



UNITED STATES BANKRUPTCY COURT
Eastern District of California
Honorable Jennifer E. Niemann
Hearing Date: Thursday, August 1, 2024
Department A – 510 19th Street
Bakersfield, California

At this time, when in-person hearings in Bakersfield will resume is to be determined. No persons are permitted to appear in court for the time being. All appearances of parties and attorneys shall be as instructed below.

Unless otherwise ordered, all matters before the Honorable Jennifer E. Niemann shall be simultaneously: (1) via **ZoomGov Video**, (2) via **ZoomGov Telephone**, and (3) via **CourtCall**. You may choose any of these options unless otherwise ordered or stated below.

All parties who wish to appear at a hearing remotely must sign up by 4:00 p.m. **one business day** prior to the hearing. Information regarding how to sign up can be found on the **Remote Appearances** page of our website at <https://www.caeb.uscourts.gov/Calendar/RemoteAppearances>. Each party who has signed up will receive a Zoom link or phone number, meeting I.D., and password via e-mail.

If the deadline to sign up has passed, parties who wish to appear remotely must contact the Courtroom Deputy for the Department holding the hearing.

Please also note the following:

- Parties in interest may connect to the video or audio feed free of charge and should select which method they will use to appear when signing up.
- Members of the public and the press appearing by ZoomGov may only listen in to the hearing using the zoom telephone number. Video appearances are not permitted.
- Members of the public and the press may not listen in to trials or evidentiary hearings, though they may appear in person in most instances.

To appear remotely for law and motion or status conference proceedings, you must comply with the following guidelines and procedures:

1. Review the [Pre-Hearing Dispositions](#) prior to appearing at the hearing.
2. Parties appearing via CourtCall are encouraged to review the [CourtCall Appearance Information](#).

If you are appearing by ZoomGov phone or video, please join at least 10 minutes prior to the start of the calendar and wait with your microphone muted until the matter is called.

Unauthorized Recording is Prohibited: Any recording of a court proceeding held by video or teleconference, including "screen shots" or other audio or visual copying of a hearing is prohibited. Violation may result in sanctions, including removal of court-issued media credentials, denial of entry to future hearings, or any other sanctions deemed necessary by the court. For more information on photographing, recording, or broadcasting Judicial Proceedings, please refer to Local Rule 173(a) of the United States District Court for the Eastern District of California.

INSTRUCTIONS FOR PRE-HEARING DISPOSITIONS

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

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

Tentative Ruling: If a matter has been designated as a tentative ruling it will be called, 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.

9:00 AM

1. [24-11810](#)-A-13 **IN RE: KELLY HARMEL-BLEDSON**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES
7-12-2024 [\[12\]](#)

DAVID CHUNG/ATTY. FOR DBT.
FILING FEE PAID \$313.00 7/12/24

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

DISPOSITION: The order to show cause will be vacated.

ORDER: The court will issue an order.

The record shows that the filing fees now due have been paid.

2. [24-10754](#)-A-13 **IN RE: LYNETTE LISTER**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES
6-28-2024 [\[29\]](#)

DISMISSED 7/11/24

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

DISPOSITION: Dropped as moot.

NO ORDER REQUIRED.

An order dismissing the case was entered on July 11, 2024. Doc. #34. The order to show cause will be dropped as moot. No appearance is necessary.

3. [19-14266](#)-A-13 **IN RE: BENJAMIN TORRES**
[PLG-2](#)

MOTION TO SELL
7-17-2024 [\[40\]](#)

BENJAMIN TORRES/MV
RABIN POURNAZARIAN/ATTY. FOR DBT.

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

DISPOSITION: Denied without prejudice.

ORDER: The court will issue an order

Local Rule of Practice ("LBR") 9014-1(f)(2) allows a moving party to file and serve a motion on at least 14 days' notice "unless additional notice is required by the Federal Rules of Bankruptcy Procedure." Federal Rule of Bankruptcy Procedure ("Rule") 2002(a)(2) requires at least 21 days' notice by

mail to all creditors of the hearing for a motion to sell property of the estate outside of the ordinary course of business.

Notice of this motion was sent by mail on July 17, 2024 with a hearing date set for August 1, 2024, which is 15 days before the hearing. Because this motion to sell was set for hearing on less than 21 days' notice, this motion is DENIED WITHOUT PREJUDICE for improper notice under Rule 2002(a)(2).

As an informative matter, the movant did not attach a copy of the Clerk of the Court's matrix of creditors who have filed a Request for Special Notice applicable to this case with the court's mandatory Certificate of Service form filed in connection with the motion (Doc. #44). Instead of using the Clerk of the Court's matrix that can be generated from the court's website, the movant attached a PACER generated list of names and addresses served. In the future, the movant should attach a copy of the Clerk of the Court's matrix of creditors who have filed a Request for Special Notice applicable to this case that can be generated from this court's website.

4. [19-15179](#)-A-13 **IN RE: ANGELA VALENCIA**
[PBB-3](#)

MOTION TO MODIFY PLAN
6-27-2024 [[50](#)]

ANGELA VALENCIA/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 at least 35 days' notice prior to the hearing date pursuant to Local Rule of Practice ("LBR") 3015-1(d)(2). 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.

This motion is GRANTED. The confirmation order shall include the docket control number of the motion and it shall reference the plan by the date it was filed.

1. [24-11307](#)-A-7 **IN RE: MARK SCHADE AND ELIZABETH ELLSTON**
[PBB-2](#)

MOTION TO CONVERT CASE FROM CHAPTER 7 TO CHAPTER 13
7-10-2024 [\[20\]](#)

PETER BUNTING/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 shall submit a proposed order after the hearing.

This motion was filed and served on at least 21 days' notice prior to the hearing date pursuant to Federal Rule of Bankruptcy Procedure 2002 and 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.

Mark Arthur Schade and Elizabeth Tommie Leigh Ellston (together, "Debtors"), the debtors in this chapter 7 case, move pursuant to 11 U.S.C. § 706(a) to convert this chapter 7 case to a case under chapter 13. Doc. #20.

Bankruptcy Code § 706(a) authorizes a debtor to convert a case under chapter 7 to a case under chapter 11, 12, or 13 of this title at any time, if the case has not been converted under sections 1112, 1208, or 1307 of this title. 11 U.S.C. § 706(a). Any waiver of the right to convert a case under this subsection is unenforceable. Id.

Debtors filed a voluntary petition under chapter 7 on May 15, 2024. Doc. #1. Debtors believe their real property is worth more than what is listed on their initial petition. Decl. of Elizabeth Ellston, Doc. #22. Further, their real property also serves as the location for Debtors' Air BNB business, which Debtors cannot afford to shut down. Id. Debtors assert that their assets and income qualify them to be chapter 13 debtors. Id. Further, Debtors believe they are entitled to convert their case from chapter 7 to chapter 13 at any time and wish to convert this case. Id. Moreover, this case has not been previously converted under sections 1112, 1208, or 1307.

Accordingly, subject to opposition being raised at the hearing, this motion will be GRANTED.

2. [24-10017](#)-A-7 **IN RE: DANIEL/MADALENA HENSLEY**
[SAD-1](#)

CONTINUED MOTION FOR RELIEF FROM AUTOMATIC STAY
6-10-2024 [\[40\]](#)

STETSON CAPITAL ADVISORS I, LP/MV
ROBERT WILLIAMS/ATTY. FOR DBT.
SHANNON DOYLE/ATTY. FOR MV.
RESPONSIVE PLEADING

NO RULING.

3. [22-10825](#)-A-7 **IN RE: JAMIE/MARIA GARCIA**
[SKI-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
6-12-2024 [\[24\]](#)

AMERICREDIT FINANCIAL SERVICES, INC./MV
NEIL SCHWARTZ/ATTY. FOR DBT.
SHERYL ITH/ATTY. FOR MV.
DISCHARGED 8/29/22

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 at least 28 days' notice prior to the hearing date as required by Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of creditors, the debtors, 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 movant 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 debtors' interest pursuant to 11 U.S.C. § 362(c)(2)(C). The debtors' discharge was entered on August 29, 2022. Doc. #21. The motion will be GRANTED IN PART for cause shown as to the chapter 7 trustee.

The movant, Americredit Financial Services, Inc. DBA GM Financial ("Movant"), seeks relief from the automatic stay under 11 U.S.C. § 362(d)(1) with respect to a 2021 Chevrolet Camaro, VIN: 1G1FK1R66M0100524 (the "Vehicle"). Doc. #24.

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).

After review of the included evidence, the court finds that "cause" exists to lift the stay because the debtors have failed to make at least 4 complete post-petition payments. Movant has produced evidence that the debtors are delinquent by at least \$5,056.00. Decl. of Aaron Rangel, Doc. #28. The last payment Movant received from the debtors was on March 12, 2024. Id.

Accordingly, the motion will be granted pursuant to 11 U.S.C. § 362(d)(1) 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 four complete post-petition payments to Movant and the Vehicle is a depreciating asset.

4. [23-11771](#)-A-7 **IN RE: PARADIGM STEEL FABRICATORS INC.**

CONTINUED ORDER TO SHOW CAUSE - FAILURE TO PAY FEES
6-7-2024 [[66](#)]

D. GARDNER/ATTY. FOR DBT.
7/9/24 FEE PAID \$12.50, 7/17/24 FEE PAID \$3.50

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

DISPOSITION: The order to show cause will be vacated.

ORDER: The court will issue an order.

The record shows that the filing fees now due have been paid.

10:30 AM

1. [23-12784](#)-A-11 **IN RE: KODIAK TRUCKING INC.**
[CAE-1](#)

CONTINUED STATUS CONFERENCE RE: CHAPTER 11 SUBCHAPTER V VOLUNTARY PETITION
12-15-2023 [\[1\]](#)

PETER FEAR/ATTY. FOR DBT.

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Continue to September 11, 2024 at 9:30 a.m.

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

Because the debtor's monthly operating reports are current and because the court intends to continue the hearing to confirm the debtor's subchapter V plan of reorganization to September 11, 2024 at 9:30 a.m. (matter #2, below), the court intends to continue this status conference to September 11, 2024 at 9:30 a.m.

2. [23-12784](#)-A-11 **IN RE: KODIAK TRUCKING INC.**
[FW-9](#)

CONTINUED CONFIRMATION HEARING RE: CHAPTER 11 SUBCHAPTER V SMALL BUSINESS
PLAN
3-14-2024 [\[191\]](#)

PETER FEAR/ATTY. FOR DBT.
RESPONSIVE PLEADING

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Continue to September 11, 2024 at 9:30 a.m.

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

Based on the status conference statement filed by the debtor on July 25, 2024 (Doc. #312), the court intends to continue the hearing to confirm the debtor's subchapter V plan of reorganization to September 11, 2024 at 9:30 a.m.

The court will modify paragraph 4 of the order setting this confirmation hearing (Doc. #192) ("Order") to extend the deadline to August 28, 2024 for eCapital Freight Factoring Corp. and Integrated Vehicle Leasing, Inc. to file and serve any objection to confirmation of the Plan.

The deadlines set forth in paragraphs 6 and 7 of the Order shall be calculated from the September 11, 2024 hearing date.

All other provisions of the Order shall remain the same except as previously agreed to by the debtor.

11:30 AM

1. [24-11626](#)-A-7 **IN RE: MANDIP GREWAL**

PRO SE REAFFIRMATION AGREEMENT WITH PNC BANK, NATIONAL ASSOCIATION
7-10-2024 [[15](#)]

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

DISPOSITION: Dropped.

ORDER: The court will issue an order.

This matter is dropped from calendar. This matter was automatically set for a hearing because the reaffirmation agreement is not signed by an attorney. However, this reaffirmation agreement appears to relate to a consumer debt secured by real property. Pursuant to 11 U.S.C. §524(c)(6)(B), the court is not required to hold a hearing and approve this agreement. The court will issue an order.