



UNITED STATES BANKRUPTCY COURT
Eastern District of California
Honorable Jennifer E. Niemann
Hearing Date: Wednesday, August 27, 2025
Department A – Courtroom #11
Fresno, California

Unless otherwise ordered, all matters before the Honorable Jennifer E. Niemann shall be simultaneously: (1) **In Person** at, Courtroom #11 (Fresno hearings only), (2) via **ZoomGov Video**, (3) via **ZoomGov Telephone**, and (4) via **CourtCall**. You may choose any of these options unless otherwise ordered or stated below.

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

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

Please also note the following:

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

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

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

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

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

INSTRUCTIONS FOR PRE-HEARING DISPOSITIONS

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

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

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

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

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

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

1. [25-10505](#)-A-11 **IN RE: WATTS CHOPPING**
[CAE-1](#)

CONTINUED STATUS CONFERENCE RE: CHAPTER 11 SUBCHAPTER V VOLUNTARY PETITION
2-21-2025 [[1](#)]

LEONARD WELSH/ATTY. FOR DBT.

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

DISPOSITION: Dropped from calendar

ORDER: The court will issue an order.

An order confirming the debtor's chapter 11 plan was entered on August 22, 2025. Doc. #195. Therefore, the status conference will be dropped from calendar.

2. [25-10505](#)-A-11 **IN RE: WATTS CHOPPING**
[YW-6](#)

CONTINUED MOTION TO CONFIRM CHAPTER 11 PLAN
6-24-2025 [[129](#)]

WATTS CHOPPING/MV
LEONARD WELSH/ATTY. FOR DBT.
RESPONSIVE PLEADING

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

DISPOSITION: Dropped from calendar.

NO ORDER REQUIRED.

This motion is moot because an order confirming the debtor's chapter 11 plan was entered on August 22, 2025. Doc. #195.

3. [24-12709](#)-A-11 **IN RE: KEWEL MUNGER**
[CAE-1](#)

CONTINUED STATUS CONFERENCE RE: CHAPTER 11 VOLUNTARY PETITION
9-17-2024 [[1](#)]

RILEY WALTER/ATTY. FOR DBT.
CLOSED 8/5/2025

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

DISPOSITION: Dropped from calendar

ORDER: The court will issue an order.

An order dismissing the bankruptcy case was entered on July 17, 2025.
Doc. #454. Therefore, the status conference will be dropped from calendar.

4. [24-12709](#)-A-11 **IN RE: KEWEL MUNGER**
[WJH-14](#)

CONTINUED EVIDENTIARY HEARING RE: MOTION FOR TURNOVER OF PROPERTY UNDER
SEC. 542(A)
12-11-2024 [[140](#)]

KEWEL MUNGER/MV
RILEY WALTER/ATTY. FOR DBT.
CLOSED 8/5/2025

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

DISPOSITION: Dropped from calendar

ORDER: The court will issue an order.

An order dismissing the bankruptcy case was entered on July 17, 2025.
Doc. #454. Therefore, the evidentiary hearing setting conference will be
dropped from calendar.

5. [22-12016](#)-A-11 **IN RE: FUTURE VALUE CONSTRUCTION, INC.**
[CAE-1](#)

CONTINUED STATUS CONFERENCE RE: CHAPTER 11 VOLUNTARY PETITION
11-28-2022 [[1](#)]

D. GARDNER/ATTY. FOR DBT.

NO RULING.

6. [22-12016](#)-A-11 **IN RE: FUTURE VALUE CONSTRUCTION, INC.**
[DMG-17](#)

MOTION TO BORROW
8-13-2025 [[606](#)]

FUTURE VALUE CONSTRUCTION, INC./MV
D. GARDNER/ATTY. FOR DBT.

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Granted.

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

This motion was filed and served on at least 14 days' notice prior to the
hearing date 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.

DIP owns and operates a residential subdivision in Bakersfield, California that includes 6 finished lots, 43 substantially finished lots and 21.2 acres of vacant land approved for development into 62 lots (collectively, the "Development Lots"). Decl. of Chuck R. Thomason, Doc. #608. Logan Investments, Inc., as agent for Robert Korda, Trustee of the Survivor's Trust created under the Robert and Rosina Korda Living Trust dated August 28, 2002 ("Lender"), holds a \$2.6 million loan extended to DIP prepetition and secured, by among other things, a first priority deed of trust against the Development Lots. Id.

DIP seeks to borrow an additional \$176,181.10 from Lender under the terms of Lender's existing loan documents and secured by the collateral that already secures Lender's loan as well as a first deed of trust against DIP's real property commonly referred to as Phase 1, Lot 8 (12104 Wildhorse Ave.) in Lakeview at Rio Bravo ("Lot 8"), subject only to any real property taxes owed on Lot 8. Motion, Doc. #606; Thomason Decl., Doc. #608. Lot 8 currently has an existing deed of trust in favor of Bon and Kathleen Reynolds (the "Reynolds DOT"). Motion, Doc. #606. The Reynolds agree to subordinate the Reynolds DOT to Lender. Thomason Decl., Doc. #608. DIP is unable to obtain credit in any other manner. Id.

The purpose of the additional loan is to pay for the "Phase 2 Proportionate Fair Share Fees" necessary to complete the bonding for Phase 2, which is the last step to obtaining the Phase 2 Tract Map. Thomason Decl., Doc. #608. Lender will advance \$60,000.00 that remains from the original \$2.6 million loan extended by Lender and advance the remaining \$110,181.00 required to satisfy the Phase 2 Proportionate Fair Share Fees. Id. The proposed borrowing will allow DIP to offer the 43 additional lots in Phase 2 to clients. Id. The lots in Phase 2 are larger lots, cul-de-sac lots and view lots requested by clients that DIP is currently unable to offer for sale. Id. DIP asserts that the additional 43 lots in Phase 2, with final map approvals from the City of Bakersfield, will add tremendous value to DIP's estate and will promote new opportunities for refinancing, spec construction financing, and the ability to sell pre-sold units on the new premium lots. Id.

Section 364(d) of the Bankruptcy Code permits the court to authorize the incurring of debt secured by a senior or equal lien on property of the estate that is subject to a lien only if:

- (A) the chapter 11 debtor in possession is unable to obtain such credit otherwise; and
- (B) there is adequate protection of the interest of the holder of the lien on the property of the estate on which such senior lien is proposed to be granted.

11 U.S.C. § 364(d)(1). The debtor bears the burden of proof on the issue of adequate protection. 11 U.S.C. § 364(d)(2). "The determination of adequate protection is a fact-specific inquiry." In re Mosello, 195 B.R. 277, 289 (Bankr. S.D.N.Y. 1996). The purpose of § 364(d) is to "facilitate a plan that will inure to the benefit of all creditors and the estate." In re Stoney Creek Techs., LLC, 364 B.R. 882, 895 (Bankr. E.D. Pa. 2007).

Courts generally give debtors in possession considerable deference to determine, in their business judgment, the terms under which they obtain post-petition secured credit. See, e.g., In re Los Angeles Dodgers LLC, 457 B.R.

308, 313 (Bankr. D. Del. 2011) ("[C]ourts will almost always defer to the business judgment of a debtor in the selection of the lender."); In re Ames Dep't Stores, Inc., 115 B.R. 34, 40 (Bankr. S.D.N.Y. 1990) ("[C]ases consistently reflect that the court's discretion under section 364 is to be utilized on grounds that permit reasonable business judgment to be exercised so long as the financing agreement does not contain terms that leverage the bankruptcy process and powers or its purpose is not so much to benefit the estate as it is to benefit a party-in-interest.").

To determine whether a debtor in possession has met this business judgment standard, a court need only "examine whether a reasonable business person would make a similar decision under similar circumstances." In re Exide Techs., 340 B.R. 222, 239 (Bankr. D. Del. 2006); see also In re Curlew Valley Assocs., 14 B.R. 506, 513-14 (Bankr. D. Utah 1981) (recognizing the court should not entertain objections to a trustee's business decision when that decision involves "a business judgment made in good faith, upon a reasonable basis, and within the scope of his authority under the [Bankruptcy] Code").

Based on the evidence before this court, DIP requires the proposed borrowing from Lender to complete bonding for Phase 2 and obtain final map approvals for Phase 2 from the City of Bakersfield so DIP can offer the Phase 2 lots for sale to clients. DIP is unable to obtain the necessary credit from Lender without granting a senior lien on Lot 8. Thus, DIP has met its required showing under 11 U.S.C. § 364(d)(1)(A).

With respect to the requirement of showing adequate protection under 11 U.S.C. § 364(d)(1)(B), the court finds that the senior secured creditor on Lot 8 is adequately protected for the placement of a priority lien on Lot 8 by the holders' consent to the subordination as well as obtaining final map approval for Phase 2 so DIP can offer the additional 43 lots in Phase 2 for sale, at least some of which are premium lots requested by clients but currently unavailable.

Accordingly, pending opposition being raised at the hearing, the court will GRANT DIP's request for authority to borrow \$176,181.10 from Lender under the terms of Lender's existing loan documents and secured by the collateral that already secures Lender's loan as well as a first deed of trust against Lot 8, subject only to any real property taxes owed on Lot 8.

7. [24-12873](#)-A-11 **IN RE: GRIFFIN RESOURCES, LLC**
[CAE-1](#)

CONTINUED STATUS CONFERENCE RE: CHAPTER 11 SUBCHAPTER V VOLUNTARY PETITION
10-2-2024 [\[1\]](#)

RILEY WALTER/ATTY. FOR DBT.

NO RULING.

CONTINUED MOTION TO USE CASH COLLATERAL
1-13-2025 [\[6\]](#)

CAPITAL FARMS, INC./MV
PETER FEAR/ATTY. FOR DBT.
RESPONSIVE PLEADING

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Granted on an interim basis through November 26, 2025.

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

This motion was set for hearing pursuant to an interim order authorizing use of cash collateral ("Interim Order"). Doc. #228. The motion was heard initially on January 16, 2025, and again on January 22, 2025, February 12, 2025, March 6, 2025, March 26, 2025, April 23, 2025, June 11, 2025, and July 16, 2025 and was granted on an interim basis on January 24, 2025, February 13, 2025, March 11, 2025, March 31, 2025, April 24, 2025, June 11, 2025, and July 17, 2025. See Doc. ##54, 74, 110, 126, 170, 205, 228. A further hearing on use of cash collateral was set for August 27, 2025. Interim Order, Doc. #228. The Interim Order provided that the debtor shall file and serve a supplemental budget for use of cash collateral by August 13, 2025. Doc. #228.

On August 13, 2025, the debtor filed a supplemental budget for use of cash collateral from September 4, 2025 through November 26, 2025. Doc. #272. Because the request authorizing continued use of cash collateral was set on less than 28 days' notice, opposition to the continued use of cash collateral may be raised at the hearing. Unless opposition is presented at the hearing, the court intends to enter the respondents' defaults and grant continued use of cash collateral on an interim basis through November 26, 2025. If opposition is presented at the hearing, the court will consider the opposition and whether further hearing is proper. The court will issue an order if a further hearing is necessary.

Capital Farms, Inc. ("DIP" or "Debtor"), moves the court for an interim order authorizing Debtor to use the cash collateral of Tech Ag Financial Group, Inc. and Rabo AgriFinance LLC (together, "Lenders") for the period September 4, 2025 through November 26, 2025 subject to a proposed budget. Doc. #272. Debtor asserts Lenders hold duly perfected security interests in nearly all of Debtor's cash collateral. Motion, Doc. #6; Stipulation, Doc. #77.

Pursuant to 11 U.S.C. § 363, a debtor in possession can use property of the estate that is cash collateral by obtaining either the consent of each entity that has an interest in such cash collateral or court authorization after notice and a hearing. 11 U.S.C. § 363(c)(2). "The primary concern of the court in determining whether cash collateral may be used is whether the secured creditors are adequately protected." In re Plaza Family P'ship, 95 B.R. 166 (E.D. Cal. 1989) (citing 11 U.S.C. § 363(e)). Bankruptcy Code § 1205(b) requires DIP to provide adequate protection to the secured creditors for DIP's use of cash collateral for any decrease in the value of the secured creditors' interest in the accounts receivable due to DIP's use of cash collateral.

DIP moves the court for an interim order authorizing DIP to use cash collateral through November 26, 2025, consistent with the budget filed as Doc. #272. DIP seeks authority to use cash collateral from FSA grant payments and Debtor's 2025 almond crop in the total amount of \$342,626.09 for that period. Doc. #272.

DIP operates several almond farms on leased property. DIP seeks court authorization to use cash collateral from a processor advance to pay expenses needed to harvest its 2025 almond crop. As adequate protection for DIP's use of cash collateral, DIP will grant a replacement lien on incoming cash collateral to the extent cash collateral is actually used. Motion, Doc. #6; Stipulation, Doc. #77. The evidence filed in support of the motion shows that the projected value of the processor advance will be sufficient to support DIP's use of cash collateral from September 4, 2025 through November 26, 2025. Doc. #272. Lenders have consented to DIP's ongoing use of cash collateral by stipulation. Stipulation, Doc. #77; Order, Doc. #110. In addition, DIP has filed a chapter 12 plan, and DIP has a hearing set for September 4, 2025 to confirm that plan. Plan, Doc. #253; Notice, Doc. #252.

Accordingly, pending opposition being raised at the hearing, the motion will be GRANTED on a further interim basis through November 26, 2025, consistent with the budget set forth in Doc. #272. At the hearing, counsel for DIP should be prepared to set a new hearing date for the further use of cash collateral and a date to file and serve supplemental pleadings in case DIP has not confirmed a chapter 12 plan by November 26, 2025.

9. [25-11791](#)-A-11 **IN RE: FRED RAU DAIRY, INC**
[DJH-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
8-6-2025 [\[78\]](#)

CAROL FOXEN/MV
PETER FEAR/ATTY. FOR DBT.
DARRYL HOROWITT/ATTY. FOR MV.

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Granted.

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

This motion was filed and served on at least 14 days' notice prior to the hearing date pursuant to Local Rule of Practice ("LBR") 9014-1(f)(2) and will proceed as scheduled. While not required, the debtor filed written non-opposition on August 21, 2025. Doc. #90.

As a procedural matter, Federal Rules of Bankruptcy Procedure ("Rule") 4001(a)(1) and 9014 require service of a motion for relief from stay be made pursuant to Rule 7004. Rule 7004(b)(9) requires service on "the debtor, after a petition has been filed by or served upon a debtor, and until the case is dismissed or closed-by mailing the copy to the address shown on the debtor's petition or the address the debtor specifies in a filed writing[.]" Here, the debtor was not served with the motion and related pleadings by first class mail; only the debtor's counsel was served electronically, which complies with Rule 7004(g) but not Rule 7004(b)(9). Doc. #83. However, because the debtor

filed written non-opposition to the granting of this motion, the court deems service on the debtor to be sufficient under the circumstances.

Unless opposition is presented at the hearing, the court intends to enter the defaults of the non-responding parties and grant the motion. If opposition is presented at the hearing, the court will consider the opposition and whether further hearing is proper pursuant to LBR 9014-1(f)(2). The court will issue an order if a further hearing is necessary.

The movant, Carol Foxen ("Movant"), seeks relief from the automatic stay under 11 U.S.C. § 362(d)(1) and (d)(2) with respect to two parcels of vacant commercial real property comprising 258.75 acres and known as Fresno County APN No. 035-150-13s and APN No. 035-150-43s (together, the "Property"). Doc. #78.

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 any 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 the debtor has failed to make at least 2 complete post-petition payments. Movant has produced evidence that the debtor is delinquent by at least \$44,088.00. Decl. of Carol Foxen, Doc. #80.

The court also finds that the debtor does not have any equity in the Property and the Property is not necessary to an effective reorganization. The debtor values the Property at \$2,070,000, and the debtor owes \$2,562,534.91 to Movant. Schedules A/B & D, Doc. #21; Foxen Decl., Doc. #80. Also, the Property is vacant land that is not necessary for a reorganization. Foxen Decl., Doc. #80.

The debtor does not object to the court granting relief from the automatic stay to Movant. Doc. #90.

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

The 14-day stay of Fed. R. Bankr. P. 4001(a)(3) will be ordered waived because the debtor has failed to make at least 2 complete post-petition payments to Movant and the debtor does not oppose the motion.

1. [25-11514](#)-A-7 **IN RE: ALEXIS SILVA-CABRERA**

PRO SE REAFFIRMATION AGREEMENT WITH NOBLE CREDIT UNION
8-6-2025 [\[21\]](#)

PETER BUNTING/ATTY. FOR DBT.

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

DISPOSITION: Dropped.

ORDER: The court will issue an order.

The debtor's counsel will inform the debtor that no appearance is necessary.

The court is not approving or denying approval of the reaffirmation agreement. The debtor was represented by counsel when she entered into the reaffirmation agreement. Pursuant to 11 U.S.C. §524(c)(3), if the debtor is represented by counsel, the agreement must be accompanied by an affidavit of the debtor's attorney attesting to the referenced items before the agreement will have legal effect. In re Minardi, 399 B.R. 841, 846 (Bankr. N.D. Okla. 2009). The reaffirmation agreement, in the absence of a declaration by the debtor's counsel, does not meet the requirements of 11 U.S.C. §524(c) and is not enforceable. The debtor shall have 14 days to refile a reaffirmation agreement properly signed and endorsed by the attorney.

2. [25-11886](#)-A-7 **IN RE: KEVIN BURNS**

REAFFIRMATION AGREEMENT WITH MERIWEST CREDIT UNION
7-28-2025 [\[13\]](#)

JEFFREY ROWE/ATTY. FOR DBT.

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

DISPOSITION: Dropped.

ORDER: The court will issue an order.

The debtor's counsel shall notify the debtor that no appearance is necessary.

No hearing or order is required. The form of the reaffirmation agreement complies with 11 U.S.C. §524(c) and 524(k), and it was signed by the debtor's attorney with the appropriate attestations. Pursuant to 11 U.S.C. §524(d), the court need not approve the agreement.

1. [25-12106](#)-A-7 **IN RE: THOMAS FRANKLIN**
[SKI-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
7-18-2025 [\[11\]](#)

TD BANK, N.A./MV
NEIL SCHWARTZ/ATTY. FOR DBT.
SHERYL ITH/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 at least 28 days' notice prior to the hearing date pursuant to Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of 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 Sys., Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires a movant make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

The movant, TD Bank, N.A. successor in interest to TD Auto Finance LLC ("Movant"), seeks relief from the automatic stay under 11 U.S.C. § 362(d)(1) and (d)(2) with respect to a 2023 Chevrolet Silverado, VIN: 1GCPACED8PZ330032 ("Vehicle"). Doc. #11.

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

11 U.S.C. § 362(d)(2) allows the court to grant relief from the stay if the debtor does not have any 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 the debtor has failed to make at least two complete pre- and post-petition payments. Movant has produced evidence that the debtor is delinquent by at least \$2,293.34 plus late fees of \$57.33. Decl. of David L. Tagliaferri, Doc. #13. According to the debtor's Statement of Intention, the Vehicle will be surrendered. Doc. #1.

The court also finds that the debtor does not have any equity in the Vehicle and the Vehicle is not necessary to an effective reorganization because the debtor is in chapter 7. The Vehicle is valued at \$42,200.00 and the debtor owes \$53,869.10. Tagliaferri Decl., Doc. #13; Decl. of John Eng, Doc. #16.

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

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

2. [25-11711](#)-A-7 **IN RE: JAMES/SANDRA FREILEY**
[GT-2](#)

AMENDED MOTION TO COMPEL ABANDONMENT
8-12-2025 [\[27\]](#)

JAMES FREILEY/MV
GRISELDA TORRES/ATTY. FOR DBT.

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Granted.

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

This motion was filed and served on at least 14 days' notice prior to the hearing date 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 a further hearing is proper pursuant to LBR 9014-1(f)(2). The court will issue an order if a further hearing is necessary.

James Samuel Freiley and Sandra Lynn Freiley (together, "Debtors"), the chapter 7 debtors in this case, move the court to compel the chapter 7 trustee to abandon the estate's interest in Debtors' sole proprietorship Uber delivery driving business. Doc. #27. The assets of the estate used in Debtors' business include a 2024 Nissan Kicks SV ("Property"). Doc. #27. The Property is overencumbered, and the Property therefore has no value to the bankruptcy estate. Doc. #27.

11 U.S.C. § 554(b) permits the court, on request of a party in interest and after notice and a hearing, to order the trustee to abandon property that is burdensome to the estate or of inconsequential value and benefit to the estate. Vu v. Kendall (In re Vu), 245 B.R. 644, 647 (B.A.P. 9th Cir. 2000). To grant a motion to abandon property, the bankruptcy court must find either that the property is (1) burdensome to the estate or (2) of inconsequential value and inconsequential benefit to the estate. Id. (citing Morgan v. K.C. Mach. & Tool Co. (In re K.C. Mach. & Tool Co.), 816 F.2d 238, 245 (6th Cir. 1987)). However, "an order compelling abandonment [under § 554(b)] 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." Id. (quoting K.C. Mach. & Tool Co., 816 F.2d at 246).

Here, Debtors do not allege that the Property is burdensome to the estate. Motion, Doc. #27. Therefore, Debtors must establish that the Property is of inconsequential value and benefit to the estate. 11 U.S.C. § 554(b); Vu, 245 B.R. at 647. Debtors' Property is valued at \$19,025.00 and is encumbered by a lien held by Consumer Portfolio Services, Inc. in the amount of \$22,993.43. Am. Schedule D, Doc. #17; Decl. of James Samuel Freiley, Doc. #29. The court finds that Debtors have met their burden of establishing by a preponderance of the evidence that the Property is of inconsequential value and benefit to the estate.

Accordingly, pending opposition being raised at the hearing, this motion will be GRANTED. The order shall specifically identify the property abandoned.

3. [25-11324](#)-A-7 **IN RE: VANESSA BRICENO**

OPPOSITION/OBJECTION TO CHAPTER 7 TRUSTEE'S REPORT OF NO DISTRIBUTION
6-27-2025 [[15](#)]

SUSANA CHAVEZ/MV
SETH HANSON/ATTY. FOR DBT.

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Overruled.

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

On June 27, 2025, Susana Mariscal Chavez ("Creditor") filed a pleading objecting to debtor's dischargeability of debt pursuant to 11 U.S.C. § 523(a)(2), (4), (6), among other relief requested. Doc. #15. The pleading has been presented as an opposition/objection to chapter 7 trustee's report of no distribution. However, the pleading asks the court, among other things, to determine whether the transfer of a trust by the debtor is fraudulent and warrants the denial of the debtor's discharge.

Under Federal Rule of Bankruptcy Procedure 7001(f), "a proceeding to determine whether a debt is dischargeable" can be sought only through an adversary proceeding, not by a motion filed in the bankruptcy case. Fed. R. Bankr. P. 7001(f). Because the relief sought involves the dischargeability of a debt, that request requires an adversary proceeding to adjudicate such interest.

On August 15, 2025, the clerk's office opened an adversary proceeding, Adv. Proc. No. 25-1043, and instructed Creditor to pay the required filing fee and file certain documents. Doc. #32. Failure to pay the necessary filing fee and otherwise comply with the court's order may result in the dismissal of the adversary proceeding and termination of Creditor's rights against the debtor. Creditor may wish to seek legal advice from competent legal counsel to prosecute her claims against the debtor. If Creditor does not intend to pursue the adversary proceeding, Creditor may submit a written request for dismissal of the adversary proceeding that includes the case number and the adversary proceeding number Adv. Proc. No. 25-1043.

In response to Creditor's pleading, the debtor filed a declaration stating that the real property that is the basis of Creditor's pleading was disclosed in the debtor's initial schedules. Schedules A/B, Doc. #1; Decl. of Vanessa Rose Briceno, Doc. #26. The debtor also explains that pre-petition, the real property was transferred to a living trust. Id. Upon learning of this inadvertent transfer, the real property has been transferred back into the debtor's name. Id.

Based on Creditor's pleading and the debtor's response, it appears that the property that is the basis of Creditor's pleading was disclosed in the debtor's chapter 7 bankruptcy case and considered by the chapter 7 trustee prior to the chapter 7 trustee filing her report of no distribution. Thus, Creditor has presented no reason why this court should not deem this bankruptcy case to be fully administered as requested by the chapter 7 trustee in the notice of no distribution. Doc. #13.

Accordingly, the court is inclined to overrule Creditor's objection to the chapter 7 trustee's notice of no distribution.

4. [25-11324](#)-A-7 **IN RE: VANESSA BRICENO**

MOTION FOR RELIEF FROM AUTOMATIC STAY
6-27-2025 [\[15\]](#)

SUSANA CHAVEZ/MV
SETH HANSON/ATTY. FOR DBT.
DISCHARGED 8/12/25

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Denied without prejudice in part and denied as moot in part.

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

The motion will be DENIED AS MOOT IN PART as to the debtor's interest pursuant to 11 U.S.C. § 362(c)(2)(C). The debtor's discharge was entered on August 12, 2025. Doc. #29. When the debtor's discharge was entered, the automatic stay as to the debtor lifted by operation of law. 11 U.S.C. § 362(c)(2)(C).

With respect to the chapter 7 trustee, the motion is DENIED WITHOUT PREJUDICE for the failure of the moving party to comply with this court's local rules.

Pursuant to Local Rule of Practice 9014-1(d)(3)(A), the application, motion, contested matter, or other request for relief shall set forth the relief or order sought and shall state with particularity the factual and legal grounds therefor. In this context, approval of a motion for relief from the automatic stay must be based on consideration of 11 U.S.C. § 362(d).

Here, movant requests relief from stay pursuant to 11 U.S.C. § 362(d)(1) which allows the court to grant relief from the automatic stay for cause. "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). When a movant prays for relief from the automatic stay to initiate or continue non-bankruptcy court proceedings, a bankruptcy court may consider the "Curtis factors" in making its decision.

In re Kronemyer, 405 B.R. 915, 921 (9th Cir. B.A.P. 2009). “[T]he Curtis factors are appropriate, nonexclusive, factors to consider in determining whether to grant relief from the automatic stay” to allow litigation in another forum. Id. The Curtis factors 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 non-bankruptcy forum has the expertise to hear such cases; (4) whether litigation in another forum would prejudice the interests of other creditors; and (5) the interest of judicial economy and the expeditious and economical determination of litigation for the parties. In re Curtis, 40 B.R. 795, 799-800 (Bankr. D. Utah 1984).

Here, the movant has provided no substantive analysis or evidence to enable the court to consider the five factors as required by Curtis and evaluate whether relief from the automatic stay as to the chapter 7 trustee is appropriate.

Accordingly, this motion is DENIED WITHOUT PREJUDICE as to the chapter 7 trustee.

5. [24-10130](#)-A-7 **IN RE: JESSE/ALEXIS LUNA**
[SKI-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
7-14-2025 [\[23\]](#)

SANTANDER CONSUMER USA INC./MV
MARK ZIMMERMAN/ATTY. FOR DBT.
SHERYL ITH/ATTY. FOR MV.
DISCHARGED 04/29/2024

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

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

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

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

The motion will be GRANTED IN PART as to the trustee’s interest and DENIED AS MOOT IN PART as to the debtors’ interest pursuant to 11 U.S.C. § 362(c)(2)(C). The debtors’ discharge was entered on April 29, 2024. Doc. #18. The motion will be GRANTED IN PART for cause shown as to the chapter 7 trustee.

The movant, Santander Consumer USA INC. dba Chrysler Capital ("Movant"), seeks relief from the automatic stay under 11 U.S.C. § 362(d)(1) and (d)(2) with respect to a 2023 Jeep Grand Cherokee, VIN: 1C4RJBG8P8755140 ("Vehicle"). Doc. #23.

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 debtors do not have any 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 the debtors have failed to make at least two complete post-petition payments. Movant has produced evidence that the debtors are delinquent by at least \$2,872.91, including late fees and recovery fees. Decl. of Christopher Little, Doc. #26. The Vehicle was voluntarily surrendered to Movant on June 11, 2025 and is being held by Movant pending relief from stay. Id.

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 the debtors are in chapter 7. Movant values the Vehicle at \$33,350.00 and the amount owed to Movant is \$48,657.21. Little Decl., Doc. #26.

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

The 14-day stay of Fed. R. Bankr. P. 4001(a)(3) will be ordered waived because the debtors have failed to make at least two post-petition payments to Movant, the debtors have voluntarily surrendered the Vehicle to Movant, and the Vehicle is a depreciating asset.

6. [23-10133](#)-A-7 **IN RE: PHILIP HERNANDEZ**
[MAZ-3](#)

MOTION TO AVOID LIEN OF SOUTH VALLEY MATERIALS, LLC
8-13-2025 [\[52\]](#)

PHILIP HERNANDEZ/MV
MARK ZIMMERMAN/ATTY. FOR DBT.

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Granted.

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

This motion was filed and served on at least 14 days' notice prior to the hearing date 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.

Philip A. Hernandez ("Debtor"), the debtor in this chapter 7 case, moves pursuant to 11 U.S.C. § 522(f) and Federal Rules of Bankruptcy Procedure 4003(d) and 9014 to avoid the judicial lien of South Valley Materials, LLC ("Creditor") on the residential real property commonly referred to as 1529 E. Dorothea Avenue, Visalia, California 93292 (the "Property"). Doc. #52; Am. Schedule C, Doc. #21; Am. Schedule D, Doc. #42.

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

Debtor filed the bankruptcy petition on January 27, 2023. Doc. #1. A judgment was entered against Debtor in the amount of \$82,103.51 in favor of Creditor on February 10, 2021. Ex. C, Doc. #55. The abstract of judgment was recorded pre-petition in Tulare County on March 15, 2021, as document number 2021-0018366. Ex. C, Doc. #55. The lien attached to Debtor's interest in the Property located in Tulare County. Doc. #52. The Property also is encumbered by a mortgage in favor of Right Start Mortgage in the amount \$234,819.00. Am. Schedule D, Doc. #42. Debtor claimed an exemption of \$300,000.00 in the Property under California Code of Civil Procedure § 704.730. Am. Schedule C, Doc. #21. Debtor asserts a market value for the Property as of the petition date at \$350,000.00. Am. Schedule A/B, Doc. #21.

Applying the statutory formula:

Amount of Creditor's judicial lien		\$82,103.51
Total amount of all other liens on the Property (excluding junior judicial liens)	+	\$234,819.00
Amount of Debtor's claim of exemption in the Property	+	\$300,000.00
		\$616,922.51
Value of Debtor's interest in the Property absent liens	-	\$350,000.00
Amount Creditor's lien impairs Debtor's exemption		\$266,922.51

After application of the arithmetical formula required by § 522(f)(2)(A), the court finds there is insufficient equity to support Creditor's judicial lien. Therefore, the fixing of this judicial lien impairs Debtor's exemption in the Property and its fixing will be avoided.

Debtor has established the four elements necessary to avoid a lien under 11 U.S.C. § 522(f)(1). Accordingly, this motion is GRANTED. The proposed order shall state that Creditor's judicial lien is avoided on the subject Property only and include a copy of the abstract of judgment as an exhibit.

7. [19-12835](#)-A-7 **IN RE: RANDY GOODISON AND CARLA ANDRE**
[RSW-1](#)

MOTION TO AVOID LIEN OF OREILLY AUTOMOTIVE STORES, INC.
8-13-2025 [\[26\]](#)

CARLA ANDRE/MV
ROBERT WILLIAMS/ATTY. FOR DBT.

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

DISPOSITION: Denied without prejudice.

ORDER: The court will issue an order.

Federal Rule of Bankruptcy Procedure ("Rule") 9014(b) requires a motion to avoid a lien under 11 U.S.C. § 522(f) be served "in the manner provided for service of a summons and complaint by Rule 7004." Service of the motion on O'Reilly Automotive Stores, Inc. ("Creditor") does not satisfy Rule 7004.

Rule 7004(b)(3) provides that service upon an unincorporated association be mailed "to the attention of an officer, managing or general agent, or to any other agent authorized by appointment or law to receive service of process[.]" Fed. R. Bankr. P. 7004(b)(3). The certificate of service filed in connection with this motion does not show that Creditor was served to the attention of anyone. See Doc. #30. To the extent the movant believes service of this motion in care of the attorney who represented Creditor in the underlying state court litigation complies with Rule 7004(b), such is not the case. A review of the docket shows no attorney has appeared for Creditor in this bankruptcy case. Thus, Creditor itself must be served to comply with Rule 7004(b)(3).

As further procedural matter, the movant incorrectly completed Section 6 of the court's mandatory Certificate of Service form. In Section 6, the declarant marked that service was effectuated by Rule 5 and Rules 7005, 9036 Service. Doc. #30. However, Rule 9014 requires service of a motion to avoid lien be made pursuant to Rule 7004. In Section 6, the declarant should have checked the appropriate box under Section 6A, not Section 6B.

Accordingly, this motion is DENIED WITHOUT PREJUDICE for improper service.

8. [19-12835](#)-A-7 **IN RE: RANDY GOODISON AND CARLA ANDRE**
[RSW-2](#)

MOTION TO AVOID LIEN OF SYNCHRONY BANK
8-13-2025 [\[31\]](#)

CARLA ANDRE/MV
ROBERT WILLIAMS/ATTY. FOR DBT.

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Granted.

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

This motion was filed and served on at least 14 days' notice prior to the hearing date 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.

Randy Gene Goodison and Carla Elise Andre (together, "Debtors"), the debtors in this chapter 7 case, move pursuant to 11 U.S.C. § 522(f) and Federal Rules of Bankruptcy Procedure 4003(d) and 9014 to avoid the judicial lien of Synchrony Bank ("Creditor") on the residential real property commonly referred to as 6208 Trinidad Court, Bakersfield, California 93313 (the "Property"). Doc. #31; Schedule C, Doc. #1; Schedule D, Doc. #1.

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

Where the movant seeks to avoid multiple liens as impairing the debtor's exemption, the liens must be avoided in the reverse order of their priority. Bank of Am. Nat'l Tr. & Sav. Ass'n v. Hanger (In re Hanger), 217 B.R. 592, 595 (B.A.P. 9th Cir. 1997). Liens already avoided are excluded from the exemption-impairment calculation with respect to other liens. Id.; 11 U.S.C. § 522(f)(2)(B). The court "must approach lien avoidance from the back of the line, or at least some point far enough back in line that there is no nonexempt equity in sight." All Points Cap. Corp. v. Meyer (In re Meyer), 373 B.R. 84, 88 (B.A.P. 9th Cir. 2007). "[J]udicial liens are avoided in reverse order until the marginal lien, i.e., the junior lien supported in part by equity, is reached." Id.

Debtors filed their bankruptcy petition on June 30, 2019. Doc. #1. A judgment was entered against debtor Randy Goodison in the amount of \$1,772.26 in favor of Creditor on April 28, 2017. Ex. 4, Doc. #34. The abstract of judgment was recorded pre-petition in Kern County on September 11, 2017, as document number 217121803. Ex. 4, Doc. #34. The lien attached to Debtors' interest in the Property located in Kern County. Doc. #31. The Property also is encumbered by a deed of trust in favor of Nationstar/mr Cooper in the amount \$195,427.00. Schedule D, Doc. #1. Debtors claimed an exemption of \$100,000.00 in the Property under California Code of Civil Procedure § 704.730. Schedule C, Doc. #1. Debtors assert a market value for the Property as of the petition date at \$300,000.00. Schedule A/B, Doc. #1. There also appears to be one senior judicial lien on the Property. The senior judicial lien was recorded in Tulare County on August 2, 2017 with respect to a lien held by O'Reilly Automotive Stores, Inc. entered on January 4, 2017 for \$13,007.36. Ex. 5, Doc. #34.

Applying the statutory formula:

Amount of Creditor's judicial lien		\$1,772.26
Total amount of all other liens on the Property (excluding junior judicial liens)	+	\$208,434.36
Amount of Debtors' claim of exemption in the Property	+	\$100,000.00
		\$310,206.62
Value of Debtors' interest in the Property absent liens	-	\$300,000.00
Amount Creditor's lien impairs Debtors' exemption		\$10,206.62

After application of the arithmetical formula required by § 522(f)(2)(A), the court finds there is insufficient equity to support Creditor's judicial lien. Therefore, the fixing of this judicial lien impairs Debtors' exemption in the Property and its fixing will be avoided.

Debtors have established the four elements necessary to avoid a lien under 11 U.S.C. § 522(f)(1). Accordingly, this motion is GRANTED. The proposed order shall state that Creditor's judicial lien is avoided on the subject Property only and include a copy of the abstract of judgment as an exhibit.

9. [25-10840](#)-A-7 **IN RE: GONZALEZ HUGO**
[ICE-1](#)

OPPOSITION RE: TRUSTEE'S MOTION TO DISMISS FOR FAILURE TO APPEAR AT
SEC. 341(A) MEETING OF CREDITORS
7-17-2025 [\[13\]](#)

JOEL WINTER/ATTY. FOR DBT.

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

DISPOSITION: Conditionally denied.

ORDER: The court will issue the order.

The chapter 7 trustee's motion to dismiss is CONDITIONALLY DENIED.

The debtor shall attend the meeting of creditors rescheduled for August 25, 2025 at 2:00 p.m. If the debtor fails to do so, the chapter 7 trustee may file a declaration with a proposed order and the case may be dismissed without a further hearing.

The time prescribed in Federal Rules of Bankruptcy Procedure 1017(e)(1) and 4004(a) for the chapter 7 trustee and the U.S. Trustee to object to the debtors' discharge or file motions for abuse, other than presumed abuse, under 11 U.S.C. § 707, is extended to 60 days after the conclusion of the meeting of creditors.

10. [25-12141](#)-A-7 **IN RE: VANESSA/SALVADOR MORENO**
[SKI-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
7-16-2025 [\[11\]](#)

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

The movant, Kinecta Federal Credit Union ("Movant"), seeks relief from the automatic stay under 11 U.S.C. § 362(d)(1) and (d)(2) with respect to a 2019 Ford Ranger, VIN: 1FTER4EH9KLA62239 ("Vehicle"). Doc. #11.

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

11 U.S.C. § 362(d)(2) allows the court to grant relief from the stay if the debtors do not have any 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 the debtor has failed to make at least two complete pre- and post-petition payments. Movant has produced evidence that the debtor is delinquent by at least \$1,229.41, including late fees of \$29.99. Decl. of Marshaun Logan-Larry, Doc. #15. According to the debtors' Statement of Intention, the Vehicle will be surrendered. Doc. #1.

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 the debtors are in chapter 7. The Vehicle is valued at \$24,576.00 and the debtors owe \$29,035.51. Logan-Larry Decl., Doc. #15.

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

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

MOTION TO SELL
8-6-2025 [\[51\]](#)

IRMA EDMONDS/MV
LAYNE HAYDEN/ATTY. FOR DBT.
LISA HOLDER/ATTY. FOR MV.

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Granted subject to higher and better offers.

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

This motion was filed and served on at least 21 days' notice prior to the hearing date pursuant to Federal Rule of Bankruptcy Procedure 2002 and Local Rule of Practice ("LBR") 9014-1(f)(2) and will proceed as scheduled. Unless opposition is presented at the hearing, the court intends to enter the respondents' defaults and grant the motion subject to higher and better offers. 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.

Irma Edmonds ("Trustee"), the chapter 7 trustee of the bankruptcy estate of Crispin Trinidad, Jr. ("Debtor"), moves the court pursuant to 11 U.S.C. § 363 for an order authorizing the sale of Debtor's interest in a 2019 Jeep Grand Cherokee, VIN: 1C4RJFAG7KC671766 ("Vehicle") to co-owner Maria Arelia Martinez ("Buyer") for the purchase price of \$4,000.00, subject to higher and better bids at the hearing. Doc. #51. Buyer will purchase the Vehicle subject to existing liens and encumbrances. Id.

Pursuant to 11 U.S.C. § 363(b)(1), the trustee, after notice and a hearing, may "use, sell, or lease, other than in the ordinary course of business, property of the estate." Proposed sales under § 363(b) are reviewed to determine whether they are: (1) in the best interests of the estate resulting from a fair and reasonable price; (2) supported by a valid business judgment; and (3) proposed in good faith. In re Alaska Fishing Adventure, LLC, 594 B.R. 883, 887 (Bankr. D. Alaska 2018) (citing 240 N. Brand Partners, Ltd. v. Colony GFP Partners, L.P. (In re 240 N. Brand Partners, Ltd.), 200 B.R. 653, 659 (B.A.P. 9th Cir. 1996)). "In the context of sales of estate property under § 363, a bankruptcy court 'should determine only whether the trustee's judgment [is] reasonable and whether a sound business justification exists supporting the sale and its terms.'" Alaska Fishing Adventure, 594 B.R. at 889 (quoting 3 COLLIER ON BANKRUPTCY ¶ 363.02[4] (Richard Levin & Henry J. Sommer eds., 16th ed.)). "[T]he trustee's business judgment is to be given great judicial deference." Id. at 889-90 (quoting In re Psychometric Sys., Inc., 367 B.R. 670, 674 (Bankr. D. Colo. 2007)).

Trustee believes that approval of the sale on the terms set forth in the motion is in the best interests of creditors and the estate. Doc. #51; Decl. of Irma Edmonds, Doc. #53. Trustee's proposed sale to Buyer is made in consideration of the full and fair market value of the Vehicle. Edmonds Decl., Doc. #53. Buyer offered to buy Debtor's interest in the Vehicle for the net purchase price of \$4,000.00, subject to overbid at the hearing. Id. Trustee is not selling the Vehicle free and clear of the existing lien on the Vehicle. Id. The court

recognizes that no commission will need to be paid because the sale is to the current co-owner of the Vehicle.

It appears that the sale of Debtor's interest in the Vehicle is in the best interests of the estate, the Vehicle will be sold for a fair and reasonable price, and the sale is supported by a valid business judgment and proposed in good faith.

Accordingly, subject to opposition being raised and overbid offers being made at the hearing, the court is inclined to GRANT Trustee's motion and authorize the sale of Debtor's interest in the Vehicle to Buyer on the terms set forth in the motion.

12. [23-12163](#)-A-7 **IN RE: THRIVE SPORTS INC.**

MOTION FOR RELIEF FROM AUTOMATIC STAY
4-29-2025 [\[32\]](#)

UNINSURED EMPLOYERS BENEFIT TRUST FUND/MV
IRMA EDMONDS/ATTY. FOR DBT.
ERIC SCHWARTZ/ATTY. FOR MV.

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

DISPOSITION: Denied without prejudice.

ORDER: The court will issue an order.

This matter is DENIED WITHOUT PREJUDICE for the movant's failure to file signed pleadings and otherwise comply with this court's Local Rules of Practice.

Local Rule of Practice ("LBR") 9004-1(c) requires that all pleadings and non-evidentiary documents shall be signed by the individual attorney for the party presenting them, or by the party involved if that party is appearing in propria persona. Affidavits and certifications shall be signed by the person offering the evidentiary material contained in the document. The name of the person signing the document shall be typed underneath the signature. Here, the motion, supporting declaration and proof of service are not signed by anyone. Doc. #32.

As a further procedural matter, the motion, declaration, exhibits and certificate of service filed by the movant do not comply with LBR 9004-2(c)(1) and (d)(1), which require motions, declarations and exhibits to be filed as separate documents. Here, the motion, declaration and supporting exhibits were filed as a single document. E.g., Doc. #32. In the future, the motion, declaration, exhibits and certificate of service should be filed as separate documents.

As a further procedural matter, the motion and supporting papers do not comply with LBR 9014-1(c) because there is no Docket Control Number. "In motions filed in the bankruptcy case, a Docket Control Number (designated as DCN) shall be included by all parties immediately below the case number on all pleadings and other documents, including proofs of service, filed in support of or opposition to motions." LBR 9014-1(c)(1). "Once a Docket Control Number is assigned, all related papers filed by any party, including motions for orders shortening the amount of notice and stipulations resolving that motion, shall include the same number." LBR 9014-1(c)(4). See LBR 9004-2(b)(6).

As a further procedural matter, the notice of hearing (Doc. #51) filed in connection with this motion do not comply with LBR 9014-1(d)(3)(B)(iii), which requires the notice to advise respondents that they can determine whether the matter has been resolved without oral argument or whether the court has issued a tentative ruling by viewing the court's website at www.caeb.uscourts.gov after 4:00 p.m. the day before the hearing, and that parties appearing telephonically must view the pre-hearing dispositions prior to the hearing.

As a further procedural matter, the certificate of service filed in connection with this motion does not comply with LBR 7005-1 and General Order 22-03, which require attorneys and trustees to use the court's Official Certificate of Service Form as of November 1, 2022.

The court encourages counsel for the movant to review the local rules to ensure compliance in future matters or those matters also may be denied without prejudice for failure to comply with this court's local rules. This court's Local Rules of Practice can be accessed on the court's website at <https://www.caeb.uscourts.gov/LocalRulesAndGeneralOrders>.

Accordingly, this motion is DENIED WITHOUT PREJUDICE.

13. [23-12163](#)-A-7 **IN RE: THRIVE SPORTS INC.**
[JES-2](#)

MOTION FOR COMPENSATION FOR JAMES E. SALVEN, ACCOUNTANT(S)
7-27-2025 [\[55\]](#)

JAMES SALVEN/MV
IRMA EDMONDS/ATTY. FOR DBT.

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

DISPOSITION: Granted.

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

This motion was set for hearing on at least 28 days' notice prior to the hearing date pursuant to Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of 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 Sys., Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires a moving party make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

James E. Salven ("Movant"), certified public accountant for chapter 7 trustee Jeffrey Vetter ("Trustee"), requests allowance of final compensation and reimbursement for expenses for services rendered from January 6, 2024 through July 25, 2025. Doc. #55; Ex. A, Doc. #59. Movant provided accounting services valued at \$2,744.00 and requests compensation for that amount. Doc. #55. Movant

requests reimbursement for expenses in the amount of \$337.56. Doc. #55. This is Movant's first and final fee application. Trustee consents to the amount requested in Movant's application. Doc. #58.

Section 330(a)(1) of the Bankruptcy Code authorizes "reasonable compensation for actual, necessary services rendered" and "reimbursement for actual, necessary expenses" to a "professional person." 11 U.S.C. § 330(a)(1). In determining the amount of reasonable compensation to be awarded to a professional person, the court shall consider the nature, extent, and value of such services, taking into account all relevant factors. 11 U.S.C. § 330(a)(3).

Movant's services included, without limitation: (1) conflict review and preparing employment application; (2) various telephone calls and emails to debtor; (3) inputting various tax return data to tax system; (4) preparing starting and ending balance sheets; and (5) preparing, filing and serving fee application. Decl. of James E. Salven, Doc. #57; Ex. A, Doc. #59. The court finds the compensation and reimbursement sought are reasonable, actual, and necessary.

This motion is GRANTED on a final basis. The court allows final compensation in the amount of \$2,744.00 and reimbursement for expenses in the amount of \$337.56. Trustee is authorized to make a combined payment of \$3,081.56, representing compensation and reimbursement for expenses, to Movant. Trustee is authorized to pay the amount allowed by this order from available funds only if the estate is administratively solvent and such payment is consistent with the priorities of the Bankruptcy Code.

14. [25-12371](#)-A-7 **IN RE: APPLE/ANTHONY SYMNS**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES
7-30-2025 [\[14\]](#)

JOHN VARLEY/ATTY. FOR DBT.
\$338.00 FILING FEE PAID 7/30/25

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

DISPOSITION: The order to show cause will be vacated.

ORDER: The court will issue an order.

The record shows that the filing fees now due have been paid. The case shall remain pending.

15. [25-12371](#)-A-7 **IN RE: APPLE/ANTHONY SYMNS**

ORDER TO SHOW CAUSE FOR FAILURE TO UPDATE CONTACT INFORMATION IN PACER
8-4-2025 [\[16\]](#)

JOHN VARLEY/ATTY. FOR DBT.

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Continued to September 17, 2025 at 1:30 p.m.

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

This order to show cause ("OSC") was issued on August 4, 2025 because the address for the debtors' counsel listed on the petition (Doc. #1) does not match the address for the debtors' counsel on CM/ECF. The address for the debtors' counsel on CM/ECF is missing the suite number that is included in the address for the debtors' counsel on the petition. The address for the debtors' counsel on the petition is:

John A. Varley
2305 Historic Decatur Rd, Suite 100
San Diego, CA 92106

The address for Mr. Varley on CM/ECF is:

John A. Varley
2305 Historic Decatur Rd
San Diego, CA 92106

If the discrepancy in the address of the debtors' counsel has not been resolved by the time of the hearing on the OSC, the court is inclined to continue the hearing to September 17, 2025 at 1:30 p.m. to permit the debtors' counsel additional time to resolve the discrepancy.

16. [25-12279](#)-A-7 **IN RE: RANDALL JONES**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES
7-30-2025 [\[22\]](#)

\$34.00 FILING FEE PAID 8/7/2025

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

DISPOSITION: The order to show cause will be vacated.

ORDER: The court will issue an order.

The record shows that the filing fees now due have been paid. The case shall remain pending.

17. [25-12383](#)-A-7 **IN RE: MATTRESS LAND OF WA, INC.**

ORDER TO SHOW CAUSE FOR FAILURE TO UPDATE CONTACT INFORMATION IN PACER
8-5-2025 [[21](#)]

RILEY WALTER/ATTY. FOR DBT.

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

DISPOSITION: The order to show cause will be vacated.

ORDER: The court will issue an order.

The record shows that the incorrect contact information was updated by the debtor's counsel. Therefore, this order to show cause will be VACATED. No appearance is necessary.

18. [25-12116](#)-A-7 **IN RE: VANESSA LOPEZ**
[PFT-1](#)

OPPOSITION RE: TRUSTEE'S MOTION TO DISMISS FOR FAILURE TO
APPEAR AT SEC. 341(A) MEETING OF CREDITORS
7-21-2025 [[18](#)]

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

DISPOSITION: Conditionally denied.

ORDER: The court will issue the order.

The chapter 7 trustee's motion to dismiss is CONDITIONALLY DENIED.

The debtor shall attend the meeting of creditors rescheduled for September 18, 2025 at 3:00 p.m. If the debtor fails to do so, the chapter 7 trustee may file a declaration with a proposed order and the case may be dismissed without a further hearing.

The time prescribed in Federal Rules of Bankruptcy Procedure 1017(e)(1) and 4004(a) for the chapter 7 trustee and the U.S. Trustee to object to the debtor's discharge or file motions for abuse, other than presumed abuse, under 11 U.S.C. § 707, is extended to 60 days after the conclusion of the meeting of creditors.