

UNITED STATES BANKRUPTCY COURT  
Eastern District of California  
Honorable Jennifer E. Niemann  
Hearing Date: Wednesday July 27, 2022  
Place: Department A – Courtroom #11  
Fresno, California

*Beginning the week of June 28, 2021, and in accordance with District Court General Order No. 631, the court resumed in-person courtroom proceedings in Fresno. Parties to a case may still appear by telephone, provided they comply with the court's telephonic appearance procedures, which can be found on the court's website.*

**INSTRUCTIONS FOR PRE-HEARING DISPOSITIONS**

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

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

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

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

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

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

9:30 AM

1. [20-10010](#)-A-11     **IN RE: EDUARDO/AMALIA GARCIA**  
[LKW-35](#)

CONTINUED MOTION TO BORROW  
6-3-2022    [[1017](#)]

AMALIA GARCIA/MV  
LEONARD WELSH/ATTY. FOR DBT.  
RESPONSIVE PLEADING

NO RULING.

2. [22-10416](#)-A-11     **IN RE: KR CITRUS, INC., A CALIFORNIA CORPORATION**  
[WJH-10](#)

OBJECTION TO CLAIM OF VOX FUNDING, LLC, CLAIM NUMBER 23  
6-9-2022    [[130](#)]

KR CITRUS, INC., A CALIFORNIA CORPORATION/MV  
RILEY WALTER/ATTY. FOR DBT.  
RESPONSIVE PLEADING

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

DISPOSITION:     Continued to August 10, 2022, at 9:30 a.m.

NO ORDER REQUIRED.

The parties have stipulated to continue the hearing on the objection to claim of Vox Funding, LLC to August 10, 2022, at 9:30 a.m. The court has issued an order on July 26, 2022. Doc. #198.

3. [22-10416](#)-A-11     **IN RE: KR CITRUS, INC., A CALIFORNIA CORPORATION**  
[WJH-11](#)

MOTION FOR COMPENSATION BY THE LAW OFFICE OF WAGNER JONES HELSLEY  
FOR RILEY C. WALTER, DEBTORS ATTORNEY(S)  
6-29-2022    [[146](#)]

RILEY WALTER/ATTY. FOR DBT.

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

DISPOSITION:     Granted.

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

This motion was set for hearing on at least 28 days' notice pursuant to Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of creditors, the U.S. Trustee, or any other party in interest to file written opposition at

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

Wanger Jones Helsley PC ("Movant"), counsel for KR Citrus, Inc., a California Corporation ("DIP"), requests allowance of interim compensation and reimbursement for expenses for services rendered from May 1, 2022 through June 15, 2022. Doc. #146. Movant provided legal services valued at \$36,860.00, and requests compensation for that amount. Doc. #146. Movant requests reimbursement for expenses in the amount of \$602.77. Doc #146. This is Movant's second interim fee application. One prior fee application has been approved authorizing interim compensation and reimbursement of expenses of \$69,910.46. Doc. #111. DIP consents to the amount requested in Movant's application. Doc. #150.

Section 330(a)(1) of the Bankruptcy Code authorizes "reasonable compensation for actual, necessary services rendered" and "reimbursement for actual, necessary expenses" to a professional person. 11 U.S.C. § 330(a)(1). According to the order authorizing employment of Movant, Movant may submit monthly applications for interim compensation pursuant to 11 U.S.C. § 331 if the combined fees and expenses sought exceed \$5,000.00. Order, Doc. #78. In determining the amount of reasonable compensation to be awarded to a professional person, the court shall consider the nature, extent, and value of such services, taking into account all relevant factors. 11 U.S.C. § 330(a)(3).

Movant's services included, without limitation: (1) drafting three motions to assume leases; (2) formulating Subchapter V plan; (3) reviewing claim asserted by Vox Funding; (4) preparing objection to claim of Vox Funding; (5) preparing Movant's first interim fee application; (6) corresponding with DIP; and (7) general case administration. Exs. A-C, Doc. #149. The court finds the compensation and reimbursement sought by Movant to be reasonable, actual, and necessary.

This motion is GRANTED. The court allows interim compensation and expenses in the aggregate amount of \$37,462.77. Movant is allowed interim fees and costs pursuant to 11 U.S.C. § 331, subject to final review and allowance pursuant to 11 U.S.C. § 330. Such allowed amounts shall be perfected, and may be adjusted, by a final application for allowance of compensation and reimbursement of expenses, which shall be filed prior to case closure. Movant may draw on any retainer held. DIP is authorized to pay the fees allowed by this order from available funds only if the estate is administratively solvent and such payment will be consistent with the priorities of the Bankruptcy Code.

4. [20-12258](#)-A-11     **IN RE: JARED/SARAH WATTS**  
[FRB-1](#)

STATUS CONFERENCE RE: MOTION FOR RELIEF FROM AUTOMATIC STAY, AND/OR,  
MOTION/APPLICATION TO CONFIRM TERMINATION OR ABSENCE OF STAY  
6-10-2022    [\[337\]](#)

FARM CREDIT WEST, PCA/MV  
LEONARD WELSH/ATTY. FOR DBT.  
MICHAEL GOMEZ/ATTY. FOR MV.  
RESPONSIVE PLEADING

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

DISPOSITION:     Hearing previously vacated.

NO ORDER REQUIRED.

On July 21, 2022, the court issued an order vacating the status conference.  
Doc. #358.

5. [22-10778](#)-A-11     **IN RE: COMPASS POINTE OFF CAMPUS PARTNERSHIP B, LLC**  
[CAE-1](#)

CONTINUED STATUS CONFERENCE RE: CHAPTER 11 VOLUNTARY PETITION  
5-8-2022    [\[1\]](#)

NOEL KNIGHT/ATTY. FOR DBT.

NO RULING.

6. [22-10778](#)-A-11     **IN RE: COMPASS POINTE OFF CAMPUS PARTNERSHIP B, LLC**  
[NCK-2](#)

MOTION TO EMPLOY NOEL KNIGHT AS ATTORNEY(S)  
6-23-2022    [\[36\]](#)

COMPASS POINTE OFF CAMPUS PARTNERSHIP B, LLC/MV  
NOEL KNIGHT/ATTY. FOR DBT.  
RESPONSIVE PLEADING

TENTATIVE RULING:     This matter will proceed as scheduled.

DISPOSITION:     Granted with clarification at the hearing.

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

This motion was filed and served pursuant to Local Rule of Practice ("LBR")  
9014-1(f)(2) and will proceed as scheduled. Though not required, Tracy Hope  
Davis ("UST"), United States Trustee for Region 17, filed written opposition on  
July 12, 2022. Doc. #56. The debtor filed several pleadings in response to the  
issues raised by the UST. Doc. ##70-74. After reviewing the additional

pleadings filed by the debtor, unless further opposition is presented at the hearing, the court intends to enter the defaults of the non-responding parties and grant the motion. If further 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.

As a procedural matter, the motion does not comply with LBR 9004-2(c)(1) and (d)(1), which require motions and exhibits to be filed as separate documents. The motion and the legal services agreement are filed as a single document instead of the legal services agreement being filed in a separate exhibit document. See Doc. #36. In addition, counsel for the debtor used the same notice of hearing, declaration of the debtor's principal and proof of service for two separate motions: this motion (NCK-2) and the motion to employ an accountant (NCK-3). Compare Doc. ##37, 38 and 40 with Doc. ##42, 43 and 44. Counsel should have filed a separate notice of hearing, separate declaration of the debtor's principal and separate proof of service for each motion with only one docket control number on each document. See LBR 9004-1(e)(3). The court encourages counsel to review the local rules to ensure compliance in future matters or those matters may be denied without prejudice for failure to comply with the local rules.

Debtor in possession Compass Pointe Off Campus Partnership B, LLC ("Debtor" or "DIP") moves pursuant to 11 U.S.C. § 327(a) for authorization to employ Noel Knight of the Knight Law Group ("Counsel") to serve as general bankruptcy counsel in connection with DIP's chapter 11 bankruptcy case. Doc. #36.

Section 1107 of the Bankruptcy Code gives DIP all the rights and powers of a trustee and requires DIP perform all the functions and duties of a trustee, subject to certain exceptions not applicable here. 11 U.S.C. § 1107. Section 327(a) of the Bankruptcy Code permits DIP to employ, with court approval, professionals "that do not hold or represent an interest adverse to the estate, and that are disinterested persons, to represent or assist" DIP in carrying out DIP's duties under the Bankruptcy Code. 11 U.S.C. § 327(a). The burden is on the applicant seeking to be employed under section 327(a) of the Bankruptcy Code to come forward with facts pertinent to the proposed professional's eligibility and to make full, candid and complete disclosures to the court. Fed. R. Bankr. P. 2014(a); In re B.E.S. Concrete Products, Inc., 93 B.R. 228, 237 (Bankr. E.D. Cal. 1998).

DIP selected Counsel pre-petition because of Counsel's considerable experience in Debtor's real estate and business affairs. Doc. #36. DIP and Counsel entered into a legal services agreement dated April 10, 2022, and an amended legal services agreement dated July 16, 2022 (the "Amended Agreement"), which establishes, *inter alia*, Counsel's engagement to prepare, file and administer a chapter 11 bankruptcy case for Debtor in the Eastern District of California. Ex., Doc. #36; Doc. #73. DIP proposes to pay Counsel \$250 per hour for performed for DIP's estate. Id.; Decl. of Noel Knight, Doc. #39.

Counsel has verified that he has no connection with Debtor, its creditors, attorneys, accountants, any other party in interest, or the United States Trustee prior to a cold call by DIP's principal, David Sowels. Amended Decl. of Noel Knight, Doc. #71. Mr. Sowels paid Counsel a \$20,000 retainer pre-petition from Mr. Sowels' own resources. Amended Knight Decl., Doc. #71; Amended Decl. of David Sowels, Doc. #72. Counsel believes he and his firm are disinterested persons as defined in 11 U.S.C. § 101(14). Doc. #39; Doc. #71.

UST objects to the employment of Counsel on the basis that the original motion failed to disclose Counsel's connections with Mr. Sowels, including (i) the

payment of Counsel's \$20,000 retainer, (ii) whether Mr. Sowels promised to pay any additional fees to Counsel, (iii) whether Counsel represents Mr. Sowels in any matters, and (iv) whether the interests of DIP and Mr. Sowels are aligned in this case. In addition, UST objected to the provisions of the original legal services agreement that provided that the \$20,000 retainer was non-refundable and the requirement that disputes between DIP and Counsel be arbitrated. Doc. #56.

The Amended Agreement removes the arbitration provision and makes the \$20,000 retainer refundable. Doc. #73. The amended declarations of Noel Knight and Mr. Sowels disclose that Mr. Sowels first contacted Mr. Knight in March 2022, that Counsel does not represent Mr. Sowels in any matters, and that DIP and Mr. Sowels' interests are aligned in this bankruptcy case. Doc. ##71, 72. The amended declaration of Mr. Sowels further provides information regarding the payment of the \$20,000 retainer. Doc. #72.

Based on the Amended Agreement and the amended declarations of Mr. Knight and Mr. Sowels filed on July 18, 2022, in response to the UST's objection, the court is inclined to grant the motion so long as Counsel is not owed any money by DIP for pre-petition services and Counsel explains whether Mr. Sowels has promised to pay any additional fees to Counsel for this case. Counsel should be prepared to address these issues at the hearing.

7. [22-10778](#)-A-11     **IN RE: COMPASS POINTE OFF CAMPUS PARTNERSHIP B, LLC**  
[NCK-3](#)

MOTION TO EMPLOY DR. BETSY PETERSON AS ACCOUNTANT(S)  
6-23-2022     [\[41\]](#)

COMPASS POINTE OFF CAMPUS PARTNERSHIP B, LLC/MV  
NOEL KNIGHT/ATTY. FOR DBT.

TENTATIVE RULING:             This matter will proceed as scheduled.

DISPOSITION:                     Granted with clarification at the hearing.

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

This motion was filed and served pursuant to Local Rule of Practice ("LBR") 9014-1(f)(2) and will proceed as scheduled. Unless opposition is presented at the hearing, the court intends to enter the respondents' defaults and grant the motion with clarification on the record at the hearing. 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.

As a procedural matter, the motion does not comply with LBR 9004-2(c)(1) and (d)(1), which requires motions, declarations and exhibits to be filed as separate documents. The motion and declaration of Dr. Betsy Peterson, CPA were filed as a single document that included the movant's exhibit. See Doc. #41. In addition, counsel for the debtor used the same notice of hearing, declaration of the debtor's principal and proof of service for two separate motions: a motion to employ counsel (NCK-2) and this motion (NCK-3). Compare Doc. ##37, 38 and 40 with Doc. ##42, 43 and 44. Counsel should have filed a separate notice of hearing, separate declaration of the debtor's principal and separate proof

of service for each motion with only one docket control number on each document. See LBR 9004-1(e)(3). The court encourages counsel to review the local rules to ensure compliance in future matters or those matters may be denied without prejudice for failure to comply with the local rules.

Debtor in possession Compass Pointe Off Campus Partnership B, LLC ("Debtor" or "DIP") moves pursuant to 11 U.S.C. § 327(a) for authorization to employ Dr. Betsy Peterson, CPA ("Accountant") to serve as an accountant in connection with DIP's chapter 11 bankruptcy case. Doc. #41.

Section 1107 of the Bankruptcy Code gives DIP all the rights and powers of a trustee and requires DIP perform all the functions and duties of a trustee, subject to certain exceptions not applicable here. 11 U.S.C. § 1107. Section 327(a) of the Bankruptcy Code permits DIP to employ, with court approval, professionals "that do not hold or represent an interest adverse to the estate, and that are disinterested persons, to represent or assist" DIP in carrying out DIP's duties under the Bankruptcy Code. 11 U.S.C. § 327(a). The burden is on the applicant seeking to be employed under section 327(a) of the Bankruptcy Code to come forward with facts pertinent to the proposed professional's eligibility and to make full, candid and complete disclosures to the court. Fed. R. Bankr. P. 2014(a); In re B.E.S. Concrete Products, Inc., 93 B.R. 228, 237 (Bankr. E.D. Cal. 1998).

DIP selected Accountant because of Accountant's experience and expertise, and DIP believes Accountant's employment is necessary to the administration of this bankruptcy case and in the best interest of all parties. Decl. of David Sowels, Doc. #43. DIP and Accountant have entered into an engagement agreement dated June 15, 2022 (the "Agreement"), which establishes, *inter alia*, Accountant's engagement to provide monthly operating report and other accounting services for DIP. Ex., Doc. #41. DIP proposes to pay Accountant \$150 per hour for services performed for DIP's estate. Id.; Decl. of Dr. Betsy Peterson, CPA, Doc. #41.

Accountant has verified that she has no connection with Debtor, its creditors, attorneys, accountants, any other party in interest, or the United States Trustee. Peterson Decl., Doc. #41. Accountant believes she and her firm are disinterested persons as defined in 11 U.S.C. § 101(14). Doc. #41. However, it is unclear to the court whether there was a relationship between DIP and Accountant prior to DIP filing its bankruptcy case that was not disclosed in the motion, although it appears that the relationship with Accountant is only a post-petition one.

The motion states that DIP contacted Accountant on or about June 7, 2022 to provide accounting services to DIP. Motion, Doc. #41. Accountant does not disclose in her declaration any pre-petition relationship between DIP and Accountant. Doc. #41. However, the declaration of DIP's manager filed in support of the motion states in relevant part that DIP "desires to have Mr. Knight and Dr. Peterson continue to represent us before this Court as they are familiar with all of our operations and debt structure and worked well with us in advance of the filing of our bankruptcy." Sowels Decl., ¶ 3, Doc. #43. DIP should be prepared to clarify the record at the hearing regarding this discrepancy.

Assuming the relationship between DIP and Accountant only occurred post-petition, the motion will be granted. If there is a pre-petition relationship between DIP and Accountant that has not been disclosed in the declaration of Accountant filed in support of the motion, the motion will be denied.

1. [22-10802-A-7](#) IN RE: CANDI MORENO  
[UST-1](#)

MOTION TO APPROVE STIPULATION TO DISMISS CHAPTER 7 CASE WITHOUT  
ENTRY OF DISCHARGE  
6-27-2022 [[12](#)]

TRACY DAVIS/MV  
DANIEL MARCH/ATTY. FOR DBT.  
JORGE GAITAN/ATTY. FOR MV.

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

DISPOSITION: Granted.

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

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

Tracy Hope Davis ("UST"), the United States Trustee for Region 17, moves the court for an order approving the *Stipulation to Dismiss Chapter 7 Case Without Entry of Default* filed as Doc. #14, UST-1 (the "Stipulation"). According to the Stipulation, Candi G. Moreno ("Debtor") desires to voluntarily dismiss this chapter 7 case prior to entry of discharge. Doc. #14.

A debtor does not have an absolute right to dismiss a voluntary chapter 7 case. Bartee v. Ainsworth (In re Bartee), 317 B.R. 362, 366 (B.A.P. 9th Cir. 2004). Section 707 of the Bankruptcy Code governs dismissal of a chapter 7 case, whereby the court "may dismiss a case under this chapter only after notice and a hearing and only for cause." 11 U.S.C. § 707(a); In re Kaur, 510 B.R. 281, 285 (Bankr. E.D. Cal. 2014). Regarding cause, a voluntary chapter 7 debtor is entitled to dismissal so long as such dismissal will cause no legal prejudice to interested parties. Kaur, 510 B.R. at 286 (citations omitted).

The court finds that dismissing Debtor's voluntary chapter 7 case will cause no legal prejudice to interested parties. UST states that no bad faith or abusive conduct exists that would limit Debtor's right to dismissal. Doc. #12. Further, UST has stipulated to the dismissal, and no party in interest has objected. The court finds cause exists to dismiss Debtor's voluntary chapter 7 case.

Accordingly, this motion is GRANTED.



MOTION TO SELL  
6-27-2022    [\[143\]](#)

JAMES SALVEN/MV  
D. GARDNER/ATTY. FOR MV.

TENTATIVE RULING:            This matter will proceed as scheduled for higher and better offers.

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 the hearing.

This motion was set for hearing on at least 28 days' notice pursuant to Local Rule of Practice ("LBR") 9014-1(f)(1) and will proceed as scheduled for higher and better offers. The failure of creditors, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Therefore, the defaults of the above-mentioned parties in interest are entered. Upon default, factual allegations will be taken as true (except those relating to amount of damages). Televideo Sys., Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires a moving party make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

James Salven ("Trustee"), the chapter 7 trustee of the bankruptcy estate of Esperanza Hansen Gonzalez ("Debtor"), moves the court pursuant to 11 U.S.C. § 363 for an order authorizing the sale of the bankruptcy estate's interest in a 2008 GMC Acadia (the "Vehicle") to Debtor for the purchase price of \$2,000.00, subject to higher and better bids at the hearing. Doc. #143.

Pursuant to 11 U.S.C. § 363(b)(1), the trustee, after notice and a hearing, may "use, sell, or lease, other than in the ordinary course of business, property of the estate." Proposed sales under § 363(b) are reviewed to determine whether they are: (1) in the best interests of the estate resulting from a fair and reasonable price; (2) supported by a valid business judgment; and (3) proposed in good faith. In re Alaska Fishing Adventure, LLC, 594 B.R. 883, 887 (Bankr. D. Alaska 2018) (citing 240 N. Brand Partners, Ltd. v. Colony GFP Partners, L.P. (In re 240 N. Brand Partners, Ltd.), 200 B.R. 653, 659 (B.A.P. 9th Cir. 1996)). "In the context of sales of estate property under § 363, a bankruptcy court 'should determine only whether the trustee's judgment [is] reasonable and whether a sound business justification exists supporting the sale and its terms.'" Alaska Fishing Adventure, 594 B.R. at 889 (quoting 3 COLLIER ON BANKRUPTCY ¶ 363.02[4] (Richard Levin & Henry J. Sommer eds., 16th ed.)). "[T]he trustee's business judgment is to be given great judicial deference." Id. at 889-90 (quoting In re Psychometric Sys., Inc., 367 B.R. 670, 674 (Bankr. D. Colo. 2007)).

Trustee believes that approval of the sale on the terms set forth in the motion is in the best interests of creditors and the estate. Doc. ##143, 145. Trustee's proposed sale to Debtor is made in consideration of the full and fair market value of the Vehicle of \$2,000.00. Doc. #145. Debtor offered to buy the

Vehicle for \$2,000.00, subject to overbid at the hearing. Doc. #143. Trustee is in receipt of the funds. Doc. #145. The court recognizes that no commission will need to be paid because the sale is to Debtor.

It appears that the sale of the estate's interest in the Vehicle is in the best interests of the estate, the Vehicle will be sold for a fair and reasonable price, and the sale is supported by a valid business judgment and proposed in good faith.

Accordingly, subject to overbid offers made at the hearing, the court is inclined to GRANT Trustee's motion and authorize the sale of the estate's interest in the Vehicle to Debtor on the terms set forth in the motion.

3. [22-10934](#)-A-7     **IN RE: JON/DANIELLE FINLEY**  
[SW-2](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY  
7-12-2022    [\[21\]](#)

ELITE ACCEPTANCE CORPORATION/MV  
STEVEN ALPERT/ATTY. FOR DBT.  
ADAM BARASCH/ATTY. FOR MV.

TENTATIVE RULING:            This matter will proceed as scheduled.

DISPOSITION:                    Granted.

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

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

The movant, Elite Acceptance Corporation ("Movant"), seeks relief from the automatic stay under 11 U.S.C. § 362(d)(1) and (d)(2) with respect to a 2007 GMC Yukon XL 1500 ("Vehicle"). Doc. #21.

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

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

After review of the included evidence, the court finds that "cause" exists to lift the stay because the debtors are eleven payments past due in the amount of \$3,698.22 plus attorney's fees and costs. Doc. #24.

The court also finds that the debtors do not have any equity in the Vehicle and the Vehicle is not necessary to an effective reorganization because the debtors are in chapter 7. Movant values the Vehicle at \$7,097.00, and the amount owed to Movant is \$8,042.02. Doc. #24.

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

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

4. [22-10753](#)-A-7      **IN RE: ROSALIO MONTES DE OCA**  
[UST-1](#)

MOTION TO APPROVE STIPULATION TO DISMISS CHAPTER 7 CASE WITHOUT  
ENTRY OF DISCHARGE  
6-28-2022    [\[17\]](#)

TRACY DAVIS/MV  
TYSON TAKEUCHI/ATTY. FOR DBT.  
JORGE GAITAN/ATTY. FOR MV.

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

DISPOSITION:      Granted.

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

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

Tracy Hope Davis ("UST"), the United States Trustee for Region 17, moves the court for an order approving the *Stipulation to Dismiss Chapter 7 Case Without Entry of Default* filed as Doc. #19, UST-1 (the "Stipulation"). According to the Stipulation, Rosalio Montes De Oca ("Debtor") desires to voluntarily dismiss this chapter 7 case prior to entry of discharge. Doc. #19.

A debtor does not have an absolute right to dismiss a voluntary chapter 7 case. Bartee v. Ainsworth (In re Bartee), 317 B.R. 362, 366 (B.A.P. 9th Cir. 2004). Section 707 of the Bankruptcy Code governs dismissal of a chapter 7 case, whereby the court "may dismiss a case under this chapter only after notice and

a hearing and only for cause." 11 U.S.C. § 707(a); In re Kaur, 510 B.R. 281, 285 (Bankr. E.D. Cal. 2014). Regarding cause, a voluntary chapter 7 debtor is entitled to dismissal so long as such dismissal will cause no legal prejudice to interested parties. Kaur, 510 B.R. at 286 (citations omitted).

The court finds that dismissing Debtor's voluntary chapter 7 case will cause no legal prejudice to interested parties. UST states that no bad faith or abusive conduct exists that would limit Debtor's right to dismissal. Doc. #17. Further, UST has stipulated to the dismissal, and no party in interest has objected. The court finds cause exists to dismiss Debtor's voluntary chapter 7 case.

Accordingly, this motion is GRANTED.

5. [21-11577](#)-A-7     **IN RE: JUDITH DIMODANA**  
[ADJ-3](#)

MOTION FOR COMPENSATION BY THE LAW OFFICE OF FORES MACKO JOHNSTON, INC.  
FOR ANTHONY D. JOHNSTON, TRUSTEES ATTORNEY(S)  
6-21-2022    [[61](#)]

STEPHEN LABIAK/ATTY. FOR DBT.

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

DISPOSITION:     Granted.

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

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

Anthony D. Johnston, ("Movant"), attorney for chapter 7 trustee Irma C. Edmonds ("Trustee"), requests allowance of final compensation and reimbursement for expenses for services rendered July 22, 2021 through June 15, 2022. Doc. #61. Movant provided legal services valued at \$5,887.50, and requests compensation for that amount. Doc. #61. Movant requests reimbursement for expenses in the amount of \$117.70. Doc. #61. This is Movant's first and final fee application.

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

Movant's services included, without limitation: (1) providing counsel to Trustee as to the administration of the chapter 7 case; (2) reviewing and analyzing various documents regarding the debtor's sale of her residence; and (3) preparing and filing employment and fee applications. Decl. of Anthony D. Johnston, Doc. #63; Ex. A & B, Doc. #65. The court finds the compensation and reimbursement sought are reasonable, actual, and necessary.

This motion is GRANTED on a final basis. The court allows final compensation in the amount of \$5,887.50 and reimbursement for expenses in the amount of \$117.70. Trustee is authorized to make a combined payment of \$6,005.20, representing compensation and reimbursement, to Movant. Trustee is authorized to pay the amount allowed by this order from available funds only if the estate is administratively solvent and such payment is consistent with the priorities of the Bankruptcy Code.

6. [22-10683](#)-A-7     **IN RE: EDGAR CORDOVA**  
[RAS-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY  
6-30-2022    [\[14\]](#)

DEUTSCHE BANK NATIONAL TRUST COMPANY/MV  
D. GARDNER/ATTY. FOR DBT.  
FANNY WAN/ATTY. FOR MV.

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

DISPOSITION:                    Dropped from calendar.

NO ORDER REQUIRED.

Movant withdrew the motion on July 26, 2022. Doc. #20.