the recovery that could be exempted; the litigation would be factually complex and moving forward would decrease the net to the estate due to the legal fees with no assurance of higher recovery; and the creditors will greatly benefit from the net to the estate, that would otherwise not exist; 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. The court has previously authorized fees in DCN FW-2 also on this calendar.

14. 20-11088-B-7 **IN RE: JOSEPH BALTIERRA AND CECILIA DE LA CERDA**
GT-2

MOTION TO COMPEL ABANDONMENT
5-21-2020 [29]

JOSEPH BALTIERRA/MV
GRISELDA TORRES/ATTY. FOR DBT.

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

DISPOSITION: Granted.

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

This motion was set for hearing on 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. § 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." In order 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 (9th Cir. B.A.P. 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). And 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 asks this court to compel the chapter 7 trustee to abandon the estate's interest in debtor's sole proprietorship as a DJ for entertainment business. Doc. #29. The assets include tools of the trade, and equipment ("Business Assets"). See doc. #32. No party has opposed this motion.

The court finds that the Business Assets are of inconsequential value and benefit to the estate. The Business Assets were accurately scheduled and exempted in their entirety. Therefore, this motion is GRANTED.

The order shall include a specific list of the property abandoned.

15. 20-11797-B-7 **IN RE: YADWINDER SINGH**
LEH-1

MOTION TO DISMISS DUPLICATE CASE
6-2-2020 [9]

YADWINDER SINGH/MV
LAYNE HAYDEN/ATTY. FOR DBT.

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

DISPOSITION: Granted.

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

This motion was set for hearing on 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 court must first note movant's procedural error. LBR 9004-2(c)(1) requires that motions, certificates of service, *inter alia*, to be filed as separate documents. Here, the motion and certificate of service were combined into one document and not filed separately. Failure to comply with this rule in the future will result in the matter being denied without prejudice.

This motion is GRANTED. Counsel for debtor inadvertently filed a duplicate petition under chapter 7 for debtor. That case is case no. 20-11797. No party has opposed this motion. The duplicative case is dismissed.

16. 20-12086-B-7 **IN RE: JACOB/JACQUELINE WARD**
FW-1

MOTION TO COMPEL ABANDONMENT
7-8-2020 [13]

JACOB WARD/MV
GABRIEL WADDELL/ATTY. FOR DBT.
OST 7/8/20

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Denied without prejudice.

ORDER: The minutes of the hearing will be the court's findings and conclusions. The court will issue the order unless otherwise ordered at the hearing.

This motion was filed and served pursuant to Local Rule of Practice ("LBR") 9014-1(f)(3) and an order shortening time (doc. #17) and will proceed as scheduled. Unless opposition is presented at the hearing, the court intends to enter the defaults of respondents who were served. 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. § 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." In order 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 (9th Cir. B.A.P. 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). And 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 asks this court to compel the chapter 7 trustee to abandon the estate's interest in debtor's sole proprietorship daycare business, "A Touch of Home Daycare." Doc. #13. The assets include debtor's residence, daycare supplies, a checking account and a savings account ("Business Assets"). Id.

The court notes the Trustee has filed a notice of non-opposition. The meeting of creditors is scheduled for one day before this hearing. If concluded, the time for parties to object to exemptions will be set.

The court is unable to grant the motion now. The motion, notice, and declaration were not served on "all creditors" as required by Federal Rule of Bankruptcy Procedure 6007(b). Doc. #16. The order shortening time did not approve service to less than those required by Rule 6007 (b).

The court is inclined to continue the matter a short time to allow movant to serve all creditors if movant requests.