



UNITED STATES BANKRUPTCY COURT  
Eastern District of California  
Honorable Jennifer E. Niemann  
Hearing Date: Wednesday, August 28, 2024  
Department A – Courtroom #11  
Fresno, California

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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/RemoteAppearances>. Each party who has signed up will receive a Zoom link or phone number, meeting I.D., and password via e-mail.

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

Please also note the following:

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

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

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

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

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

## INSTRUCTIONS FOR PRE-HEARING DISPOSITIONS

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

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

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

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

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

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

9:30 AM

1. [24-11545](#)-A-11     **IN RE: RIDGELINE CAPITAL INVESTMENTS, LLC**  
[CAE-1](#)

CONTINUED STATUS CONFERENCE RE: CHAPTER 11 VOLUNTARY PETITION  
6-4-2024    [[1](#)]

MICHAEL BERGER/ATTY. FOR DBT.

NO RULING.

2. [24-11545](#)-A-11     **IN RE: RIDGELINE CAPITAL INVESTMENTS, LLC**  
[MJB-4](#)

MOTION TO SELL FREE AND CLEAR OF LIENS AND/OR MOTION FOR COMPENSATION FOR  
ALLISON JAMES ESTATES AND HOMES, BROKER(S)  
7-30-2024    [[49](#)]

RIDGELINE CAPITAL INVESTMENTS, LLC/MV  
MICHAEL BERGER/ATTY. FOR DBT.  
RESPONSIVE PLEADING

TENTATIVE RULING:            This matter will proceed as scheduled.

DISPOSITION:                Continued to October 9, 2024 at 9:30 a.m.

ORDER:                        The court will issue an order.

On August 21, 2024, the debtor filed an omnibus reply with respect to this motion asking that the hearing on the motion be continued for 30-45 days. Doc. #74. Accordingly, the court is inclined to continue the hearing on this motion to October 9, 2024 at 9:30 a.m.

11:00 AM

1. [24-11106](#)-A-7      **IN RE: MARIO GAUDIO AND MISTY LOPEZ AMAYA**

ORDER TO SHOW CAUSE  
8-1-2024    [\[30\]](#)

SIMRAN HUNDAL/ATTY. FOR DBT.

FINAL RULING:      There will be no hearing on this matter and no appearance is necessary.

DISPOSITION:      The order to show cause will be vacated.

ORDER:              The court will issue an order.

On August 1, 2024, this court issued an order to show cause ("OSC") why, pursuant to Federal Rule of Bankruptcy Procedure 9011, (1) the attorney certification on the reaffirmation agreement with WSECU filed on July 31, 2024 should not be stricken and the reaffirmation agreement with WSECU deemed unenforceable, and (2) further sanctions should not be imposed. Doc. #30. The OSC required any written response to be filed and served on or before August 21, 2024.

On August 19, 2024, counsel for the debtors, Simran Hundal, filed a declaration explaining the procedure Mr. Hundal used in counseling the debtors with respect to the reaffirmation agreements with WSECU and the circumstances that resulted in the filing of the reaffirmation agreement that was the subject of the OSC. Doc. #35. With respect to the striking of attorney reaffirmation agreement with WSECU, Mr. Hundal notes that a new reaffirmation agreement with WSECU was entered on the docket on August 8, 2024. Doc. #33.

Based on the explanation provided by Mr. Hundal, the court finds that the reaffirmation agreement with WSECU filed on July 31, 2024 has been superseded and no further sanctions under Federal Rule of Bankruptcy Procedure 9011 are warranted. The OSC is vacated, and Mr. Hundal is excused from appearing before this court on August 28, 2024 at 11:00 a.m.

1. [20-11452](#)-A-7     **IN RE: ELIZABETH LLAMAS**  
[BLF-5](#)

MOTION FOR COMPENSATION FOR LORIS L. BAKKEN, TRUSTEES ATTORNEY(S)  
7-22-2024     [\[79\]](#)

ANTHONY ASEBEDO/ATTY. FOR DBT.  
LORIS BAKKEN/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 moving party make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

Loris L. Bakken of the Bakken Law Firm ("Movant"), attorney for chapter 7 trustee Irma C. Edmonds ("Trustee"), requests allowance of final compensation and reimbursement for expenses for services rendered from March 6, 2023 through August 28, 2024. Doc. #79. Movant provided legal services valued at \$12,560.00, and requests compensation for that amount. Doc. #79. Movant requests reimbursement for expenses in the amount of \$41.02. Doc. #79. This is Movant's first and final fee application.

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) providing counsel to Trustee as to the administration of the chapter 7 case; (2) negotiating a proposed settlement agreement at the direction of the Trustee; and (3) preparing and filing employment and fee applications. Ex. A, Doc. #81; Decl. of Loris L. Bakken, Doc. #82. 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 \$12,560.00 and reimbursement for expenses in the amount of

\$41.02. Trustee is authorized to make a combined payment of \$12,601.02, representing compensation and reimbursement, 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.

2. [24-11853](#)-A-7     **IN RE: KEY ELECTRIC, INC.**  
[AKS-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY  
8-12-2024    [\[26\]](#)

SULLY PROPERTIES LLC/MV  
LEONARD WELSH/ATTY. FOR DBT.  
ANDREW SHEFFIELD/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. 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.

The movant, Sully Properties, LLC ("Movant"), seeks relief from the automatic stay under 11 U.S.C. § 362(d)(1) and (d)(2) with respect to real property located at 2251 Orpheus Court, Bakersfield, California 93308 (the "Property"). Doc. ##26, 28. Key Electric, Inc. ("Debtor") filed this chapter 7 bankruptcy case on July 2, 2024. Doc. #1. Movant requests relief from the automatic stay to commence an unlawful detainer action in state court against Debtor and to proceed under applicable non-bankruptcy law to enforce Movant's remedies to gain possession of the Property. Doc. ##26, 28.

Movant owns the Property. Decl. of Richard Sullenger, Doc. #30. On February 22, 2024, Movant and Debtor entered into a commercial lease agreement where Movant agreed to lease the Property to Debtor in exchange for the payment of rent, due by the first of the month ("Current Lease Agreement"). Sullenger Decl., Doc. #30; Ex. A, Doc. #31. The Current Lease Agreement was an amendment to the original lease agreement executed on February 18, 2021 between Movant and Debtor. Id. On July 1, 2024, Debtor breached the Current Lease Agreement by failing to pay Movant rent for the month of July 2024. Id. Movant has served a 3-day notice to pay rent or quit ("Notice") to Debtor. Sullenger Decl., Doc #30; Ex. B, Doc. #31. At the time the Notice was served, Movant was unaware of Debtor's bankruptcy proceedings. Sullenger Decl., Doc. #30. Since Movant is not receiving rent from Debtor as expenses continue to incur to maintain the Property, Movant seeks relief from the automatic stay to file an unlawful detainer action against Debtor to regain possession and relet the Property. Id.

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## **11 U.S.C. § 362(d) (1) Analysis**

11 U.S.C. § 362(d) (1) 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, granting Movant relief from the automatic stay will allow Movant to commence an unlawful detainer action in state court, which will allow the issue of possession of the Property to be adjudicated on its merits. Doc. #28. Further, the interests of judicial economy favor granting relief from the automatic stay so that Movant can regain possession of the Property and receive damages caused by Debtor's unlawful retention of the Property. Id. Finally, permitting Movant to pursue a judgment in state court will not prejudice the interests of Debtor as Debtor has not paid rent and would suffer no legally cognizable harm by being forced to resolve the unlawful detainer claim in state court. Id.

For these reasons, the court finds that cause exists to lift the stay to permit Movant to initiate an unlawful detainer action in state court and enforce any resulting judgment.

## **11 U.S.C. § 362(d) (2) Analysis**

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.

Here, the court also finds that Debtor is not the owner of the Property and does not have any equity in the Property. Further, the Property is not necessary to an effective reorganization because Debtor is in chapter 7.

## **Conclusion**

Accordingly, subject to 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 proceed under applicable nonbankruptcy law to initiate and prosecute an unlawful detainer action against Debtor and to enforce any resulting judgment for unlawful detainer, including all necessary steps to obtain possession of the Property from Debtor. No other relief is awarded.

Because Debtor has not paid rent under the lease with Movant, the 14-day stay of Fed. R. Bankr. P. 4001(a) (3) will be ordered waived to permit Movant to initiate and prosecute an unlawful detainer proceeding in state court.

3. [24-11565](#)-A-7     **IN RE: ASHLEY SILVERS**  
[PFT-1](#)

MOTION TO EMPLOY GOULD AUCTION AND APPRAISAL COMPANY AS AUCTIONEER,  
AUTHORIZING SALE OF PROPERTY AT PUBLIC AUCTION AND AUTHORIZING  
PAYMENT OF AUCTIONEER FEES AND EXPENSES  
7-31-2024    [\[15\]](#)

PETER FEAR/MV  
TIMOTHY SPRINGER/ATTY. FOR DBT.  
PETER FEAR/ATTY. FOR MV.

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

DISPOSITION:     Granted.

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

This motion was set for hearing on 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.

Peter L. Fear ("Trustee"), the chapter 7 trustee of the bankruptcy estate of Ashley Diane Silvers ("Debtor"), moves the court for an order authorizing: (1) the employment of Gould Auctions & Appraisals ("Auctioneer"); (2) the sale of a 2016 Toyota Tacoma Crew Cab (the "Property") at public auction on September 28, 2024 at Auctioneer's location at 30602 Imperial Street, Shafter, California 93263; and (3) the estate to pay Auctioneer's commission and expenses. Tr.'s Mot., Doc. #15.

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. Decl. of Peter L. Fear, Doc. #17. Trustee's experience indicates that a sale of the Property at public auction will yield the highest net recovery to the estate. Id. The proposed sale is made in good faith.

Section 327(a) of the Bankruptcy Code provides, in relevant part, "the trustee, with the court's approval, may employ . . . auctioneers . . . that do not hold or represent an interest adverse to the estate, and that are disinterested persons, to represent or assist the trustee in carrying out the trustee's duties under this title." 11 U.S.C. § 327(a). The trustee may, with the court's approval, employ an auctioneer on any reasonable terms and conditions of employment, including on a retainer, on an hourly basis, on a fixed or percentage fee basis, or on a contingent fee basis. 11 U.S.C. § 328(a). An application to employ a professional on terms and conditions to be pre-approved by the court must unambiguously request approval under § 328. See Circle K. Corp. v. Houlihan, Lokey, Howard & Zukin, Inc., 279 F.3d 669, 671 (9th Cir. 2002).

The court finds that Auctioneer is a disinterested person as defined by 11 U.S.C. § 101(14) and does not hold or represent an interest adverse to the estate. Decl. of Jerry Gould, Doc. #18. Trustee requires Auctioneer's services to advertise the sale of the Property, assist in storing the Property until sold, and assist in other matters related to the auction sale of the Property. Fear Decl., Doc. #17. Trustee has agreed to pay Auctioneer a commission of 15% of the gross sale price, 10% of the buyer's premium of the gross sale price, and estimated expenses of \$750.00. Id. Trustee unambiguously requests pre-approval of payment to Auctioneer pursuant to § 328. Tr.'s Mot., Doc. #15; Fear Decl., Doc. #17.

Accordingly, this motion is GRANTED. Trustee's business judgment is reasonable and the proposed sale of the Property at public auction is in the best interests of creditors and the estate. The arrangement between Trustee and Auctioneer is reasonable in this instance. Trustee is authorized to sell the Property on the terms set forth in the motion. Trustee is authorized to employ and pay Auctioneer for services as set forth in the motion. Trustee shall submit a form of order that specifically states that employment of Auctioneer has been approved pursuant to 11 U.S.C. § 328.

4. [24-11075](#)-A-7     **IN RE: GLORIA MANUS**  
[RAS-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY  
7-31-2024    [\[17\]](#)

U.S. BANK NATIONAL ASSOCIATION/MV  
ASHTON DUNN/ATTY. FOR DBT.  
KELLI BROWN/ATTY. FOR MV.  
DISCHARGED 07/29/2024

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

DISPOSITION:     Denied without prejudice.

ORDER:             The court will issue an order.

There is no attachment to the certificate of service filed with the motion (Doc. #22) showing the parties on which the motion and supporting documents

were served. Federal Rules of Bankruptcy Procedure ("Rules") 4001(a)(1) and 9014(b) require service of a motion for relief from stay to be made pursuant to Rule 7004 on both the debtor as well as the chapter 7 trustee. Because the certificate of service does not have an attachment, the court cannot determine whether the debtor and the chapter 7 trustee were served by first-class mail as required by Rule 7004(b)(1).

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

5. [24-11679](#)-A-7     **IN RE: HERNAN RAMIREZ**  
[PFT-1](#)

OPPOSITION RE: TRUSTEE'S MOTION TO DISMISS FOR FAILURE TO APPEAR AT  
SEC. 341(A) MEETING OF CREDITORS  
7-15-2024     [\[23\]](#)

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 8, 2024 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.

6. [24-11693](#)-A-7     **IN RE: GARY RODRIGUEZ**  
[RLG-1](#)

MOTION TO COMPEL ABANDONMENT  
7-29-2024     [\[11\]](#)

GARY RODRIGUEZ/MV  
STEVEN ALPERT/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 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.

As a procedural matter, the notice of hearing filed in connection with this motion does 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](http://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. The court encourages counsel to review the local rules to ensure compliance in future matters or those matters may be denied without prejudice for failure to comply with the local rules.

Gary Rodriguez ("Debtor"), the chapter 7 debtor in this case, moves the court to compel the chapter 7 trustee to abandon business assets consisting of: (a) three fitness balls, (b) a set of bands going up to 150 lbs.; (c) four boxes of therabands; and (d) 10-pound ankle weights (collectively, the "Property"). Doc. #11. Debtor asserts that the Property is of no consequence to the estate. Id.

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).

Debtor asserts that the Property is of inconsequential value and benefit to the estate. 11 U.S.C. § 554(b); Vu, 245 B.R. at 647. Debtor values the Property in his schedules at \$100.00. Am. Schedule A/B, Doc. #15. Under California Civil Procedure Code § 703.140, Debtor claims a \$100.00 exemption in the Property. Doc. #11; Am. Schedule C, Doc. #15. Because the Property is claimed as fully exempt, the Property adds no value to the estate. The court finds that Debtor has met his burden of establishing by a preponderance of the evidence that the Property is of inconsequential value and benefit to the estate.

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

7. [24-11405](#)-A-7     **IN RE: SOLEDAD OCHOA NAVARRO**  
[ICE-1](#)

OPPOSITION RE: TRUSTEE'S MOTION TO DISMISS FOR FAILURE TO  
APPEAR AT SEC. 341(A) MEETING OF CREDITORS  
7-25-2024     [\[20\]](#)

NO RULING.