

UNITED STATES BANKRUPTCY COURT  
Eastern District of California  
Honorable René Lastreto II  
Hearing Date: Tuesday, July 28, 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. [19-10423](#)-B-12     **IN RE: KULWINDER SINGH AND BINDER KAUR**  
[FW-5](#)

CONTINUED STATUS CONFERENCE RE: MOTION TO MODIFY CHAPTER 12 PLAN  
2-25-2020    [\[199\]](#)

KULWINDER SINGH/MV  
DAVID JOHNSTON/ATTY. FOR DBT.  
RESPONSIVE PLEADING

NO RULING.

2. [20-11992](#)-B-12     **IN RE: CHAR PHAR INVESTMENTS, LLC**  
[WLC-5](#)

MOTION TO USE CASH COLLATERAL  
7-14-2020    [\[45\]](#)

CHAR PHAR INVESTMENTS, LLC/MV  
WILLIAM COWIN/ATTY. FOR DBT.  
OST 7/16/20

NO RULING.

11:00 AM

1. [20-11977](#)-B-7      **IN RE: VICTORIA COVARRUBIAS**

PRO SE REAFFIRMATION AGREEMENT WITH TD AUTO FINANCE LLC  
7-6-2020    [[18](#)]

NO RULING.

1:30 PM

1. [20-12207](#)-B-7     **IN RE: WILLIAM JONES**  
[BPC-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY  
7-8-2020    [\[11\]](#)

THE GOLDEN 1 CREDIT UNION/MV  
GREGORY SHANFELD/ATTY. FOR DBT.  
MICHAEL MYERS/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 respondent's default 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, The Golden 1 Credit Union ("Movant"), seeks relief from the automatic stay under 11 U.S.C. §§ 362(d)(1) and (d)(2) with respect to a 2015 Ford F150 ("Vehicle"). Doc. #11.

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

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

After review of the included evidence, the court finds that "cause" exists to lift the stay because debtor is five payments past due in the amount of \$3,498. Doc. #15.

The court also finds that the debtor does not have any equity in the Vehicle and the Vehicle is not necessary to an effective reorganization because debtor is in chapter 7. Movant values the Vehicle at \$28,341.00 and the amount owed to Movant is \$37,141.65. Doc. #13.

Accordingly, the motion will be granted pursuant to 11 U.S.C. §§ 362(d)(1) and (d)(2) to permit the movant to dispose of its

collateral pursuant to applicable law and to use the proceeds from its disposition to satisfy its claim. No other relief is awarded.

The 14-day stay of Fed. R. Bankr. P. 4001(a)(3) will be ordered waived because debtor is at least five payments past due and the Vehicle is a depreciating asset.

2. [20-10024](#)-B-7      **IN RE: SUKHJINDER SINGH**  
[MMJ-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY  
6-24-2020    [\[30\]](#)

BMW BANK OF NORTH AMERICA/MV  
LAYNE HAYDEN/ATTY. FOR DBT.  
MARJORIE JOHNSON/ATTY. FOR MV.  
DISCHARGED 6/22/20

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

DISPOSITION:      Granted in part and denied as moot in part.

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 IN PART as to the trustee's interest and DENIED AS MOOT IN PART as to the debtor's interest pursuant to 11 U.S.C. § 362(c)(2)(C). The debtor's discharge was entered on June 22, 2020. Doc. #29. The motion will be GRANTED IN PART for cause shown as to the chapter 7 trustee.

The movant, BMW Bank of North America ("Movant"), seeks relief from the automatic stay under 11 U.S.C. §§ 362(d)(1) and (d)(2) with respect to a 2019 BMW M5 Sedan 4D ("Vehicle"). Doc. #30.

11 U.S.C. § 362(d)(1) allows the court to grant relief from the stay for cause, including the lack of adequate protection. "Because there

is no clear definition of what constitutes 'cause,' discretionary relief from the stay must be determined on a case by case basis." In re Mac Donald, 755 F.2d 715, 717 (9th Cir. 1985).

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

After review of the included evidence, the court finds that "cause" exists to lift the stay because debtor has failed to make at least five complete post-petition payments. The movant has produced evidence that debtor is delinquent at least \$9,054.40. Doc. #32, 34.

The court also finds that the debtor does not have any equity in the Vehicle and the Vehicle is not necessary to an effective reorganization because debtor is in chapter 7. Id. The Vehicle is valued at \$87,586.00 and debtor owes \$101,499.08. Doc. #32.

Accordingly, the motion will be granted as to the Trustee only pursuant to 11 U.S.C. §§ 362(d)(1) and (d)(2) to permit the movant to dispose of its collateral pursuant to applicable law and to use the proceeds from its disposition to satisfy its claim. No other relief is awarded. According to the debtors' statement of Intention, he indicated he would enter into a reaffirmation agreement. The debtor has not filed a reaffirmation agreement with the court and the debtor's discharge has been entered.

The 14-day stay of Fed. R. Bankr. P. 4001(a)(3) will be ordered waived because debtor has failed to make at least five complete post-petition payments to Movant and the Vehicle is a depreciating asset.

3. [17-14133](#)-B-7     **IN RE: BENJAMIN HARRIS**  
[RSW-1](#)

MOTION TO COMPEL ABANDONMENT  
7-14-2020    [[135](#)]

BENJAMIN HARRIS/MV  
ROBERT WILLIAMS/ATTY. FOR DBT.

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

DISPOSITION:     Denied without prejudice.

ORDER:             No appearance is necessary. The court will issue the order.

This motion is DENIED WITHOUT PREJUDICE for failure to comply with the Local Bankruptcy Rules ("LBR").

LBR 9004-2(a)(6), (b)(5), (b)(6), (e) and LBR 9014-1(c), (e)(3) are the rules about Docket Control Numbers ("DCN"). These rules require the DCN to be in the caption page on all documents filed in every matter with the court and each new motion requires a new DCN.

A Motion to Substitute Attorney was previously filed on October 2, 2018. Doc. #102. The DCN for that motion was RSW-1. This motion also has a DCN of RSW-1 and therefore does not comply with the local rules. Each separate matter filed with the court must have a different DCN.

4. [20-11334](#)-B-7     **IN RE: RICK/LINDA MILLER**  
[KAS-2](#)

MOTION TO SELL AND/OR MOTION TO PAY  
6-30-2020    [\[40\]](#)

PETER FEAR/MV  
D. GARDNER/ATTY. FOR DBT.  
KELSEY SEIB/ATTY. FOR MV.  
RESPONSIVE PLEADING

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 ("Trustee") asks this court for authorization to sell real property located at 5306 Aldrin Court in Bakersfield, CA 93313 ("Property") to MOC, Inc. subject to higher and better bids at the hearing, for \$650,000.00. Doc. #40. Trustee believes the sale will net nearly \$170,000.00 to the estate. Doc. #43.

Creditor Tri Counties Bank filed limited opposition, requesting that any order approving the sale "specifically condition such sale upon payment of all liens encumbering the Property, and requests that such Order specifically identify all liens that must be paid as a condition to the sale of the Property." Doc. #51. Trustee shall be prepared to respond to the opposition. Tri Counties Bank may approve any order entered on this motion

It appears that the sale of the Property 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. Trustee has shown that there at least three liens on the Property: property taxes in the amount of \$9,340.00, a first TD in the amount of \$245,549.00, and a second TD in the amount of \$171,762.16. Doc. #42. Though this is not a motion to sell free and clear of liens under 11 U.S.C. § 363(f), the price at which the Property is to be sold will completely pay off the liens attached.

Trustee is permitted to pay the real estate broker Watson Realty and any cooperating broker a 6% commission equaling \$39,000.00.

Federal Rule of Bankruptcy Procedure 6004(h) is waived.

Any party wishing to overbid must deposit with debtor's counsel certified monies in the amount of \$10,000.00 no later than 5:00 p.m. PST, Friday, July 24, 2020; be prepared to bid in \$1,000.00 increments, such that the first of any overbid shall be in the amount of \$66,000.00; provide written proof of the financial ability to cover the purchase amount and that they can close the sale within 30 days of the delivery of a certified copy of the court's order approving this motion and can execute a purchase agreement for the property; and the winning bidder (including Buyer) who fails to perform will forfeit their deposit as reasonable liquidated damages. The Property is sold "as-is."



5. [20-12245](#)-B-7      **IN RE: VICTOR GONZALEZ AND FELICITAS DE CARRILLO**  
[VVF-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY  
7-9-2020    [\[14\]](#)

MECHANICS BANK/MV  
MARK HANNON/ATTY. FOR DBT.  
VINCENT FROUNJIAN/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.

The movant, Mechanics Bank ("Movant"), seeks relief from the automatic stay under 11 U.S.C. §§ 362(d)(1) and (d)(2) with respect to a 2015 Chevrolet Cruze ("Vehicle"). Doc. #14.

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

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

After review of the included evidence, the court finds that "cause" exists to lift the stay because debtors have failed to make at least 11 complete pre- and post-petition payments. The movant has produced evidence that debtors are delinquent at least \$4,798.14, plus late fees and other charges of \$634.95. Doc. #16, 18.

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 debtors are in chapter 7. Id. The Vehicle is valued between \$6,075.00 for "Trade-in" and \$8,950.00 clean "Retail." Debtor owes \$11,790.54. Doc. #16.

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

The 14-day stay of Fed. R. Bankr. P. 4001(a)(3) will be ordered waived because the Vehicle is in Movant's possession.

6. [19-14649](#)-B-7      **IN RE: MORGAN/CHERYL MOSELEY**

MOTION TO DISMISS MORGAN MOSELEY ONLY  
6-29-2020    [\[27\]](#)

DAVID SOUSA/MV  
JOEL WINTER/ATTY. FOR DBT.  
DAVID SOUSA/ATTY. FOR MV.  
DISCHARGED 3/2/20

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

DISPOSITION:      Denied without prejudice.

ORDER:              No appearance is necessary. The court will issue the order.

This motion is DENIED WITHOUT PREJUDICE for failure to comply with the Local Bankruptcy Rules ("LBR").

First, there was no Docket Control Number ("DCN"). LBR 9004-2(a)(6), (b)(5), (b)(6), (e) and LBR 9014-1(c), (e)(3) are the rules about DCN. These rules require the DCN to be in the caption page on all documents filed in every matter with the court and each new motion requires a new DCN.

Second, LBR 9004-2(c)(1) requires that motions, notices, *inter alia*, to be filed as separate documents. Here, the motion, notice of hearing, and certificate of service were combined into one document and not filed separately. The certificate of service also states that only the debtor was served, not the debtor's attorney. If a debtor has an attorney, the attorney must also be served. Fed. R. Bankr. P. 7004(g).

Third, the "notice of hearing" that was combined with the motion 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](http://www.caeb.uscourts.gov) after 4:00 p.m. the day before the hearing.

Fourth, the bankruptcy court clerk left a voice message with counsel regarding no separate notice of hearing on July 10, 2020. Doc. #29. A separate notice of hearing was mailed on July 17, 2020, yet the notice require written opposition to be filed and serve not later than 14 days before the hearing, which was impossible.

7. [20-11852](#)-B-7     **IN RE: WALDO/VICTORIA RODRIGUEZ**  
[BPR-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY  
6-26-2020    [\[14\]](#)

UNIFY FINANCIAL FEDERAL CREDIT UNION/MV  
JONATHAN VAKNIN/ATTY. FOR DBT.  
BRETT RYAN/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), which 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](http://www.caeb.uscourts.gov) after 4:00 p.m. the day before the hearing.

8. [20-11754](#)-B-7     **IN RE: TAMARA YARBROUGH**  
[JHW-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY  
6-23-2020    [\[13\]](#)

FIRST INVESTORS FINANCIAL SERVICES/MV  
PATRICIA CARRILLO/ATTY. FOR DBT.  
JENNIFER WANG/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.

The movant, First Investors Financial Services as Servicer for Nationwide Bank ("Movant"), seeks relief from the automatic stay under 11 U.S.C. §§ 362(d)(1) and (d)(2) with respect to a 2017 Toyota Tacoma ("Vehicle"). Doc. #13.

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

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

After review of the included evidence, the court finds that "cause" exists to lift the stay because debtor has failed to make at least two complete pre-petition payments and made no post-petition payments. The movant has produced evidence that debtor is delinquent at least \$968.29, plus late fees of \$30.00. Doc. #15, 18.

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 debtors are in chapter 7. Id. The Vehicle is valued at \$19,750.00 and debtor owes \$27,791.35. Doc. #15.

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

The 14-day stay of Fed. R. Bankr. P. 4001(a)(3) will be ordered waived because debtor is delinquent at least two complete payments to Movant and the Vehicle is a depreciating asset.

9. [20-11955](#)-B-7      **IN RE: ALEJANDRINA CHAIDEZ DE GOMEZ**

MOTION FOR WAIVER OF THE CHAPTER 7 FILING FEE  
6-8-2020    [\[5\]](#)

ALEJANDRINA CHAIDEZ DE  
GOMEZ/MV

NO RULING.

Debtor's application for a waiver of the chapter 7 filing fee has been set for a hearing because there are material discrepancies between the application and debtor's schedules. The court needs clarification whether debtor's spouse has income. See doc. #7.

Debtor must appear at the hearing and explain to the court the discrepancy.

10. [20-11657](#)-B-7      **IN RE: MARICEL/CHRISTOPHER LOCKE**

MOTION TO DISMISS CASE  
7-9-2020    [\[29\]](#)

GLORIA GUILLERMO/MV

NO RULING.

11. [18-15061](#)-B-7      **IN RE: JHINGER TRUCKING, INC**  
[RWR-2](#)

MOTION TO COMPROMISE CONTROVERSY/APPROVE SETTLEMENT AGREEMENT  
WITH KULWANT S. ROMANA  
7-2-2020    [\[61\]](#)

JAMES SALVEN/MV  
PETER FEAR/ATTY. FOR DBT.  
RUSSELL REYNOLDS/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 will 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.

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 chapter 7 trustee ("Trustee") requests approval of a settlement agreement between the estate and Kulwant S. Romana ("Romana"). Doc. #61.

Under the terms of the compromise, Romana agrees to pay the estate the sum of \$10,500.00 no later than February 28, 2020 in the form of certified funds, and in exchange Trustee will take no action against Romana, including not filing the adversary complaint that has been prepared. Doc. #61. The court notes the memorandum of points and authorities in support of the motion says the settlement funds were paid to the Trustee February 28, 2020. But, the Trustee's declaration does not. Doc. #63.

On a motion by 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 weighs in favor of denying the motion because Trustee believes that he could succeed in the litigation, but after legal fees and costs, the estate would net nothing more than through this settlement agreement; the collection factor weighs in favor of granting the motion because if Trustee were to prevail at trial, collection may be difficult because Romana travels for work and travels to India to spend time with family, therefore it may be difficult to reestablish contact with him; the litigation factor is neutral because the

motion is not complex on its face, but the facts of the transaction between the debtor and Romana more be more factually intensive than debtor initially disclosed; and the interests of the creditors factor weighs in favor of granting the motion because 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.

12. [20-12164](#)-B-7     **IN RE: JEFFREY/NICOLE TIDWELL**  
[SL-1](#)

MOTION TO COMPEL ABANDONMENT  
7-10-2020    [\[15\]](#)

JEFFREY TIDWELL/MV  
SCOTT LYONS/ATTY. FOR DBT.

TENTATIVE RULING:            This matter will proceed as scheduled.

DISPOSITION:                Granted.

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

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

11 U.S.C. §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 business "Northside Pools." The assets include tools of the trade, equipment, and a 2007 Chevrolet Silverado ("Business Assets").

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, unless opposition is presented at the hearing, this motion is GRANTED.

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

13. [20-12165](#)-B-7     **IN RE: FRANCISCO/ANGIE ORTEGA**  
[SL-1](#)

MOTION TO COMPEL ABANDONMENT  
7-10-2020    [\[18\]](#)

FRANCISCO ORTEGA/MV  
SCOTT LYONS/ATTY. FOR DBT.

TENTATIVE RULING:            This matter will proceed as scheduled.

DISPOSITION:                    Granted.

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

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

11 U.S.C. §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 business "Angie's Daycare." The assets include tools of the trade, equipment, and toys ("Business Assets").

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, unless opposition is presented at the hearing, this motion is GRANTED.

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

14. [19-14170](#)-B-7      **IN RE: JOHNNY GONZALES**  
[KAS-6](#)

OBJECTION TO DEBTOR'S CLAIM OF EXEMPTIONS  
6-26-2020    [[105](#)]

PETER FEAR/MV  
KELSEY SEIB/ATTY. FOR MV.  
RESPONSIVE PLEADING

TENTATIVE RULING:      This matter will proceed as scheduled.

DISPOSITION:              This matter will proceed as a scheduling conference.

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

The hearing on this motion will be called as scheduled and will proceed as a scheduling conference.

This matter is now deemed to be a contested matter. Pursuant to Federal Rule of Bankruptcy Procedure 9014(c), the federal rules of discovery apply to contested matters. The parties shall be prepared for the court to set an early evidentiary hearing.

Based on the record, the factual issues appear to include: whether debtor resides at the 4755 E. Braly Avenue property during the relevant time period.

15. [14-13574](#)-B-7     **IN RE: DAVID/CAROL BROWN**  
[RSW-2](#)

MOTION TO AVOID LIEN OF UNIFUND CCR, LLC  
7-14-2020    [\[35\]](#)

DAVID BROWN/MV  
ROBERT WILLIAMS/ATTY. FOR DBT.

TENTATIVE RULING:            This matter will proceed as scheduled.

DISPOSITION:                  Granted.

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

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

This motion is GRANTED. In order to avoid a lien under 11 U.S.C. § 522(f)(1) the movant must establish four elements: (1) there must be an exemption to which the debtor would be entitled under § 522(b); (2) the property must be listed on the debtor's schedules as exempt; (3) the lien must impair the exemption; and (4) the lien must be either a judicial lien or a non-possessory, non-purchase money security interest in personal property listed in § 522(f)(1)(B). § 522(f)(1); Goswami v. MTC Distrib. (In re Goswami), 304 B.R. 386, 390-91 (9th Cir. BAP 2003), quoting In re Mohring, 142 B.R. 389, 392 (Bankr. E.D. Cal. 1992), aff'd 24 F.3d 247 (9th Cir. 1994).

A judgment was entered against the debtor in favor of Unifund CCR, LLC in the sum of \$32,080.68 on January 27, 2014. Doc. #38. The abstract of judgment was recorded with Kern County on March 10, 2014. Id. That lien attached to the debtor's interest in a residential real property in Bakersfield, CA. The motion will be granted pursuant to 11 U.S.C. § 522(f)(1)(A). The subject real property had an approximate value of \$351,000.00 as of the petition date. Doc. #1. The unavoidable liens totaled \$408,543.66 on that same date, consisting of a first deed of trust in favor of Bac Home Loans Servicing. Doc. #25. The debtor claimed an exemption pursuant to Cal. Civ. Proc. Code § 703.140(b)(5) in the amount of \$1.00. Doc. #1.

Movant has established the four elements necessary to avoid a lien under § 522(f)(1). After application of the arithmetical formula required by 11 U.S.C. § 522(f)(2)(A), there is no equity to support the judicial lien. Therefore, the fixing of this judicial lien impairs the debtor's exemption of the real property and its fixing will be avoided subject to 11 U.S.C. § 349(b)(1)(B).

16. [19-12674](#)-B-7     **IN RE: ADRIAN PEREZ**  
[DMG-2](#)

FURTHER SCHEDULING CONFERENCE RE: OBJECTION TO DEBTOR'S CLAIM OF  
EXEMPTIONS  
12-11-2019     [\[36\]](#)

JEFFREY VETTER/MV  
ROBERT WILLIAMS/ATTY. FOR DBT.  
D. GARDNER/ATTY. FOR MV.  
RESPONSIVE PLEADING

NO RULING.

17. [20-12086](#)-B-7     **IN RE: JACOB/JACQUELINE WARD**  
[FW-1](#)

CONTINUED MOTION TO COMPEL ABANDONMENT  
7-8-2020     [\[13\]](#)

JACOB WARD/MV  
GABRIEL WADDELL/ATTY. FOR DBT.  
RESPONSIVE PLEADING

TENTATIVE RULING:     This matter will proceed as scheduled.

DISPOSITION:     Granted.

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

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

This motion was continued from July 14, 2020 because debtor did not serve all creditors as required by the Federal Rules of Bankruptcy Procedure. It appears that debtor served all creditors on July 15, 2020. Doc. #24.

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 Hope Daycare." Doc. #13. The assets include tools of the trade, equipment, the debtors' residence, and a business checking and savings account ("Business Assets").

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, unless opposition is presented at the hearing, this motion is GRANTED.

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