

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Robert S. Bardwil
Bankruptcy Judge
Sacramento, California

August 22, 2018 at 10:00 a.m.

INSTRUCTIONS FOR PRE-HEARING DISPOSITIONS

1. Matters resolved without oral argument:

Unless otherwise stated, the court will prepare a civil minute order on each matter listed. If the moving party wants a more specific order, it should submit a proposed amended order to the court. In the event a party wishes to submit such an Order it needs to be titled 'Amended Civil Minute Order.'

If the moving party has received a response or is aware of any reason, such as a settlement, that a response may not have been filed, the moving party must contact Nancy Williams, the Courtroom Deputy, at (916) 930-4580 at least one hour prior to the scheduled hearing.

2. The court will not continue any short cause evidentiary hearings scheduled below.
3. If a matter is denied or overruled without prejudice, the moving party may file a new motion or objection to claim with a new docket control number. The moving party may not simply re-notice the original motion.
4. If no disposition is set forth below, the matter will be heard as scheduled.

1.	17-26802-D-7	ADRIANA FONTES	MOTION FOR RELIEF FROM
	NLL-1		AUTOMATIC STAY
	U.S. BANK, N.A. VS.		7-19-18 [18]

Final ruling:

The matter is resolved without oral argument. The court's records indicate that no timely opposition has been filed and the relief requested in the motion is supported by the record. The debtor received her discharge on January 26, 2018 and, as a result, the stay is no longer in effect as to the debtor (see 11 U.S.C. § 362(c)(3)). Accordingly, the motion will be denied as to the debtor as moot. The court will grant relief from stay as to the trustee and the estate, and will waive FRBP 4001(a)(3). This relief will be granted by minute order. There will be no further relief afforded. No appearance is necessary.

2. 18-20604-D-11 BOB COOK COMPANY LLC

CONTINUED STATUS CONFERENCE RE:
VOLUNTARY PETITION
2-2-18 [1]

**MATTER TO BE HEARD AT 11:00
A.M.**

3. 18-24116-D-7 TERRY/YVONNE HERVEY

MOTION TO CONVERT CASE TO
CHAPTER 13
7-19-18 [23]

4. 15-29334-D-7 RAYLENE JEFFREY AND MARK
DNL-3 RUTLEDGE

MOTION FOR COMPENSATION BY THE
LAW OFFICE OF DESMOND, NOLAN,
LIVAICH & CUNNINGHAM FOR J.
LUKE HENDRIX, TRUSTEE'S
ATTORNEY(S)
7-24-18 [48]

Final ruling:

The matter is resolved without oral argument. The court's records indicate that no timely opposition has been filed. The record establishes, and the court finds, that the fees and costs requested are reasonable compensation for actual, necessary, and beneficial services under Bankruptcy Code § 330(a). As such, the court will grant the motion by minute order. No appearance is necessary.

5. 12-33136-D-7 GEORGE/IRENE ROSE
MKM-3

MOTION TO AVOID LIEN OF
NORTHERN CALIFORNIA GLAZIERS
TRUST FUNDS, ET AL.
7-11-18 [34]

Final ruling:

This is the debtors' motion to avoid a purported judicial lien held by Northern California Glaziers Trust Funds ("Glaziers"). The motion will be denied because the moving parties have not shown that Glaziers has a judicial lien. In order to avoid a judicial lien, "the debtor must make a competent record on all elements of the lien avoidance statute, 11 U.S.C. § 522(f)" (In re Mohring, 142 B.R. 389, 391 (Bankr. E.D. Cal. 1992)), including that the creditor has a lien that is a judicial lien. Goswami v. MTC Distrib. (In re Goswami), 304 B.R. 386, 390-91 (9th Cir. BAP 2003), quoting Mohring, 142 B.R. at 392. Here, the debtors have submitted a copy of the first page of an abstract of judgment in favor of Glaziers, but there is no admissible evidence the abstract was ever recorded. The debtors purport to testify that an abstract was recorded; however, their testimony is hearsay.

Further, the copy of the abstract of judgment the debtors filed as an exhibit is incomplete - it includes only the first page, which names only Regional Glass and Aluminum as the judgment debtor. The abstract indicates that information on additional judgment debtors is shown on page 2, but there is no copy of page 2 in the exhibit.

"The operative principle here is that although bankruptcy confers substantial benefits on the honest but unfortunate debtor, including a discharge of debts, the ability to retain exempt property, and the ability to avoid certain liens that impair exemptions, there is a price." Mohring, 142 B.R. at 396. Obtaining a complete copy of a recorded abstract of judgment seems a small price to pay to avoid an otherwise valid and enforceable property interest.

For the reasons stated, the motion will be denied by minute order. No appearance is necessary.

6. 12-33136-D-7 GEORGE/IRENE ROSE
MKM-4

MOTION TO AVOID LIEN OF
NORTHERN CALIFORNIA GLAZIERS
TRUST FUNDS, ET AL.
7-11-18 [41]

Final ruling:

This is the debtors' motion to avoid a purported judicial lien held by Northern California Glaziers Trust Funds ("Glaziers"). The motion will be denied because the moving parties have not shown that Glaziers has a judicial lien against their property. In order to avoid a judicial lien, "the debtor must make a competent record on all elements of the lien avoidance statute, 11 U.S.C. § 522(f)" (In re Mohring, 142 B.R. 389, 391 (Bankr. E.D. Cal. 1992)), including that the creditor has a lien that is a judicial lien. Goswami v. MTC Distrib. (In re Goswami), 304 B.R. 386, 390-91 (9th Cir. BAP 2003), quoting Mohring, 142 B.R. at 392. Here, the debtors have submitted a copy of the first page of an abstract of judgment in favor of Glaziers, but it names only Rose Glass and Aluminum as the judgment debtor. The abstract indicates that information on additional judgment debtors is shown on page 2, but there is no copy of page 2 in the exhibit.¹

"The operative principle here is that although bankruptcy confers substantial benefits on the honest but unfortunate debtor, including a discharge of debts, the ability to retain exempt property, and the ability to avoid certain liens that impair exemptions, there is a price." Mohring, 142 B.R. at 396. Obtaining a complete copy of a recorded abstract of judgment seems a small price to pay to avoid an otherwise valid and enforceable property interest.

For the reasons stated, the motion will be denied by minute order. No appearance is necessary.

1 The debtors testify that prior to the filing of their bankruptcy petition, they operated a sole proprietorship doing business as Rose Glass and Aluminum, which they closed pre-petition. That testimony is not borne out by their statement of financial affairs, which states that the only business in which they were officers, directors, partners, managing executives, or self-employed, in the six years prior to the filing, was Regional Glass & Aluminum, which they stated was run by their son, with no participation by the debtors. In order to demonstrate that there is a lien here for the court to avoid, the debtors will need to show that one or both of them are judgment debtors on the judgment underlying Glaziers' lien, and therefore, that the lien attached to the debtors' property.

7. 18-23048-D-7 ANGELIE AZIMI MOTION FOR RELIEF FROM
BDA-1 AUTOMATIC STAY
BMW BANK OF NORTH AMERICA 7-13-18 [15]
VS.

Final ruling:

This matter is resolved without oral argument. This is BMW Bank of North America's motion for relief from automatic stay. This matter has been resolved by a stipulation filed by the parties. Accordingly, the court will grant relief from stay and waive FRBP 4001(a)(3) by minute order. There will be no further relief afforded. No appearance is necessary.

8. 18-22453-D-11 ECS REFINING, INC. MOTION TO EXTEND TIME
FWP-18 7-25-18 [358]

This matter will not be called before 10:30 a.m.

9. 18-22453-D-11 ECS REFINING, INC. MOTION FOR RELIEF FROM
KSJ-3 AUTOMATIC STAY
CELESTE DONOHUE VS. 7-19-18 [341]

This matter will not be called before 10:30 a.m.

10. 18-23767-D-7 MERCED GARCIA MOTION FOR RELIEF FROM
JHW-1 AUTOMATIC STAY
7-20-18 [10]
SANTANDER CONSUMER USA, INC.
VS.

Final ruling:

This matter is resolved without oral argument. This is Santander Consumer USA, Inc.'s motion for relief from automatic stay. The court's records indicate that no timely opposition has been filed. The motion along with the supporting pleadings demonstrate that there is no equity in the subject property and debtor is not making post petition payments. The court finds there is cause for relief from stay, including lack of adequate protection of the moving party's interest. As the debtors are not making post-petition payments and the creditor's collateral is a depreciating asset, the court will also waive FRBP 4001(a)(3). Accordingly, the court will grant relief from stay and waive FRBP 4001(a)(3) by minute order. There will be no further relief afforded. No appearance is necessary.

11. 16-27672-D-7 DAVID LIND MOTION FOR RELIEF FROM
DW-1 AUTOMATIC STAY
PROJECT FUNDING CORP. VS. 7-24-18 [550]
12. 16-27672-D-7 DAVID LIND MOTION FOR RELIEF FROM
DW-2 AUTOMATIC STAY
PROJECT FUNDING CORP. VS. 7-24-18 [558]
13. 18-24380-D-7 MARK/KERI UNDERWOOD MOTION FOR RELIEF FROM
VVF-1 AUTOMATIC STAY
MECHANICS BANK VS. 7-19-18 [10]
14. 17-20689-D-11 MONUMENT SECURITY, INC. MOTION FOR RELIEF FROM
DR-3 AUTOMATIC STAY
AMAR RATTU VS. 7-16-18 [287]

Final ruling:

This matter is resolved without oral argument. This is Amar Rattu's motion seeking relief from automatic stay to pursue available insurance proceeds. The court's records indicate that the debtor, as a debtor-in-possession has filed a statement of non-opposition. The motion along with the supporting pleadings demonstrate that there is cause for granting limited relief from stay to allow the moving party to proceed with litigation, as is necessary, to collect against available insurance proceeds. Accordingly, the court will grant limited relief from stay to allow the moving party to proceed to judgment against the debtor for the limited purpose of pursuing any available insurance proceeds. There will be no further relief afforded. Moving party is to submit an appropriate order. No appearance is necessary.

15. 15-29890-D-7 GRAIL SEMICONDUCTOR
DNL-44

MOTION TO COMPROMISE
CONTROVERSY/APPROVE SETTLEMENT
AGREEMENT WITH BENJAMIN STERN,
NICOLE STERN AND RUSSELL
SPINNEY
7-25-18 [1047]

Final ruling:

The matter is resolved without oral argument. There is no timely opposition to the trustee's motion to approve compromise of controversy, and the trustee has demonstrated the compromise is in the best interest of the creditors and the estate. Specifically, the motion demonstrates that when the compromise is put up against the factors enumerated in In re Woodson, 839 F.2d 610 (9th Cir. 1988), the likelihood of success on the merits, the complexity of the litigation, the difficulty in collectability, and the paramount interests of creditors, the compromise should be approved. Accordingly, the motion is granted and the compromise approved. The moving party is to submit an appropriate order. No appearance is necessary.

16. 15-29890-D-7 GRAIL SEMICONDUCTOR
DNL-45

MOTION TO USE ESTATE FUNDS
7-25-18 [1052]

Final ruling:

The matter is resolved without oral argument. The court's records indicate that no timely opposition has been filed and the relief requested in the motion to use up to \$5,000 in estate funds to fund mediation is supported by the record. As such the court will grant the motion. Moving party is to submit an appropriate order. No appearance is necessary.

17. 18-23693-D-7 TIANNA LOGAN
JHW-1
SANTANDER CONSUMER USA ,
INC. VS.

MOTION FOR RELIEF FROM
AUTOMATIC STAY
7-18-18 [12]

18. 18-20095-D-7 GINA CRONIN
JHW-1
SANTANDER CONSUMER USA ,
INC. VS.

MOTION FOR RELIEF FROM
AUTOMATIC STAY
7-13-18 [84]

Final ruling:

This matter is resolved without oral argument. This is Santander Consumer USA, Inc.'s motion for relief from automatic stay. The court's records indicate that no timely opposition has been filed. The motion along with the supporting pleadings demonstrate that there is no equity in the subject property and debtor is not making post petition payments. The court finds there is cause for relief from stay, including lack of adequate protection of the moving party's interest. As the debtor is not making post-petition payments and the creditor's collateral is a depreciating asset, the court will also waive FRBP 4001(a)(3). Accordingly, the court will grant relief from stay and waive FRBP 4001(a)(3) by minute order. There will be no further relief afforded. No appearance is necessary.

Final ruling:

This is the debtor's motion to avoid the lien of an earnings withholding order issued in favor of Capital One Bank (USA), N.A. (the "Bank"). The motion will be denied for the following reasons. First, the moving party failed to serve the Bank in strict compliance with Fed. R. Bankr. P. 7004(h), as required by Fed. R. Bankr. P. 9014(b).

The moving party purported to serve the Bank (1) through the agent for service of process of another entity; (2) through the attorneys who obtained the earnings withholding order; and (3) at a street address with no attention line. The first method was insufficient because service on an FDIC-insured institution, such as the Bank, must be to the attention of an officer, whereas it is unlikely an officer of the Bank is to be found at the address of the Bank's agent for service of process. Further, the agent for service of process served by the moving party is the agent for service of process of Capital One, National Association, an entity different from the Bank.¹ The second method was insufficient because there is no evidence the attorneys are authorized to accept service of process on behalf of the Bank in bankruptcy contested matters. See In re Villar, 317 B.R. 88, 93 (9th Cir. BAP 2004). The third method was insufficient because service on an FDIC-insured institution, such as the Bank, must be to the attention of an officer, whereas here, there was no attention line. All three methods were insufficient for the additional reason that service on an FDIC-insured institution must be by certified mail (compare Fed. R. Bankr. P. 7004(b)(3) and preamble to Rule 7003(b) with Rule 7004(h)), whereas here, service was made by first-class mail.

Apparently having discovered the insufficiency of her initial service, the moving party later properly served the Bank by certified mail to the attention of an officer. However, such service was made on July 31, 2018, which was 22 days prior to the hearing date. (The original incorrect service was made the day the moving papers were filed, July 20, 2018.) As the notice of hearing stated that written opposition would be required at least 14 days prior to the hearing date, service on July 31, 2018, although in compliance with the rule governing whom to serve, was not in compliance with LBR 9014-1(f)(1).

In the event another motion is filed, the moving party should also clarify the nature of the relief requested. The motion refers to three different amounts - the amount due the Bank as of the date of the earnings withholding order, the amount of the debtor's claim of exemption, and the amount currently held by the Sheriff's Office, and requests that the execution lien be avoided and that the court order "that the funds are the exempt property of the debtor." As to the amount the debtor has claimed as exempt, the motion adds that "[t]he trustee has NOT asserted his avoidance power regarding these funds." However, the motion does not specify the amount as to which the lien is to be avoided. The court would be prepared to order the lien avoided to the extent of the \$450.51 still held by the Sheriff's Office. As to any amounts collected earlier by the Sheriff's Office and turned over to Bank, the debtor has not made a showing under any of the avoidance statutes referred to in § 522(h) of the Code, only a showing under § 522(f).

Finally, the court must admonish the moving party and her counsel to be cautious about statements made in sworn declarations. In her declaration supporting

this motion, the debtor testifies, "[t]he trustee has examined me pursuant to 11 U.S.C. §341 and determined that my bankruptcy estate will not distribute any assets for the benefit of unsecured creditors." Debtor's Decl., filed July 20, 2018, ¶ 7. According to the Notice of Chapter 7 Bankruptcy Case, the meeting of creditors was not scheduled until August 8, 2018.

As a result of the service defect described above, the motion will be denied by minute order. No appearance is necessary.

1 According to the FDIC, there are two different active entities having "Capital One" in their names - Capital One, National Association, headquartered in McLean, Virginia, and Capital One Bank (USA), National Association, headquartered in Glen Allen, Virginia. The moving party served the agent for service of process of Capital One, National Association, whereas the earnings withholding order is in favor of Capital One Bank (USA), N.A.

20. 18-24295-D-7 CANDACE KIRVEN-PRAYER MOTION TO REDEEM
HDR-2 7-20-18 [14]

Final ruling:

This is the debtor's motion to redeem a Kia Sportage from the lien of One Main Financial. The motion will be denied because the information in the motion and declaration is inconsistent, and therefore, insufficient to provide adequate notice, and also because the moving party has failed to submit evidence demonstrating she is entitled to the relief requested, as required by LBR 9014-1(d) (3) (D).

The motion states the debtor purchased the vehicle on or about January 2015, whereas the debtor testifies she purchased it on September 1, 2017. She also testifies she believes the balance due is approximately \$1,786, whereas the debtor's Schedule D, filed as an exhibit to the motion, lists that figure as the unsecured portion of One Main's claim, with the total amount of the claim listed as \$2,582. Finally, the motion describes the vehicle as a 2007 Kia Sportage, whereas the debtor testifies it is a 2016 Kia Sportage. With these inconsistencies, the court finds that notice to the Bank was not sufficient and, further, the court cannot determine whether to grant the motion.

Finally, the debtor has failed to submit evidence sufficient to carry her burden of proof that the amount of One Main's allowed secured claim is \$796. The debtor testifies she believes the fair market value of the vehicle is \$796. There is no mention in the motion or declaration of the vehicle's "replacement value," which is the standard by which the court is to assess its value for the purpose of determining the amount of One Main's allowed secured claim (Bankruptcy Code § 506(a)(2)), in turn, for the purpose of determining the amount the debtor must pay to One Main to redeem the vehicle. § 722.

For the reasons stated, the motion will be denied by minute order. No appearance is necessary.

21. 18-21899-D-7 TODD LUSH MOTION TO SELL
BHS-2 7-20-18 [20]

22. 18-22453-D-11 ECS REFINING, INC. CONTINUED MOTION FOR RELIEF
BJ-2 FROM AUTOMATIC STAY
SUMMITBRIDGE NATIONAL 7-6-18 [248]
INVESTMENTS V, LLC VS.

This matter will not be called before 10:30 a.m.

23. 18-22453-D-11 ECS REFINING, INC. CONTINUED MOTION TO CONVERT
BJ-3 CASE FROM CHAPTER 11 TO CHAPTER 7
7-6-18 [256]

This matter will not be called before 10:30 a.m.

24. 18-22453-D-11 ECS REFINING, INC. CONTINUED MOTION TO ABANDON
FWP-12 7-6-18 [263]

This matter will not be called before 10:30 a.m.

25. 18-22453-D-11 ECS REFINING, INC. CONTINUED MOTION TO REJECT
FWP-13 LEASE OR EXECUTORY CONTRACT
7-6-18 [269]

This matter will not be called before 10:30 a.m.

26. 18-22453-D-11 ECS REFINING, INC. CONTINUED MOTION TO REJECT
FWP-14 LEASE OR EXECUTORY CONTRACT
7-6-18 [276]

This matter will not be called before 10:30 a.m.

27. 18-22453-D-11 ECS REFINING, INC. CONTINUED MOTION TO REJECT
FWP-15 LEASE OR EXECUTORY CONTRACT
7-6-18 [283]

This matter will not be called before 10:30 a.m.

28. 18-22453-D-11 ECS REFINING, INC. FINAL HEARING RE: MOTION TO USE
FWP-19 CASH COLLATERAL AND/OR MOTION
TO SCHEDULE A FINAL HEARING
8-3-18 [380]

This matter will not be called before 10:30 a.m.

29. 16-21659-D-7 TRONG NGUYEN
NOS-5

MOTION TO EMPLOY CHRISTOPHER D.
HUGHES AS ATTORNEY(S)
8-9-18 [154]

30. 15-29890-D-7 GRAIL SEMICONDUCTOR
DNL-46

MOTION TO COMPROMISE
CONTROVERSY/APPROVE SETTLEMENT
AGREEMENT WITH SCHWARTZ,
RIMBERG & MORRIS, LLP
8-1-18 [1056]

Tentative ruling:

This is the trustee's motion to approve a compromise with Schwartz, Rimberg & Morris, LLP (the "Schwartz Firm"). Steven Fredman has filed opposition. For the following reasons, the motion will be granted.

"The law favors compromise and not litigation for its own sake, and as long as the bankruptcy court amply considered the various factors that determined the reasonableness of the compromise, the court's decision must be affirmed." In re A & C Properties, 784 F.2d 1377, 1381 (9th Cir. 1986). Although the bankruptcy court has "great latitude in approving compromise agreements," it may approve a compromise only if it is "fair and equitable." In re Woodson, 839 F.2d 610, 620 (9th Cir. 1988), citing A & C Properties, 784 F.2d at 1381. In making this determination, the court must consider:

(a) The probability of success in the litigation; (b) the difficulties, if any, to be encountered in the matter of collection; (c) the complexity of the litigation involved, and the expense, inconvenience and delay necessarily attending it; (d) the paramount interest of the creditors and a proper deference to their reasonable views in the premises.

Id. "Each factor need not be treated in a vacuum; rather, the factors should be considered as a whole to determine whether the settlement compares favorably with the expected rewards of litigation." Greif & Co. v. Shapiro (In re Western Funding Inc.), 550 B.R. 841, 851 (9th Cir. BAP 2016). The proponent of the compromise - here, the trustee - has the burden of persuasion. A & C Properties, 784 F.2d at 1381.

This is the trustee's second compromise with the Schwartz Firm. The first, which was approved in September of 2017, resolved the Schwartz Firm's claim against the estate, which was a claim for an unknown amount in excess of \$2,097,109, alleged by the Schwartz Firm to be secured by an attorney's charging lien against the remaining proceeds of the debtor's pre-petition litigation against Mitsubishi Electric & Electronics USA, Inc. ("Mitsubishi"). Among the components of the first compromise, the Schwartz Firm agreed to pay the estate 26% of its gross recovery, if any, from an action the Schwartz Firm intended to file against Mitsubishi in state

court, subject to a cap of \$630,000. The first compromise also resolved the estate's claims against the Schwartz Firm, including claims for legal malpractice and breach of fiduciary duty in connection with its representation of the debtor in the Mitsubishi litigation.

Since the first compromise was approved, the Schwartz Firm has recovered \$190,000 from Mitsubishi, along with an assignment of Claim No. 32, which is a claim filed by Mitsubishi against the estate for an unknown amount, contingent, and unliquidated. The claim seeks recovery of amounts Mitsubishi might have to pay to the Schwartz Firm and/or another law firm that also represented the debtor in the Mitsubishi litigation. The Schwartz Firm and the other law firm contended Mitsubishi wrongly paid the pre-petition settlement amount to the debtor without also paying the firms' alleged attorney's lien claims. As Mitsubishi has now paid the Schwartz Firm \$190,000, Claim No. 32 could arguably be amended to a claim for \$190,000. As indicated, Claim No. 32 is now held by the Schwartz Firm, by assignment from Mitsubishi.

Under the first compromise between the trustee and the Schwartz Firm, the trustee is entitled to 26% of the Schwartz Firm's \$190,000 recovery, or \$49,400. The trustee and the Schwartz Firm have now entered into a second compromise, under which that amount will be reduced to 20%, or \$38,000. In exchange, the Schwartz Firm agrees Claim No. 32 - Mitsubishi's claim against the estate, which the Schwartz Firm holds by assignment - will be disallowed with prejudice. The court readily agrees with the trustee that the amount given up by the estate in the second compromise, \$11,400, is a small price to pay to avoid litigation that might arise over Claim No. 32. The court has no hesitation in concluding that, in light of the four factors the court is to consider under Woodson, the compromise is fair and equitable.

Mr. Fredman opposes the motion, claiming he was "scammed" out of \$10,000 by the debtor but "no attempt has been made to return [his] money" He also suggests, in conclusory fashion, the "rich and powerful" and their lawyers are causing him to not be repaid. He therefore claims the circumstances of the settlement are not being adequately considered and the settlement is unfair, arbitrary, and capricious. What Mr. Fredman fails to recognize is that this is and has been a complicated case, with difficult and time-consuming disputes needing to be resolved - or remaining to be litigated - between the trustee and a variety of creditors before a distribution can be made to general creditors. It is an unfortunate situation for Mr. Fredman and the others who lost money, but there is no basis for the court to conclude that Mr. Fredman's claim and the claims of others similarly situated have not been adequately considered.

Litigation over Claim No. 32 would likely be time-consuming, complex, and costly. This factor far outweighs the benefit the estate would receive absent the compromise, \$11,400. It is also significant, in terms of the paramount interest of creditors, that no creditors other than Mr. Fredman have opposed the motion. On balance, and taking into account the rights of Mr. Fredman and others like him, the court concludes the compromise is fair and equitable and the motion will be granted.

The court will hear the matter.

31. 18-22453-D-11 ECS REFINING, INC. MOTION TO USE CASH COLLATERAL
FWP-21 AND/OR MOTION TO SCHEDULE A
FINAL HEARING O.S.T.
8-17-18 [441]
32. 18-23396-D-11 METRO PALISADES, LLC MOTION TO BORROW O.S.T.
RAH-4 8-17-18 [71]