

**UNITED STATES BANKRUPTCY COURT**

Eastern District of California

Honorable Fredrick E. Clement  
Bankruptcy Judge

2500 Tulare Street, Fifth Floor  
Department A, Courtroom 11  
Fresno, California

**WEDNESDAY**

**AUGUST 6, 2014**

**PRE-HEARING DISPOSITIONS**

**GENERAL DESIGNATIONS**

Each pre-hearing disposition is prefaced by the words "Final Ruling," "Tentative Ruling" or "No Tentative Ruling." Except as indicated below, matters designated "Final Ruling" will not be called and counsel need not appear at the hearing on such matters. Matters designated "Tentative Ruling" or "No Tentative Ruling" will be called.

**MATTERS RESOLVED BEFORE HEARING**

If the court has issued a final ruling on a matter and the parties directly affected by a matter have resolved the matter by stipulation or withdrawal of the motion before the hearing, then the moving party shall, not later than 4:00 p.m. (PST) on the day before the hearing, inform the following persons by telephone that they wish the matter to be dropped from calendar notwithstanding the court's ruling: (1) all other parties directly affected by the motion; and (2) Kathy Torres, Judicial Assistant to the Honorable Fredrick E. Clement, at (559) 499-5860.

**ERRORS IN FINAL RULINGS**

If a party believes that a final ruling contains an error that would, if reflected in the order or judgment, warrant a motion under Federal Rule of Civil Procedure 52(b), 59(e) or 60, as incorporated by Federal Rules of Bankruptcy Procedure, 7052, 9023 and 9024, then the party affected by such error shall, not later than 4:00 p.m. (PST) on the day before the hearing, inform the following persons by telephone that they wish the matter either to be called or dropped from calendar, as appropriate, notwithstanding the court's ruling: (1) all other parties directly affected by the motion; and (2) Kathy Torres, Judicial Assistant to the Honorable Fredrick E. Clement, at (559) 499-5860. Absent such a timely request, a matter designated "Final Ruling" will not be called.

9:00 a.m.

1. [12-18810](#)-A-7 JAMES MERCER  
JDM-3  
TRUDI MANFREDO/MV

MOTION TO COMPROMISE  
CONTROVERSY/APPROVE SETTLEMENT  
AGREEMENT WITH JAMES RONNIE  
MERCER  
7-10-14 [[31](#)]

GARY HUSS/Atty. for dbt.  
JAMES MILLER/Atty. for mv.

### **Tentative Ruling**

**Motion:** Approve Compromise or Settlement of Controversy

**Disposition:** Denied without prejudice

**Order:** Prepared by moving party

In determining whether to approve a compromise under Federal Rule of Bankruptcy Procedure 9019, the court determines whether the compromise was negotiated in good faith and whether the party proposing the compromise reasonably believes that the compromise is the best that can be negotiated under the facts. *In re A & C Props.*, 784 F.2d 1377, 1381 (9th Cir. 1982). More than mere good faith negotiation of a compromise is required. The court must also find that the compromise is fair and equitable. *Id.* "Fair and equitable" involves a consideration of four factors: (i) the probability of success in the litigation; (ii) the difficulties to be encountered in collection; (iii) the complexity of the litigation, and expense, delay and inconvenience necessarily attendant to litigation; and (iv) the paramount interest of creditors and a proper deference to the creditors' expressed wishes, if any. *Id.* The party proposing the compromise bears the burden of persuading the court that the compromise is fair and equitable and should be approved. *Id.*

To show that a compromise is fair and equitable, the movant must provide specific factual information about the claims being compromised. Analysis of a compromise under the fair and equitable standard and its concomitant factors under *In re A & C Properties* "is inherently fact-intensive, relative, and contextual." *Simantob v. Claims Prosecutor, LLC (In re Lahijani)*, 325 B.R. 282, 290 (B.A.P. 9th Cir. 2005).

After reviewing the motion, the court cannot articulate the nature of the claim being compromised. The declaration mentions a complaint for "declaratory relief as to the nature, extent and validity of real property [sic], turnover of real property, and authority to sell co-owner property." This description is insufficient. This does not help the court understand what *interests* in real property were being litigated and why.

Nor can the court determine the approximate or estimated value of the claims to be compromised. Paragraph 11 of the motion mentions "a small amount of potential recovery" that would have been diminished by litigation costs. But no dollar estimate or range of values of the settled claims is provided to assist the court in its analysis.

The motion discusses the *A & C Properties* factors but states few factual details that would allow the court to conclude that the factors have been satisfied. For example, the trustee "strongly believes" she would prevail, but no statements are made that would allow the court to know that this conclusion has some reasonable basis. The motion mentions that the division of debtor's property

would be determined by intestacy statutes and that the court could easily determine such division. But the court cannot understand the relationship of the intestacy statutes have to either the claims themselves or to the trustee's prevailing on the claims. Part of the problem in this regard is that the motion does not discuss the nature of the claims sufficiently.

In addressing the difficulties of collection, the motion discusses the receipt of settlement funds, but this factor is intended to address collectability *in the absence of settlement* and if litigation were to continue. Without timely payment of settlement funds, a settlement generally fails. In approving a settlement, the court is not as concerned with whether the settlement will fail as with whether the settlement itself is better than continued litigation. So arguing that settlement funds are not difficult to collect is not useful in analyzing whether the settlement proposed is a better option than continued litigation. For example, if collection of a judgment resulting from continued litigation would be difficult, this factor would weigh in favor of settlement.

Lastly, the court will not approve attorneys' fees incurred by the estate for this motion that is being denied (docket control number JDM-3), or for the previous compromise motion that was also denied for insufficient notice (docket control number JDM-2). The court may approve fees for a subsequent motion to compromise if the court resolves the motion in the movant's favor.

In any application to approve the fees of this counsel in this case, the trustee shall file a declaration in support certifying that the fees requested do not include fees for any unopposed motion to compromise that has been denied by the court.

2.     [14-12013](#)-A-7     ELIAS VASQUEZ - VASQUEZ     CONTINUED MOTION TO COMPEL  
NFG-1             AND ALICIA CHAVEZ -     ABANDONMENT  
ELIAS VASQUEZ - VASQUEZ/MV     6-5-14 [[18](#)]  
NELSON GOMEZ/Atty. for dbt.

### **Tentative Ruling**

**Motion:** Compel Abandonment of Property of the Estate

**Notice:** LBR 9014-1(f)(2); no written opposition required

**Disposition:** Granted only as to the business and such business assets described in the motion

**Order:** Prepared by moving party pursuant to the instructions below

**Business Description:** Elias Vasquez Handyman, a sole proprietorship

The court continued the hearing on this motion because notice of the motion had not been given to the U.S. Trustee. The court will treat the motion as having been noticed under LBR 9014-1(f)(2) as notice of the continued hearing was given only 14 days before the continued date of the hearing.

Property of the estate may be abandoned under § 554 of the Bankruptcy Code if property of the estate is "burdensome to the estate or of inconsequential value and benefit to the estate." See 11 U.S.C. § 554(a)-(b); Fed. R. Bankr. P. 6007(b). Upon request of a party in interest, the court may issue an order that the trustee abandon

property of the estate if the statutory standards for abandonment are fulfilled.

The business described above is either burdensome to the estate or of inconsequential value to the estate. An order compelling abandonment of such business is warranted.

The order will compel abandonment of the business and the assets of such business only to the extent described in the motion. The order shall state that any exemptions claimed in the abandoned business or the assets of such business may not be amended without leave of court given upon request made by motion noticed under Local Bankruptcy Rule 9014-1(f)(1).

3. [14-12927](#)-A-7 RUTH HOPKINS  
TMT-1

OPPOSITION RE: TRUSTEE'S MOTION  
TO DISMISS FOR FAILURE TO  
APPEAR AT SEC. 341(A) MEETING  
OF CREDITORS  
7-7-14 [[11](#)]

ALFRED GALLEGOS/Atty. for dbt.

### **Tentative Ruling**

**Motion:** Dismiss Case and Extend Deadlines

**Notice:** LBR 9014-1(f)(1); written opposition required or case dismissed without hearing

**Disposition:** Conditionally denied in part, granted in part

**Order:** Prepared by chapter 7 trustee

The Chapter 7 trustee has filed a Motion to Dismiss for Failure to Appear at the § 341(a) Meeting of Creditors and Motion to Extend Deadlines for Filing Objections to Discharge. The debtor opposes the motion.

The court will conditionally deny the motion in part to the extent it requests dismissal of the case. The court will deny the motion to dismiss subject to the condition that the debtor attend the continued meeting of creditors. But if the debtor does not appear at the continued meeting of creditors, the case will be dismissed on the trustee's ex parte declaration.

The court will grant the motion in part to the extent it requests extension of certain deadlines. Such deadlines will be extended so that they run from the continued date of the § 341(a) meeting of creditors rather than the first date set for the meeting of creditors. The continued date of the meeting of creditors is August 11, 2014 at 8:30 a.m. The deadline for objecting to discharge under § 727 is extended to 60 days after this continued date. See Fed. R. Bankr. P. 4004(a). The deadline for bringing a motion to dismiss under § 707(b) or (c) for abuse, other than presumed abuse, is extended to 60 days after such date. See Fed. R. Bankr. P. 1017(e).

4. [14-12641](#)-A-7 PAIGE WEAVER

OPPOSITION RE: TRUSTEE'S MOTION  
TO DISMISS FOR FAILURE TO  
APPEAR AT SEC. 341(A) MEETING  
OF CREDITORS  
6-20-14 [[11](#)]

ROSALINA NUNEZ/Atty. for dbt.

### **Tentative Ruling**

**Motion:** Dismiss Case and Extend Deadlines

**Notice:** LBR 9014-1(f)(1); written opposition required or case dismissed without hearing

**Disposition:** Conditionally denied in part, granted in part

**Order:** Prepared by chapter 7 trustee

The Chapter 7 trustee has filed a Motion to Dismiss for Failure to Appear at the § 341(a) Meeting of Creditors and Motion to Extend Deadlines for Filing Objections to Discharge. The debtor opposes the motion.

The court will conditionally deny the motion in part to the extent it requests dismissal of the case. The court will deny the motion to dismiss subject to the condition that the debtor attend the continued meeting of creditors. But if the debtor does not appear at the continued meeting of creditors, the case will be dismissed on the trustee's ex parte declaration.

The court will grant the motion in part to the extent it requests extension of certain deadlines. Such deadlines will be extended so that they run from the continued date of the § 341(a) meeting of creditors rather than the first date set for the meeting of creditors. The continued date of the meeting of creditors is August 29, 2014, at 9:00 a.m. The deadline for objecting to discharge under § 727 is extended to 60 days after this continued date. See Fed. R. Bankr. P. 4004(a). The deadline for bringing a motion to dismiss under § 707(b) or (c) for abuse, other than presumed abuse, is extended to 60 days after such date. See Fed. R. Bankr. P. 1017(e).

5. [14-13554](#)-A-7 JAVIER GARCIA  
MAZ-1  
JAVIER GARCIA/MV  
MARK ZIMMERMAN/Atty. for dbt.  
NON-OPPOSITION

MOTION TO COMPEL ABANDONMENT  
7-18-14 [[14](#)]

### **Tentative Ruling**

**Motion:** Compel Abandonment of Property of the Estate

**Notice:** LBR 9014-1(f)(2); no written opposition required

**Disposition:** Continued to August 27, 2014

**Order:** Prepared by moving party pursuant to the instructions below

**Business Description:** a sole proprietorship

Property of the estate may be abandoned under § 554 of the Bankruptcy Code if property of the estate is "burdensome to the estate or of inconsequential value and benefit to the estate." See 11 U.S.C. § 554(a)-(b); Fed. R. Bankr. P. 6007(b). Upon request of a party in

interest, the court may issue an order that the trustee abandon property of the estate if the statutory standards for abandonment are fulfilled.

The hearing on the motion is continued to August 27, 2014. A supplemental declaration will be filed that includes the inventory on Exhibit A in typewritten form and that translates the list of inventory into English. In addition, the supplemental declaration should explain the nature of the business being abandoned. The court cannot determine how furniture and lawn equipment are included in the same business.

The supplemental declaration and a notice of continued hearing shall be served on the entire creditor matrix, the trustee, and the U.S. Trustee no later than August 13, 2014, and opposition, if any, may be raised at the continued hearing date.

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|----|---|---|
| 6. | <a href="#">13-12660</a> -A-7     JOHN GOULART AND KATHRYN<br>PFT-1               CRANDALL-GOULART<br>PETER FEAR/MV | MOTION TO COMPROMISE<br>CONTROVERSY/APPROVE SETTLEMENT<br>AGREEMENT WITH WILMA WALKER<br>6-27-14 [ <a href="#">16</a> ] |
|----|---|---|

ALLAN WILLIAMS/Atty. for dbt.  
PETER FEAR/Atty. for mv.

### **Final Ruling**

**Motion:** Approve Compromise or Settlement of Controversy

**Notice:** LBR 9014-1(f)(1); written opposition required

**Disposition:** Granted

**Order:** Prepared by moving party

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

In determining whether to approve a compromise under Federal Rule of Bankruptcy Procedure 9019, the court determines whether the compromise was negotiated in good faith and whether the party proposing the compromise reasonably believes that the compromise is the best that can be negotiated under the facts. *In re A & C Props.*, 784 F.2d 1377, 1381 (9th Cir. 1982). More than mere good faith negotiation of a compromise is required. The court must also find that the compromise is fair and equitable. *Id.* "Fair and equitable" involves a consideration of four factors: (i) the probability of success in the litigation; (ii) the difficulties to be encountered in collection; (iii) the complexity of the litigation, and expense, delay and inconvenience necessarily attendant to litigation; and (iv) the paramount interest of creditors and a proper deference to the creditors' expressed wishes, if any. *Id.* The party proposing the compromise bears the burden of persuading the court that the compromise is fair and equitable and should be approved. *Id.*

Based on the motion and supporting papers, the court finds that the compromise is fair and equitable considering the relevant A & C Properties factors. The compromise will be approved.

7. [14-11660](#)-A-7      ERICK/RONA CUENCA      MOTION TO SELL  
JES-1      7-9-14 [[20](#)]  
JAMES SALVEN/MV

PETER FEAR/Atty. for dbt.  
JAMES SALVEN/Atty. for mv.

#### **Tentative Ruling**

**Motion:** Sell Property

**Notice:** LBR 9014-1(f)(1); written opposition required

**Disposition:** Granted

**Order:** Prepared by moving party

**Property:** Steinway Model B Grand Piano

**Buyer:** Pianos Unlimited

**Sale Price:** \$35,000 (sale is subject to a lien of \$30,637 and the lien holder will be paid upon the trustee's receipt of funds from the buyer)

**Sale Type:** Private sale subject to overbid opportunity

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

Section 363(b)(1) of Title 11 authorizes sales of property of the estate "other than in the ordinary course of business." 11 U.S.C. §§ 363(b)(1); *see also In re Lionel Corp.*, 722 F.2d 1063, 1071 (2d Cir. 1983) (requiring business justification). The moving party is the Chapter 7 trustee and liquidation of property of the estate is a proper purpose. *See* 11 U.S.C. § 704(a)(1). As a result, the court will grant the motion. The stay of the order provided by Federal Rule of Bankruptcy Procedure 6004(h) will be waived.

8. [14-13261](#)-A-7      HAROLD/KATHLEEN NAZAROFF      MOTION TO SHUT DOWN BUSINESS  
PFT-1      7-11-14 [[10](#)]  
PETER FEAR/MV  
THOMAS ARMSTRONG/Atty. for dbt.  
PETER FEAR/Atty. for mv.

#### **Tentative Ruling**

**Motion:** Shut Down Business

**Notice:** LBR 9014-1(f)(2); no written opposition required

**Disposition:** Denied

**Order:** Civil minute order

The court will deny the motion as it is directed at the joint debtor's sole proprietorship. This business will be abandoned to the debtor by the estate pursuant to the court's ruling on the debtor's motion at docket control number THA-1. The trustee has stated his non-opposition to the debtor's motion to abandon this business in a declaration filed in support of that motion.

9. [14-13261](#)-A-7 HAROLD/KATHLEEN NAZAROFF MOTION TO COMPEL ABANDONMENT  
THA-1 7-14-14 [[12](#)]  
HAROLD NAZAROFF/MV  
THOMAS ARMSTRONG/Atty. for dbt.

### **Tentative Ruling**

**Motion:** Compel Abandonment of Property of the Estate

**Notice:** LBR 9014-1(f)(2); no written opposition required

**Disposition:** Granted only as to the business and such business assets described in the motion

**Order:** Prepared by moving party pursuant to the instructions below

**Business Description:** hair dresser / stylist business, a sole proprietorship

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). The trustee has filed a declaration stating that he does not oppose the motion. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

Property of the estate may be abandoned under § 554 of the Bankruptcy Code if property of the estate is "burdensome to the estate or of inconsequential value and benefit to the estate." See 11 U.S.C. § 554(a)-(b); Fed. R. Bankr. P. 6007(b). Upon request of a party in interest, the court may issue an order that the trustee abandon property of the estate if the statutory standards for abandonment are fulfilled.

The business described above is either burdensome to the estate or of inconsequential value to the estate. An order compelling abandonment of such business is warranted.

The order will compel abandonment of the business and the assets of such business only to the extent described in the motion. The order shall state that any exemptions claimed in the abandoned business or the assets of such business may not be amended without leave of court given upon request made by motion noticed under Local Bankruptcy Rule 9014-1(f)(1).



10. [13-16678](#)-A-7 ELICEO MORALES-SANCHEZ MOTION TO SELL  
JES-1 AND PATRICIA MORALES 6-27-14 [[18](#)]  
JAMES SALVEN/MV  
MARIO LANGONE/Atty. for dbt.  
JAMES SALVEN/Atty. for mv.

**Tentative Ruling**

**Motion:** Sell Property

**Notice:** LBR 9014-1(f)(1); written opposition required

**Disposition:** Granted

**Order:** Prepared by moving party

**Property:** Vehicles described in the notice of hearing

**Buyer:** Debtors

**Sale Price:**

1997 Mazda MX6: \$300 cash

1997 Ford F150: \$800 cash

2006 Honda Civic: \$3900 (\$1000 cash plus \$2900 exemption credit)

**Sale Type:** Private sale subject to overbid opportunity

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

Section 363(b)(1) of Title 11 authorizes sales of property of the estate "other than in the ordinary course of business." 11 U.S.C. §§ 363(b)(1); *see also In re Lionel Corp.*, 722 F.2d 1063, 1071 (2d Cir. 1983) (requiring business justification). The moving party is the Chapter 7 trustee and liquidation of property of the estate is a proper purpose. *See* 11 U.S.C. § 704(a)(1). As a result, the court will grant the motion. The stay of the order provided by Federal Rule of Bankruptcy Procedure 6004(h) will be waived.

11. [14-13116](#)-A-7 JOHN/TANYA MARTINEZ CONTINUED MOTION TO COMPEL  
TCS-2 ABANDONMENT  
JOHN MARTINEZ/MV 7-15-14 [[23](#)]  
TIMOTHY SPRINGER/Atty. for dbt.

**Tentative Ruling**

**Motion:** Compel Abandonment of Real Property

**Hearing:** LBR 9014-1(f)(2); no written opposition required

**Disposition:** Denied without prejudice

**Order:** Civil minute order

The court previously continued the hearing on this matter for the reasons stated in the civil minutes from the hearing on July 30, 2014. A supplemental declaration providing a general description of the business assets to be abandoned was requested to be filed no later than August 1, 2014. The supplemental declaration has not been filed.

9:15 a.m.

1. [13-17820](#)-A-7      ANDRE EDMONDS      CONTINUED STATUS CONFERENCE RE:  
[14-1019](#)      COMPLAINT  
EDMONDS V. VISALIA MEDICAL      2-10-14 [[1](#)]  
CLINIC  
STEPHEN LABIAK/Atty. for pl.  
RESPONSIVE PLEADING,  
DISMISSED

## Final Ruling

The adversary proceeding dismissed, the status conference is concluded.

2. [14-11040](#)-A-7 FRANCIS MACIEL STATUS CONFERENCE RE: COMPLAINT  
[14-1060](#)  
MACIEL V. GADDO 6-9-14 [[1](#)]

JERRY LOWE/Atty. for pl.

## Final Ruling

This matter **is continued** to October 15, 2014, at 9:15 a.m. to allow the plaintiff to obtain a default judgment.

3. [14-11089](#)-A-7 DONALD ATKINS STATUS CONFERENCE RE: COMPLAINT  
[14-1061](#) 6-11-14 [[1](#)]  
PRIMERICA LIFE INSURANCE  
COMPANY V. ATKINS ET AL  
OPHIR JOHNA/Atty. for pl.  
RESPONSIVE PLEADING

## Final Ruling

This matter is continued to September 24, 2014, at 9:15 a.m. to allow the plaintiff to make the motion described in *In re Hashim*, 379 B.R. 912, 921-22 (9<sup>th</sup> Cir. B.A.P 2007). Any such motion shall be served on the Chapter 7 trustee, the United States Trustee, and all creditors and parties in interest.

10:00 a.m.

1. [14-13118](#)-A-7 RUBEN RENTERIA AND LILLIA MOTION FOR RELIEF FROM  
DVW-1 CERVANTES AUTOMATIC STAY  
21ST MORTGAGE CORPORATION/MV 7-21-14 [[13](#)]  
ALBERT GARCIA/Atty. for dbt.  
DIANE WEIFENBACH/Atty. for mv.

### **Tentative Ruling**

**Motion:** Relief from Stay

**Disposition:** Continued to August 27, 2014, at 10:00 a.m.

**Order:** Civil minute order

As a contested matter, a motion for relief from stay is governed by Federal Rule of Bankruptcy Procedure 9014. Fed. R. Bankr. P. 4001(a)(1), 9014(a). In contested matters generally, "reasonable notice and opportunity for hearing shall be afforded the party against whom relief is sought." Fed. R. Bankr. P. 9014(a). A motion initiating a contested matter must be served pursuant to Rule 7004. Fed. R. Bankr. P. 9014(b).

The motion must be served on the party against whom relief is sought. See Fed. R. Bankr. P. 9014(a)-(b). The debtor and the trustee are the parties against whom relief is sought by a motion for relief from the automatic stay.

In this case, the motion did not comply with Rules 7004 and 9014 as service was insufficient. If service on the debtor is required, and the debtor is represented by an attorney, then the attorney must also be served pursuant to Rule 7004(g). Fed. R. Bankr. P. 7004(g). Under Rule 7004(g), service must be made upon the debtor's attorney by any means authorized under Rule 5(b) of the Federal Rules of Civil Procedure.

Federal Rule of Civil Procedure 5(b) includes service by electronic means if the person has consented in writing. Fed. R. Civ. P. 5(b)(2)(E). Local Bankruptcy Rule 7005-1 permits a registered user of the court's electronic filing system to consent to receive service by electronic means under Federal Rule of Civil Procedure 5(b)(2)(E). The local rule describes how consent is accomplished. The Clerk maintains a roster of names and email addresses of registered users of the court's electronic filing system who have consented to service by electronic means. LBR 7005-1(c). It further specifies the method of service by electronic means upon those who have consented to such service. LBR 7005-1(d).

Here, the debtor's attorney has not been served at the correct email address shown on the roster maintained by the Clerk. Nor has the attorney been served at the email address shown on the petition.

The hearing is continued to the date shown above to allow proper service. A supplemental proof of service must be filed no later than August 13, 2014 showing proper service of the motion and supporting papers on the debtor's attorney. In addition, the movant will file a notice of continued hearing, using the notice procedure under LBR 9014-1(f)(2), no later than August 13, 2014, and the notice of continued hearing shall be served on the trustee, debtor, debtor's attorney and U.S. Trustee.

2. [14-13147](#)-A-7 DAVID WHITENDALE  
PPR-1  
QUICKEN LOANS, INC./MV  
STEPHEN LABIAK/Atty. for dbt.  
JOSEPH GARIBYAN/Atty. for mv.

MOTION FOR RELIEF FROM  
AUTOMATIC STAY  
7-8-14 [[11](#)]

**Final Ruling**

**Motion:** Stay Relief

**Notice:** LBR 9014-1(f)(1); written opposition required

**Disposition:** Granted

**Order:** Prepared by moving party

**Subject:** 306 N. Demaree St., Visalia, California

Unopposed motions are subject to the rules of default. Fed. R. Civ. P.55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

Section 362(d)(2) authorizes stay relief if the debtor lacks equity in the property and the property is not necessary to an effective reorganization. 11 U.S.C. § 362(d)(2). Chapter 7 is a mechanism for liquidation, not reorganization, and, therefore, property of the estate is never necessary for reorganization. *In re Casgul of Nevada, Inc.*, 22 B.R. 65, 66 (B.A.P. 9th Cir. 1982). In this case, the aggregate amount due all liens exceeds the value of the collateral and the debtor has no equity in the property. The motion will be granted, and Federal Rule of Bankruptcy Procedure 4001(a)(3) will be waived. No other relief will be awarded.

10:30 a.m.

1. [14-12911](#)-A-7 ILDA ESTRADA

PRO SE REAFFIRMATION AGREEMENT  
WITH FINANCE AND THRIFT COMPANY  
7-16-14 [[14](#)]

**No tentative ruling.**

2. [14-12378](#)-A-7 ROSA CABRERA

REAFFIRMATION AGREEMENT WITH  
TOYOTA MOTOR CREDIT CORPORATION  
7-16-14 [[14](#)]

ALFRED GALLEGOS/Atty. for dbt.

**No tentative ruling.**

3. [14-11382](#)-A-7 GEORGETTE OLVERA

CONTINUED REAFFIRMATION  
AGREEMENT  
6-20-14 [[26](#)]

HENRY NUNEZ/Atty. for dbt.

**No tentative ruling.**

1:30 p.m.

1. [10-12709](#)-A-11 ENNIS COMMERCIAL MOTION TO EMPLOY JAMES C.  
SHB-3 PROPERTIES, LLC BASTIAN, JR. AS SPECIAL COUNSEL  
DAVID STAPLETON/MV 7-18-14 [[1260](#)]  
PETER FEAR/Atty. for dbt.  
JENNIFER BROOKS/Atty. for mv.

**Tentative Ruling**

**Application:** Approval of Employment

**Notice:** LBR 9014-1(f)(2); no written opposition required

**Disposition:** Approved in part; denied in part

**Order:** Prepared by moving party

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, incorporated by Fed. R. Bankr. P. 7055, 9014(c). The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

For the reasons stated in the motion and supporting papers, the court is inclined to approve the application in part as to the employment of the proposed special counsel. The application is denied in part to the extent it requests approval of special counsel's employment at special counsel's hourly rates. The court will not approve any hourly rates as part of the approval of the employment of special counsel.

The applicant will address at the hearing any conflicts that might arise from the existence of joint or guarantor liability between the Ennis Commercial Properties Estate and the Ben Ennis Estate on the claims that are the subject of the services to be provided by special counsel.

2. [10-62315](#)-A-11 BEN ENNIS MOTION TO EMPLOY JAMES C.  
SHB-4 BASTIAN, JR. AS SPECIAL COUNSEL  
DAVID STAPLETON/MV 7-18-14 [[1632](#)]  
RILEY WALTER/Atty. for dbt.  
WILLIAM FREEMAN/Atty. for mv.

**Tentative Ruling**

**Application:** Approval of Employment

**Notice:** LBR 9014-1(f)(2); no written opposition required

**Disposition:** Approved in part; denied in part without prejudice

**Order:** Prepared by moving party

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, incorporated by Fed. R. Bankr. P. 7055, 9014(c). The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

For the reasons stated in the motion and supporting papers, the court is inclined to approve the application in part as to the employment of the proposed special counsel. The application is denied in part without prejudice to the extent it requests approval of special

counsel's employment at special counsel's hourly rates. The court will not approve any hourly rates as part of the approval of the employment of special counsel.

The applicant will address at the hearing any conflicts that might arise from the existence of joint or guarantor liability between the Ennis Commercial Properties Estate and the Ben Ennis Estate on the claims that are the subject of the services to be provided by special counsel.

3. [13-17136](#)-A-11 BHAVIKA'S PROPERTIES, EVN-7 LLC  
BHAVIKA'S PROPERTIES, LLC/MV  
ELAINE NGUYEN/Atty. for dbt.
- MOTION IN LIMINE TO EXCLUDE THE  
EXPERT REPORT AND TESTIMONY OF  
GREGG PALMER  
7-23-14 [[168](#)]

**No tentative ruling.**

4. [14-10851](#)-A-11 JOHN/BETTY VAN DYK  
RILEY WALTER/Atty. for dbt.
- CONTINUED STATUS CONFERENCE RE:  
VOLUNTARY PETITION  
2-25-14 [[1](#)]

**Final Ruling**

This matter is continued to August 27, 2014, at 1:30 p.m.

5. [14-10851](#)-A-11 JOHN/BETTY VAN DYK  
HAR-2  
RILEY WALTER/Atty. for dbt.
- MOTION FOR COMPENSATION BY THE  
LAW OFFICE OF MCCORMICK,  
BARSTOW, SHEPPARD, WAYTE &  
CARRUTH FOR HILTON A. RYDER,  
CREDITOR COMM. ATY(S).  
7-3-14 [[173](#)]

**Final Ruling**

**Application:** Interim Compensation and Expense Reimbursement

**Notice:** LBR 9014-1(f)(1); written opposition required

**Disposition:** Approved

**Order:** Prepared by applicant

**Applicant:** McCormick, Barstow, Sheppard, Wayte & Carruth, LLP

**Compensation approved:** \$14,962.50

**Costs approved:** \$94.96

**Aggregate fees and costs approved in this application:** \$15,057.46

**Retainer held:** \$0.00

**Amount to be paid as administrative expense:** \$15,057.46

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). None has been

filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

Section 330(a) of the Bankruptcy Code authorizes "reasonable compensation for actual, necessary services" rendered by an employed professional in a Chapter 11 case and "reimbursement for actual, necessary expenses." 11 U.S.C. § 330(a)(1). Reasonable compensation is determined by considering all relevant factors. See *id.* § 330(a)(3).

The court finds that the compensation and expenses sought are reasonable, and the court will approve the application on an interim basis. Such amounts shall be perfected, and may be adjusted, by a final application for compensation and expenses, which shall be filed prior to case closure.

6. [14-10851](#)-A-11 JOHN/BETTY VAN DYK  
WW-4  
JOHN VAN DYK/MV  
4-18-14 [[73](#)]  
RILEY WALTER/Atty. for dbt.  
ORDER CONTINUING TO 8/27/14  
ECF NO. 189

CONTINUED MOTION TO ASSUME  
LEASE OR EXECUTORY CONTRACT

**Final Ruling**

This matter is continued to August 27, 2014, at 1:30 p.m., ECF #189.

7. [14-10851](#)-A-11 JOHN/BETTY VAN DYK  
WW-6  
  
RILEY WALTER/Atty. for dbt.  
ORDER CONTINUING TO 8/27/14  
ECF NO. 190

CONTINUED DISCLOSURE STATEMENT  
FILED BY JOINT DEBTOR BETTY  
JEAN VAN DYK, DEBTOR JOHN  
WILLIAM VAN DYK  
3-21-14 [[50](#)]

**Final Ruling**

This matter is continued to August 27, 2014, at 1:30 p.m. ECF #190.



8. [14-11991](#)-A-11 CENTRAL AIR KDG-9 CONDITIONING, INC.  
CENTRAL AIR CONDITIONING, INC./MV  
HAGOP BEDOYAN/Atty. for dbt.
- MOTION TO EXTEND TIME TO ASSUME OR REJECT UNEXPIRED NONRESIDENTIAL REAL PROPERTY LEASE  
7-15-14 [[116](#)]

**Tentative Ruling**

**Motion:** Extend Time to Assume or Reject Unexpired Lease of Nonresidential Real Property

**Notice:** LBR 9014-1(f)(2); no written opposition required

**Disposition:** Granted

**Order:** Prepared by moving party

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

Section 365(d)(4)(B) authorizes the court to extend the time during which a trustee may assume or assign an unexpired lease of nonresidential real property without the lease being deemed rejected. 11 U.S.C. §365(d)(4)(B)(i). The court may grant such an extension only before the expiration of the initial 120-day period after the petition, or if a plan is confirmed before the expiration of the 120-day period, then the court may grant the extension only before the date of the entry of the order confirming the plan. *Id.* The initial 120-day period may be extended by an additional 90-day period. *Id.* Subsequent extensions may be granted only with the lessor's consent. *Id.* § 365(d)(4)(B)(ii).

The Debtor requests a 90-day extension of time in which to assume or reject a nonresidential real property lease. The court will grant the motion and extend the time in which to assume or reject the nonresidential real property lease to the date indicated in the motion.

9. [14-11991](#)-A-11 CENTRAL AIR KDG-10 CONDITIONING, INC.  
CENTRAL AIR CONDITIONING, INC./MV  
HAGOP BEDOYAN/Atty. for dbt.  
OST 7/31/14
- MOTION TO USE CASH COLLATERAL AND/OR MOTION FOR ADEQUATE PROTECTION  
7-30-14 [[128](#)]

**No tentative ruling.**