UNITED STATES BANKRUPTCY COURT
Eastern District of California
Honorable René Lastreto II
Hearing Date: Tuesday, August 18, 2020
Place: Department B – Courtroom #13
Fresno, California

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

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

INSTRUCTIONS FOR PRE-HEARING DISPOSITIONS

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

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

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

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

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

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

9:30 AM

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

CONTINUED STATUS CONFERENCE RE: CHAPTER 11 VOLUNTARY PETITION
5-4-2020 [1]

JUSTIN HARRIS/ATTY. FOR DBT.

NO RULING.

2. 20-10809-B-11 **IN RE: STEPHEN SLOAN**

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

PETER FEAR/ATTY. FOR DBT.

NO RULING.

3. 20-10809-B-11 **IN RE: STEPHEN SLOAN**
FW-6

CHAPTER 11 DISCLOSURE STATEMENT FILED BY DEBTOR STEPHEN WILLIAM SLOAN
6-30-2020 [184]

PETER FEAR/ATTY. FOR DBT.
RESPONSIVE PLEADING

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Motion is Denied. Debtor to file an amended Disclosure Statement.

ORDER: The Court will issue the order.

The parties are advised that the Judicial Law Clerk for this Department, Mr. Leatham, has accepted a position with the Wanger Jones Helsley law firm. Mr. Leatham is screened from considering this and any other matters involving that firm until he is no longer employed by the court. The parties are urged to consult with their clients and determine whether they will ask the court to recuse from this matter notwithstanding the screen process involving Mr. Leatham.

Debtor in Possession Stephen William Sloan ("Debtor" or "Sloan") filed a Disclosure Statement on June 30, 2020. Sloan asks the court to approve the Disclosure Statement. Only two creditors have objected to the adequacy of the Disclosure Statement: Sandton Credit Solutions Master Fund IV, LP ("Sandton") and Oak Valley Community Bank Inc. ("Oak Valley").

Sandton claims that the Disclosure Statement accurately depicts the dependence this chapter 11 case is on the success of another case, 4-S Ranch Partners LLC ("4-S"). But the values of 4-S property interests (and interests in this case) are vigorously disputed. So, Sandton contends, unsecured creditors need to know the risk of a more modest valuation of the 4-S and this estate's properties.

Second, Sandton contends the Disclosure Statement needs to include descriptions of various prepetition real property transfers from Sloan (or revocable trusts he controlled) into irrevocable trusts.

Third, Sandton urges that a more robust liquidation analysis should be included in the Disclosure Statement because of the variance in valuation of the interests Sloan and Sandton assert.

Oak Valley objects because the Disclosure Statement omits any discussion of its filed secured claim. Though the claim is being appealed to the California Court of Appeal, Oak Valley contends it holds a secured claim that should be discussed.

11 U.S.C. § 1125(a)(1) defines "adequate information" to be included in a disclosure statement. At minimum, the "hypothetical investor typical of the holders of claims or interests in the case" (separately defined in § 1125(a)(2)) should be able to make "an informed judgment" about the plan. A disclosure statement may be approved "without a valuation of the debtor or an appraisal of the debtor's assets." 11 U.S.C. § 1125(b).

Sloan has replied to the objections. Sloan agrees certain changes need to be made.

Initially, we consider Sandton's objections. First, Sloan states he has no problem in stating there are discrepancies in the value of 4-S and another entity owned by Sloan, Merced Falls LLC. The court agrees that more should be done. More than that though, the unsecured creditors need to know the impact of the lower valuations on both the likelihood of retiring Sandton's obligation and how the lower values affect the probability of payment of unsecured claims.

Second, Sloan claims the prepetition real property transfers were "partially" revealed in the Statement of Financial Affairs. Then Sloan predicts the Trustees of the transferee irrevocable trusts may stipulate to an extension of the statute of limitations for avoidance actions and to an injunction precluding subsequent transfers. That is speculative. The court will leave it to the parties to analyze the *bona fides* of these statements. But since the plan contemplates payment to the unsecured class in either a year or perhaps 18 months, the impact of the transfers on the liquidation analysis is needed.

Third, Sloan claims since the unsecured creditors are proposed to be paid with interest, there is no need for the liquidation analysis. Sloan also claims the valuation discrepancies between Sandton and Sloan are feasibility issues, not disclosure issues. The court disagrees. The plan does not contemplate immediate payment of the impaired classes. The impaired classes are "along for the ride" for 12 to 18 months. A discussion of valuation of the affected assets — difficult to value or not — is necessary here. As discussed above, the impact of the valuation difference on plan distributions is needed at a minimum.

Oak Valley's objection is essentially conceded by Sloan. A new plan and disclosure statement is needed to separately classify the Oak Valley claim.

The court finds that, presently, the Disclosure Statement is not adequate for the reasons indicated and the motion for approval of the Disclosure Statement is DENIED.

4. 20-10809-B-11 **IN RE: STEPHEN SLOAN**
FW-7

MOTION TO EXTEND EXCLUSIVITY PERIOD FOR FILING A CHAPTER 11 PLAN AND TO EXTEND EXCLUSIVITY PERIOD FOR FILING A CHAPTER 11 PLAN AND DISCLOSURE STATEMENT FILED BY DEBTOR STEPHEN WILLIAM SLOAN
7-21-2020 [195]

STEPHEN SLOAN/MV
PETER FEAR/ATTY. FOR DBT.

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

DISPOSITION: Granted.

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

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

This motion is GRANTED.

11 U.S.C. § 1121(c) provides that

> Any party in interest . . . may file a plan if, and only if,
> (i) a trustee has been appointed under [chapter 11];
> (ii) the debtor has not filed a plan before 120 days after the date of the order for relief under [chapter 11]; or
> (iii) the debtor has not filed a plan that has not been accepted, before 180 days after the date of the order for relief under [chapter 11], by each class of claims or interests that is impaired under the plan.

Essentially, this creates an "exclusivity" period for the Debtor-in-Possession to file his Plan. 11 U.S.C. Sec. 1121(d)(2)(B) permits the court to enlarge the 180-day exclusivity period for the Debtor-in-Possession up to 20 months after the date of the order for relief "for cause."

In the absence of opposition and for the following reasons, the court finds that cause exists to extend debtor's exclusivity period to file a plan to December 31, 2020.

Debtor anticipates that the Court will set out a continued Disclosure Statement hearing, based on an assumption that creditor Sandton Credit Solutions, approximately six weeks from August 18. That would be approximately October 1. Once the Disclosure Statement is approved, Debtor anticipates that the Court will give the parties approximately six weeks to send out the Plan and for creditors to submit ballots. The Plan confirmation hearing would then be approximately four weeks later, which should be in approximately the middle of December. For these reasons, Debtor believes that the end of December is an appropriate amount of time for this extension. Debtor's Plan proposes payment in full to all creditors within a relatively short period of time. Debtor should be given sufficient time to obtain confirmation of this Plan, especially when the primary opposition comes from one secured creditor.

The value of the property in question is presently subject of a stay relief motion and Debtor is in the process of getting an appraisal on the value thereof. However, Debtor believes the property is worth considerably more than the loan encumbering it. Debtor-in-Possession further believes that the sole motivation for the secured creditor to be so aggressive in foreclosing is that it too knows of its considerable value and wishes to secure a windfall at the expense of Debtor and Debtor's other creditors. Debtor-in-Possession is in the midst of negotiations with a lender to secure financing to refinance the property the secured creditor in question seeks to foreclose upon and believes there is a strong chance these negotiations will succeed. However, the property is many thousands of acres and the primary value of the property is related to its use as a water banking facility. This is inherently complex and makes valuation and financing more difficult than average farmland. In addition, the

COVID-19 pandemic has delayed the lender's operations which have prolonged negotiations.

As mentioned, notable no creditor including the primary secured creditor, Sandton Credit Solutions Master Fund IV, has opposed the motion.

The motion is GRANTED.

5. 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.

6. 16-13345-B-11 **IN RE: JONATHAN/PATRICIA MAYER**
CHI-3

MOTION FOR RELIEF FROM AUTOMATIC STAY AND/OR MOTION FOR RELIEF FROM CO-DEBTOR STAY
7-20-2020 [307]

JOSE MARQUEZ/MV
PETER FEAR/ATTY. FOR DBT.
JOHN HAMMERSTRAND/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, Jose Marquez ("Movant"), seeks relief from the automatic stay under § 362(d)(1) to proceed under applicable non-bankruptcy law and establish debtor Jonathan Mayer's ("Debtor") liability for injuries suffered by him. Doc. #311. Movant received medical care from Debtor in April 2016 (pre-petition), and Movant filed a negligence case post-petition in July 2018 in Madera County Superior Court. Debtor has provided insurance coverage for the negligence alleged, and Movant now seeks to limit recovery to the insurance proceeds.

When a movant prays for relief from the automatic stay to initiate or continue non-bankruptcy court proceedings, a bankruptcy court must consider the "Curtis factors" in making its decision. In re Kronemyer, 405 B.R. 915, 921 (9th Cir. B.A.P. 2009). The relevant factors in this case include:

(1) whether the relief will result in a partial or complete resolution of the issues;
(2) the lack of any connection with or interference with the bankruptcy case;
(3) whether the foreign proceeding involves the debtor as a fiduciary;
(4) whether a specialized tribunal has been established to hear the particular cause of action and whether that tribunal has the expertise to hear such cases;
(5) whether the debtor's insurance carrier has assumed full financial responsibility for defending the litigation;
(6) whether the action essentially involves third parties, and the debtor functions only as a bailee or conduit for the goods or proceeds in question;
(7) whether the litigation in another forum would prejudice the interests of other creditors, the creditors' committee and other interested parties;
(8) whether the judgment claim arising from the foreign action is subject to equitable subordination under section 510(c);
(9) whether movant's success in the foreign proceeding would result in a judicial lien avoidable by the debtor under section 522(f);
(10) the interests of judicial economy and the expeditious and economical determination of litigation for the parties;
(11) whether the foreign proceedings have progressed to the point where the parties are prepared for trial; and
(12) the impact of the stay on the parties and the "balance of hurt"

Relief from the stay may result in complete resolution of the issues and the matter in the state courts is unrelated to this bankruptcy. Movant has stated that they will only be looking to insurance proceeds and NOT property of the debtor, so the interests of other creditors will not be prejudiced. The state court action is a medical negligence action, and not a matter the bankruptcy court should decide. The interests of judicial economy and the impact of

the stay on the parties and the "balance of hurt" weigh in favor of permitting the state court action to proceed to judgment.

This motion will be granted only for the limited purpose of continuing with the state court action to liquidate the claim and to seek relief against the insurance policy, only. Any further relief will require another motion. This ruling does not permit movant to proceed with any collection action against the bankruptcy estate without a separate court order from this court.

The 14-day stay of Fed. R. Bankr. P. 4001(a)(3) will be ordered waived since Movant is only seeking recovery against the insurance policy.

7. 20-12496-B-11 **IN RE: NORTHGRAND ESTATES, LLC**
MRT-1

MOTION TO EXTEND AUTOMATIC STAY AND/OR MOTION FOR ADEQUATE PROTECTION
7-31-2020 [14]

NORTHGRAND ESTATES, LLC/MV
MICHAEL TOTARO/ATTY. FOR DBT.

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Denied.

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

This motion is DENIED. Constitutional due process requires that the movant make a *prima facie* showing that they are entitled to the relief sought. Here, the moving papers do not present "sufficient factual matter, accepted as true, to 'state a claim to relief that is plausible on its face.'" In re Tracht Gut, LLC, 503 B.R. 804, 811 (9th Cir. BAP, 2014), citing Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009), and Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 570 (2007).

11 U.S.C. § 362(c)(3) requires that the debtor seeking an extension of the automatic stay be "an individual . . . ." Debtor is not an individual. Debtor is a limited liability company named Northgrand Estates, LLC. Page 1, section 6 of debtor's petition states debtor is a corporation. Debtor provides no authority that § 362 (c) (3) is applicable here.

Therefore, debtor is not entitled to the relief requested and the motion is DENIED.

8. 17-13797-B-9 **IN RE: TULARE LOCAL HEALTHCARE DISTRICT**
WJH-13

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

TULARE LOCAL HEALTHCARE DISTRICT/MV
RILEY WALTER/ATTY. FOR DBT.

NO RULING

The parties are advised that the Judicial Law Clerk for this Department, Mr. Leatham, has accepted a position with the Wanger Jones Helsley law firm. Mr. Leatham is screened from considering this and any other matters involving that firm until he is no longer employed by the court. The parties are urged to consult with their clients and determine whether they will ask the court to recuse from this matter notwithstanding the screen process involving Mr. Leatham.

This omnibus objection has been resolved either by stipulation or order as to all claimants except Flexcare, LLC. There have been three orders on this objection.

First, objections to five claims were sustained on January 16, 2020. Doc. #1936. Second, the claim of Logix Health was disallowed by order dated January 29, 2020. Doc. #1961. Third, the objection to LocumTenens.com LLC was resolved by stipulation and order on July 17, 2020. Doc. #2244.

A review of the docket shows that Flexcare's claim was among the claims subject to this omnibus objection. The objection was based on filing of the claims after the bar date. It appears that both Flexcare and its outside counsel were served twice with the notice of hearing. See doc. #1721, 1732.

But no order including Flexcare has apparently been entered. At the hearing the debtor shall address this issue.

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

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

TULARE LOCAL HEALTHCARE DISTRICT/MV
RILEY WALTER/ATTY. FOR DBT.
RESPONSIVE PLEADING

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

DISPOSITION: Dropped from calendar.

NO ORDER REQUIRED: Resolved by stipulation. Doc. #2250.

11:00 AM

1. 20-11406-B-7 **IN RE: ANTHONY TAPIA**

PRO SE REAFFIRMATION AGREEMENT WITH ONEMAIN FINANCIAL GROUP, LLC
7-28-2020 [35]

NO RULING.

1:30 PM

1. 17-11824-B-7 **IN RE: HORISONS UNLIMITED**
JES-3

MOTION FOR COMPENSATION FOR JAMES SALVEN, CHAPTER 7 TRUSTEE(S)
7-13-2020 [1203]

JAMES SALVEN/MV
CECILY DUMAS/ATTY. FOR DBT.
PETER FEAR/ATTY. FOR MV.

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

DISPOSITION: Granted.

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

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

This motion is GRANTED. 11 U.S.C. §§ 326 and 330 allow reasonable compensation to the chapter 7 trustee for the trustee's services. 11 U.S.C. § 330 requires the court to find that the fees requested are reasonable and for actual and necessary services to the estate, as well as reimbursement for actual and necessary expenses.

Chapter 7 Trustee James Salven ("Trustee") requests fees of $222,228.58 and costs of $5,399.58 for a total of $227,628.16 as statutory compensation and actual and necessary expenses. During the course of this case, Trustee conducted the meeting of creditors, employed counsel and real estate brokers, auctioned estate property, paid administrative expenses, and settled disputes with the debtor.

The court finds Trustee's services were actual and necessary to the estate, and the fees are reasonable in accordance with the commission permitted under § 326(a). The case had valuable assets and required extensive legal and trustee services. The motion is GRANTED and Trustee is awarded the requested fees and costs.

2. 17-11824-B-7 **IN RE: HORISONS UNLIMITED**
RTW-4

MOTION FOR COMPENSATION FOR RATZLAFF TAMBERI & WONG ACCOUNTANCY CORPORATION, ACCOUNTANT(S)
7-16-2020 [1209]

JANZEN, TAMBERI AND WONG, ACCOUNTANCY CORPORATION/MV
CECILY DUMAS/ATTY. FOR DBT.

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

DISPOSITION: Granted.

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

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

The motion will be GRANTED. Debtor's accountants, Ratzlaff, Tamberi & Wong, requests fees of $34,006.00 and costs of $180.00 for a total of $34,186.00 for services rendered from October 31, 2018 through May 15, 2020.

11 U.S.C. § 330(a)(1)(A) & (B) permits approval of "reasonable compensation for actual necessary services rendered by . . .[a] professional person" and "reimbursement for actual, necessary expenses." Movant's services included, without limitation: (1) Preparation of federal and state tax forms, (2) Preparation of accurate accounting information, and (3) Reviewed and analyzed information in order to identify potential recoveries of preferential payments. The court finds the services reasonable and necessary and the expenses requested actual and necessary.

Movant shall be awarded $34,006.00 in fees and $180.00 in costs.

3. 19-10529-B-7 **IN RE: BRENT/CHRISTINA KUTZBACH**
JES-4

MOTION FOR COMPENSATION FOR JAMES E. SALVEN, CHAPTER 7 TRUSTEE(S)
6-15-2020 [108]

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

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

DISPOSITION: Dropped from calendar.

NO ORDER REQUIRED: Movant withdrew the motion. Doc. #119.

4. 18-14532-B-7 **IN RE: CHRISTY GRIFFIS**
UST-1

MOTION FOR DENIAL OF DISCHARGE OF DEBTOR UNDER 11 U.S.C. SECTION 727(A)
7-13-2020 [35]

TRACY DAVIS/MV
SCOTT LYONS/ATTY. FOR DBT.
TREVOR FEHR/ATTY. FOR MV.

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

DISPOSITION: Granted.

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

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

This motion is GRANTED. 11 U.S.C. § 727(a)(8) states that a debtor shall be granted a discharge unless "the debtor has been granted a discharge under this section . . . in a case commenced within 8 years before the date of the filing of the petition."

Debtor Christy Griffis ("Debtor") previously filed for chapter 7 relief on August 30, 2012 and received a discharge on December 5, 2012. Doc. #35. August 30, 2012 is within eight years of the date this petition was filed (November 7, 2018). Therefore, Debtor cannot receive a discharge in this case and the United States Trustee's motion is GRANTED.

5. 20-10840-B-7 **IN RE: RAQUEL RODRIGUEZ**
LEH-1

MOTION TO DISMISS DUPLICATE CASE
4-22-2020 [13]

RAQUEL RODRIGUEZ/MV
LAYNE HAYDEN/ATTY. FOR DBT.

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

DISPOSITION: Dropped from calendar.

NO ORDER REQUIRED: An order dismissing the case has already been entered. Doc. #27.

6. 19-13048-B-7 **IN RE: CRAIG BREWER**
RWR-3

MOTION FOR COMPENSATION FOR RUSSELL W. REYNOLDS, TRUSTEES ATTORNEY(S)
7-14-2020 [72]

PETER BUNTING/ATTY. FOR DBT.

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

DISPOSITION: Granted.

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

This motion was set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of the creditors, the debtor, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d

592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument. Upon default, factual allegations will be taken as true (except those relating to amount of damages). Televideo Systems, Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires that a plaintiff make a prima facie showing that they are entitled to the relief sought, which the movant has done here.

The motion will be GRANTED. Trustee's counsel, Russel Reynolds for Coleman & Horowitt, LLP, requests fees of $4,868.00 and costs of $269.50 for a total of $5,137.50 for services rendered from August 22, 2019 through July 15, 2020.

11 U.S.C. § 330(a)(1)(A) & (B) permits approval of "reasonable compensation for actual necessary services rendered by . . .[a] professional person" and "reimbursement for actual, necessary expenses." Movant's services included, without limitation: (1) Preparation of employment and fee, and (2) Successfully prosecuting a motion to sell estate assets free and clear of liens. The court finds the services reasonable and necessary and the expenses requested actual and necessary.

Movant shall be awarded $4,868.00 in fees and $269.50 in costs.

7. 20-11852-B-7 **IN RE: WALDO/VICTORIA RODRIGUEZ**
BPR-1

MOTION FOR RELIEF FROM AUTOMATIC STAY
8-3-2020 [26]

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.

The moving papers do not include an appropriate Docket Control Number as required by LBR 9014-1(c). The movant has previously used Docket Control Number BPR-1 in this case.

The court urges movant to review the Local Bankruptcy Rules before filing another motion.

8. 14-15354-B-7 **IN RE: CLARENCE HARRIS, JR. AND SARA HEDGPETH-HARRIS**
TMT-2

MOTION FOR COMPENSATION FOR TRUDI G. MANFREDO, CHAPTER 7 TRUSTEE(S)
1-17-2019 [34]

TRUDI MANFREDO/MV
THOMAS ARMSTRONG/ATTY. FOR DBT.
TRUDI MANFREDO/ATTY. FOR MV.

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

DISPOSITION: Granted.

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

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

This motion is GRANTED. 11 U.S.C. §§ 326 and 330 allow reasonable compensation to the chapter 7 trustee for the trustee's services. 11 U.S.C. § 330 requires the court to find that the fees requested are reasonable and for actual and necessary services to the estate, as well as reimbursement for actual and necessary expenses.

Chapter 7 Trustee Trudi Manfredo ("Trustee") requests fees of $5,000.00 and costs of $134.72 for a total of $5,134.72 as statutory compensation and actual and necessary expenses. During the course of this case, Trustee negotiated the sale of the bankruptcy estate's interest in several vehicles that were sold back to the debtors and collected accounts receivable and non-exempt bank funds. Doc. #36.

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

9. 18-12556-B-7 **IN RE: DANIEL SANCHEZ**
TMT-2

MOTION FOR COMPENSATION FOR TRUDI G. MANFREDO, CHAPTER 7 TRUSTEE(S)
1-18-2019 [38]

TRUDI MANFREDO/MV
OSCAR SWINTON/ATTY. FOR DBT.

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

DISPOSITION: Granted.

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

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

This motion is GRANTED. 11 U.S.C. §§ 326 and 330 allow reasonable compensation to the chapter 7 trustee for the trustee's services. 11 U.S.C. § 330 requires the court to find that the fees requested are reasonable and for actual and necessary services to the estate, as well as reimbursement for actual and necessary expenses.

Chapter 7 Trustee Trudi Manfredo ("Trustee") requests fees of $2,000.00 and costs of $62.29 for a total of $2,062.292 as statutory compensation and actual and necessary expenses. During the course of this case, Trustee investigated the actual value of one of debtor's vehicles, and negotiated the sale of the bankruptcy estate's interest in debtor's vehicle that was eventually sold to an over-bidder at the hearing. Doc. #39.

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

10. 20-12261-B-7 **IN RE: ALEX/IVETT GONZALEZ**
BPC-1

MOTION FOR RELIEF FROM AUTOMATIC STAY
7-20-2020 [15]

THE GOLDEN 1 CREDIT UNION/MV
R. BELL/ATTY. FOR DBT.
MICHAEL MYERS/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, 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 2013 Chevrolet Traverse ("Vehicle"). Doc. #15.

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 five pre-petition payments. The movant has produced evidence that debtors are delinquent at least $2,203.80. Doc. #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. The Vehicle is valued at $7,021.00 and debtor owes $12,029.13. Id.

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 debtors' 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 debtors have failed to make at least five pre-petition payments to Movant and the Vehicle is a depreciating asset.

11. 20-11778-B-7 **IN RE: JOSE MERCADO GODINES AND VERONICA GODINEZ**
DVW-1

MOTION FOR RELIEF FROM AUTOMATIC STAY
7-13-2020 [22]

21ST MORTGAGE CORPORATION/MV
SCOTT LYONS/ATTY. FOR DBT.
DIANE WEIFENBACH/ATTY. FOR MV.

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

DISPOSITION: Denied without prejudice.

ORDER: The court will issue an order.

The motion will be DENIED WITHOUT PREJUDICE. The motion was filed on 28 days' notice, but the language in the notice fails to require written response within 14 days of the hearing in compliance with LBR 9014-1(f)(1).

12. 20-12479-B-7 **IN RE: JOSE GUERRERO**
SL-1

MOTION TO COMPEL ABANDONMENT
8-4-2020 [14]

JOSE GUERRERO/MV
SCOTT LYONS/ATTY. FOR DBT.

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

DISPOSITION: Granted.

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

This motion was set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of the

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

11 U.S.C. § 554(b) provides that "on request of a party in interest and after notice and a hearing, the court may order the trustee to abandon any property of the estate that is burdensome to the estate or that is of inconsequential value and benefit to the estate." In order to grant a motion to abandon property, the bankruptcy court must find either that: (1) the property is burdensome to the estate or (2) of inconsequential value and inconsequential benefit to the estate. In re Vu, 245 B.R. 644, 647 (9th Cir. B.A.P. 2000). As one court noted, "an order compelling abandonment is the exception, not the rule. Abandonment should only be compelled in order to help the creditors by assuring some benefit in the administration of each asset . . . Absent an attempt by the trustee to churn property worthless to the estate just to increase fees, abandonment should rarely be ordered." In re K.C. Mach. & Tool Co., 816 F.2d 238, 246 (6th Cir. 1987). And in evaluating a proposal to abandon property, it is the interests of the estate and the creditors that have primary consideration, not the interests of the debtor. In re Johnson, 49 F.3d 538, 541 (9th Cir. 1995) (noting that the debtor is not mentioned in § 554). In re Galloway, No. AZ-13-1085-PaKiTa, 2014 Bankr. LEXIS 3626, at 16-17 (B.A.P. 9th Cir. 2014).
Debtor asks this court to compel the chapter 7 trustee to abandon the estate's interest in debtor's sole proprietorship trucking business. Doc. #14. The assets include good will and a class A drivers' license. ("Business Assets").

Unless opposition is presented at the hearing, the court finds that the Business Assets are of inconsequential value and benefit to the estate. The Business Assets were accurately scheduled and are exempt from the bankruptcy estate. Therefore, this motion is GRANTED.

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

13. 20-10680-B-7 **IN RE: RICHARD/ALEXZANDREA ELLIS**
APN-1

MOTION FOR RELIEF FROM AUTOMATIC STAY
7-7-2020 [16]

TOYOTA MOTOR CREDIT CORPORATION/MV
NEIL SCHWARTZ/ATTY. FOR DBT.
AUSTIN NAGEL/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, Toyota Motor Credit Corporation ("Movant"), seeks relief from the automatic stay under 11 U.S.C. §§ 362(d)(1) and (d)(2) with respect to a 2014 Toyota Highlander ("Vehicle"). Doc. #16.

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 seven complete pre- and post-petition payments. The movant has produced evidence that debtors are delinquent at least $3,244.47. Docs. #18, 19.

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. The Vehicle is valued at $18,800.00 and debtor owes $23,938.18. Id.

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 debtors' Statement of Intention, the Vehicle will be surrendered.

14. 20-12480-B-7 **IN RE: MARY ANN CHAVEZ**
SL-1

MOTION TO COMPEL ABANDONMENT
8-4-2020 [14]

MARY ANN CHAVEZ/MV
SCOTT LYONS/ATTY. FOR DBT.

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

DISPOSITION: Granted.

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

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

11 U.S.C. § 554(b) provides that "on request of a party in interest and after notice and a hearing, the court may order the trustee to abandon any property of the estate that is burdensome to the estate or that is of inconsequential value and benefit to the estate." In order to grant a motion to abandon property, the bankruptcy court must find either that: (1) the property is burdensome to the estate or (2) of inconsequential value and inconsequential benefit to the estate. In re Vu, 245 B.R. 644, 647

(9th Cir. B.A.P. 2000). As one court noted, "an order compelling abandonment is the exception, not the rule. Abandonment should only be compelled in order to help the creditors by assuring some benefit in the administration of each asset . . . Absent an attempt by the trustee to churn property worthless to the estate just to increase fees, abandonment should rarely be ordered." In re K.C. Mach. & Tool Co., 816 F.2d 238, 246 (6th Cir. 1987). And in evaluating a proposal to abandon property, it is the interests of the estate and the creditors that have primary consideration, not the interests of the debtor. In re Johnson, 49 F.3d 538, 541 (9th Cir. 1995) (noting that the debtor is not mentioned in § 554). In re Galloway, No. AZ-13-1085-PaKiTa, 2014 Bankr. LEXIS 3626, at 16-17 (B.A.P. 9th Cir. 2014).

Debtor asks this court to compel the chapter 7 trustee to abandon the estate's interest in debtor's sole proprietorship business "Chavez Cleaning Services." The assets include tools of the trade, equipment, and inventory ("Business Assets"). Doc. #14.

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

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

15. 20-11295-B-7 **IN RE: MAURIN CONSTRUCTION CORP**
SSA-3

MOTION FOR APPROVAL OF STIPULATED AGREEMENT
7-23-2020 [59]

IRMA EDMONDS/MV
PETER FEAR/ATTY. FOR DBT.
STEVEN ALTMAN/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.

The chapter 7 trustee ("Trustee") asks for court approval of a stipulated agreement between the bankruptcy estate and Premier

Valley Bank ("PVB") for the assignment of multiple accounts that belonged to the debtor pre-petition. Doc. #59. The agreement gives PVB 75% of the of the residual net sum from the gross proceeds of each account after administrative fees and costs are deducted. The estate is entitled to 25% of the remainder.

Unless opposition is presented at the hearing, the court finds that Trustee has exercised her business judgment in reaching the stipulated agreement. The motion is GRANTED.