

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF CALIFORNIA**

Honorable Fredrick E. Clement
Fresno Federal Courthouse
2500 Tulare Street, 5th Floor
Courtroom 11, Department A
Fresno, California

PRE-HEARING DISPOSITIONS

DAY: WEDNESDAY
DATE: August 29, 2018
CALENDAR: 9:00 A.M. CHAPTER 7 CASES

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

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

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

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

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

1. [18-11200](#)-A-7 **IN RE: HARRIET THOMAS**
[KLK-1](#)

CONTINUED MOTION TO REDEEM
5-9-2018 [[18](#)]

HARRIET THOMAS/MV
CAROLINE KIM
RESPONSIVE PLEADING

Final Ruling

The matter resolved by stipulation, the motion is dropped from calendar.

2. [17-14801](#)-A-7 **IN RE: FRESH FRUIT CUTS, A CALIFORNIA**
CORPORATION
[TGM-2](#)

MOTION TO CORRECT DATE OF AUCTION
8-1-2018 [[27](#)]

HAGOP BEDOYAN

Final Ruling

Motion: To Correct Date of Auction

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

Disposition: Granted

Order: Civil minute order

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

RELIEF REQUESTED

The trustee has moved to correct the date of an auction that was authorized by order entered on July 20, 2018. Order Authorizing Auction, ECF No. 26. The correct date of the auction is September 15, 2018 at 9:00 a.m. at 4459 Broadway, Macon, GA.

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

The trustee's motion to correct the date of an authorized auction has been presented to the court. Having entered the default of respondent for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the motion,

IT IS ORDERED that the motion is granted. The date of the auction authorized by this court's order at docket no. 26 is changed to September 15, 2018, at 9:00 a.m. at 4459 Broadway, Macon, GA.

3. [18-11921](#)-A-7 **IN RE: LUCINDA MOUA**
[TMT-1](#)

MOTION TO APPROVE STIPULATION BETWEEN TRUSTEE, DEBTOR AND MT
SHASTA FOREST PROPERTY OWNERS ASSOCIATION, INC. RE: SALE OF
LOT
8-1-2018 [[11](#)]

TRUDI MANFREDO/MV
TIMOTHY SPRINGER
TRUDI MANFREDO/ATTY. FOR MV.

Final Ruling

Motion: Approve Stipulation

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

Disposition: Granted

Order: Prepared by movant according to instructions below

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

The movant requests the court's approval of a stipulation. Based on the facts presented in the motion, the court will approve it.

The proposed order shall attach a copy of the stipulation as an exhibit to the order unless the stipulation exceeds 50 pages. If the stipulation exceeds 50 pages, then the proposed order shall not attach the stipulation but shall incorporate it by reference to its title and docket number.

4. [17-11824](#)-A-7 **IN RE: HORISONS UNLIMITED**
[CD-8](#)

CONTINUED MOTION FOR COMPENSATION BY THE LAW OFFICE OF
PILLSBURY WINTHROP SHAW PITTMAN LLP (FOR CECILY A. DUMAS,
DEBTORS ATTORNEY(S)
11-17-2017 [[392](#)]

CECILY DUMAS

No Ruling

5. [17-11824](#)-A-7 **IN RE: HORISONS UNLIMITED**
[SFR-2](#)

CONTINUED MOTION TO DISQUALIFY DEBTOR'S COUNSEL
5-16-2018 [[638](#)]

JAMES SALVEN/MV
CECILY DUMAS
PETER FEAR/ATTY. FOR MV.
RESPONSIVE PLEADING

No Ruling

6. [18-11725](#)-A-7 **IN RE: ANNA REYES**
[UST-1](#)

MOTION FOR DENIAL OF DISCHARGE OF DEBTOR UNDER 11 U.S.C.
SECTION 727(A)
7-30-2018 [[15](#)]

TRACY DAVIS/MV
TERRI DIDION/ATTY. FOR MV.

Tentative Ruling

Motion: Deny Discharge under § 727(a)(8)

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

Disposition: Granted

Order: Prepared by the movant

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

The U.S. Trustee has moved for denial of discharge pursuant to § 727(a)(8). The debtor has received a chapter 7 discharge in a prior case. The prior case was commenced within 8 years prior to the petition date in the current case. Pursuant to § 727(a)(8), the debtor is not entitled to receive a discharge in this case.

7. [18-12539](#)-A-7 **IN RE: MARIA GARCIA**
[DVW-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
8-14-2018 [\[37\]](#)

U.S. BANK NATIONAL
ASSOCIATION/MV
HENRY NUNEZ
DIANE WEIFENBACH/ATTY. FOR MV.

Tentative Ruling

Motion: Stay Relief

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

Disposition: Granted

Order: Civil minute order

Subject: 1139 Toschi Drive, Madera, CA

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

STAY RELIEF

Section 362(d)(2) authorizes stay relief if the debtor lacks equity in the property and the property is not necessary to an effective reorganization. 11 U.S.C. § 362(d)(2). Chapter 7 is a mechanism for liquidation, not reorganization, and, therefore, property of the estate is never necessary for reorganization. *In re Casgul of Nevada, Inc.*, 22 B.R. 65, 66 (B.A.P. 9th Cir. 1982). In this case, the aggregate amount due all liens exceeds the value of the collateral and the debtor has no equity in the property. The motion will be granted, and the 14-day stay of Federal Rule of Bankruptcy Procedure 4001(a)(3) will be waived. No other relief will be awarded.

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

U.S. Bank National Association's motion for relief from the automatic stay has been presented to the court. Having entered the default of respondent for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the motion,

IT IS ORDERED that the motion is granted. The automatic stay is vacated with respect to the property described in the motion, commonly known as 1139 Toschi Drive, Madera, CA, as to all parties in interest. The 14-day stay of the order under Federal Rule of Bankruptcy Procedure 4001(a)(3) is waived. Any party with standing may pursue its rights against the property pursuant to applicable non-bankruptcy law.

IT IS FURTHER ORDERED that no other relief is awarded. To the extent that the motion includes any request for attorney's fees or other costs for bringing this motion, the request is denied.

8. [13-13243](#)-A-7 **IN RE: MARIA RODRIGUEZ**
[FW-6](#)

MOTION FOR COMPENSATION BY THE LAW OFFICE OF FEAR WADDELL,
P.C. FOR PETER A. SAUER, TRUSTEES ATTORNEY(S)
7-30-2018 [[64](#)]

Final Ruling

Application: Allowance of Final Compensation and Expense
Reimbursement

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

Disposition: Approved

Order: Civil minute order

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

COMPENSATION AND EXPENSES

In this Chapter 7 case, Fear Waddell, P.C., attorney for the trustee, has applied for an allowance of final compensation and reimbursement of expenses. The applicant requests that the court allow compensation in the amount of \$8899.50 and reimbursement of expenses in the amount of \$251.66.

Section 330(a) of the Bankruptcy Code authorizes "reasonable compensation for actual, necessary services" rendered by a trustee, examiner or professional person employed under § 327 or § 1103 and "reimbursement for actual, necessary expenses." 11 U.S.C. §

330(a)(1). Reasonable compensation is determined by considering all relevant factors. See *id.* § 330(a)(3).

The court finds that the compensation and expenses sought are reasonable, and the court will approve the application on a final basis. The court also approves on a final basis any prior applications for fees and costs the court has approved on an interim basis under § 331.

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

Fear Waddell, P.C.'s application for allowance of final compensation and reimbursement of expenses has been presented to the court. Having entered the default of respondent for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the application,

IT IS ORDERED that the application is approved on a final basis. The court allows final compensation in the amount of \$8899.50 and reimbursement of expenses in the amount of \$251.66. The court also approves on a final basis any prior applications for fees and costs the court has approved on an interim basis under § 331.

IT IS FURTHER ORDERED that the trustee is authorized without further order of this court to pay from the estate the aggregate amount allowed by this order in accordance with the Bankruptcy Code and the distribution priorities of § 726.

9. [18-11947](#)-A-7 **IN RE: JOHN KOCAK**
[JIK-1](#)

MOTION TO RECONSIDER
8-2-2018 [[74](#)]

JOHN KOCAK/MV
JOHN KOCAK/ATTY. FOR MV.

Final Ruling

The motion denied by separate order, the matter is dropped from calendar.

10. [18-11767](#)-A-7 **IN RE: SHAYLA PROCTOR**
[JHW-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
7-26-2018 [\[19\]](#)

SANTANDER CONSUMER USA INC./MV
JENNIFER WANG/ATTY. FOR MV.
DISCHARGED

Tentative Ruling

Motion: Stay Relief

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

Disposition: Granted in part, denied in part as moot

Order: Civil minute order

Subject: 2012 Hyundai Sonata

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

AS TO DEBTOR

The motion will be denied in part as moot to the extent it seeks stay relief as to the debtor. The stay that protects the debtor terminates at the entry of discharge. 11 U.S.C. § 362(c)(2). In this case, discharge has been entered. As a result, the motion will be denied in part as moot as to the debtor.

AS TO ESTATE

Section 362(d)(2) authorizes stay relief if the debtor lacks equity in the property and the property is not necessary to an effective reorganization. 11 U.S.C. § 362(d)(2). Chapter 7 is a mechanism for liquidation, not reorganization, and, therefore, property of the estate is never necessary for reorganization. *In re Casgul of Nevada, Inc.*, 22 B.R. 65, 66 (B.A.P. 9th Cir. 1982). In this case, the aggregate amount due all liens exceeds the value of the collateral and the debtor has no equity in the property. The motion will be granted, and the 14-day stay of Federal Rule of Bankruptcy Procedure 4001(a)(3) will be waived. No other relief will be awarded.

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

Santander Consumer USA Inc.'s motion for relief from the automatic stay has been presented to the court. Having entered the default of respondent for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the motion,

IT IS ORDERED that the motion is granted in part and denied as moot in part. The automatic stay is vacated with respect to the interest of the trustee in the property described in the motion, commonly known as 2012 Hyundai Sonata. Relief from the automatic stay as to the interest of the debtor in such property is denied as moot given the entry of the discharge in this case. 11 U.S.C. § 362(c)(2)(C).

IT IS FURTHER ORDERED that the 14-day stay of the order under Federal Rule of Bankruptcy Procedure 4001(a)(3) is waived. Any party with standing may pursue its rights against the property pursuant to applicable non-bankruptcy law.

IT IS FURTHER ORDERED that no other relief is awarded. To the extent that the motion includes any request for attorney's fees or other costs for bringing this motion, the request is denied.

11. [16-10469](#)-A-7 **IN RE: JEFFREY BOHN**
[AAM-2](#)

CONTINUED MOTION FOR ADMINISTRATIVE EXPENSES
6-22-2018 [[184](#)]

PETER FEAR

No Ruling

12. [16-10469](#)-A-7 **IN RE: JEFFREY BOHN**
[JES-3](#)

CONTINUED MOTION TO EMPLOY EUGEN C. ANDRES AS SPECIAL
COUNSEL
8-23-2016 [[72](#)]

JAMES SALVEN/MV
PETER FEAR
RUSSELL REYNOLDS/ATTY. FOR MV.
RESPONSIVE PLEADING

No Ruling

13. [16-10469](#)-A-7 **IN RE: JEFFREY BOHN**
[FEC-1](#)

ORDER TO SHOW CAUSE REGARDING VACATION OF ORDER APPROVING
MOTION/APPLICATION TO EMPLOY EUGEN C. ANDRES
6-25-2018 [[191](#)]

PETER FEAR

No Ruling

14. [16-10469](#)-A-7 **IN RE: JEFFREY BOHN**
[RWR-3](#)

CONTINUED MOTION FOR COMPENSATION FOR EUGEN C. ANDRES,
SPECIAL COUNSEL(S)
2-14-2018 [[112](#)]

JAMES SALVEN/MV
PETER FEAR
RUSSELL REYNOLDS/ATTY. FOR MV.
RESPONSIVE PLEADING

No Ruling

15. [18-12475](#)-A-7 **IN RE: JEFFREY/CHRISTINA STANLEY**
[JHW-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
7-31-2018 [[25](#)]

SANTANDER CONSUMER USA INC./MV
TIMOTHY SPRINGER
JENNIFER WANG/ATTY. FOR MV.

Final Ruling

Motion: Stay Relief

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

Disposition: Granted

Order: Civil minute order

Subject: 2015 Ford Focus

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

STAY RELIEF

Section 362(d)(2) authorizes stay relief if the debtor lacks equity in the property and the property is not necessary to an effective reorganization. 11 U.S.C. § 362(d)(2). Chapter 7 is a mechanism for liquidation, not reorganization, and, therefore, property of the estate is never necessary for reorganization. *In re Casgul of Nevada, Inc.*, 22 B.R. 65, 66 (B.A.P. 9th Cir. 1982). In this case, the aggregate amount due all liens exceeds the value of the collateral and the debtor has no equity in the property. The motion will be granted, and the 14-day stay of Federal Rule of Bankruptcy Procedure 4001(a)(3) will be waived. No other relief will be awarded.

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

Santander Consumer USA, Inc.'s motion for relief from the automatic stay has been presented to the court. Having entered the default of respondent for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the motion,

IT IS ORDERED that the motion is granted. The automatic stay is vacated with respect to the property described in the motion, commonly known as QZ, as to all parties in interest. The 14-day stay of the order under Federal Rule of Bankruptcy Procedure 4001(a)(3) is waived. Any party with standing may pursue its rights against the property pursuant to applicable non-bankruptcy law.

IT IS FURTHER ORDERED that no other relief is awarded. To the extent that the motion includes any request for attorney's fees or other costs for bringing this motion, the request is denied.

16. [18-12576](#)-A-7 **IN RE: DAVID/JOCELYN THELEN**
[MSK-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
7-30-2018 [\[10\]](#)

PROVIDENT FUNDING ASSOCIATES,
L.P./MV
DAVID JENKINS
MARK KRAUSE/ATTY. FOR MV.
RESPONSIVE PLEADING

Tentative Ruling

Motion: Stay Relief

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

Disposition: Granted

Order: Civil minute order

Subject: 3345 San Felipe Ct., Merced, CA

SECTION 362(d)(1)

Subsection (d)(1) of § 362 of Title 11 provides for relief from stay for "cause, including the lack of adequate protection of an interest in property of such party." 11 U.S.C. § 362(d)(1). Adequate protection may consist of a lump sum cash payment or periodic cash payments to the entity entitled to adequate protection "to the extent that the stay . . . results in a decrease in the value of such entity's interest in property." 11 U.S.C. § 361(1).

"Where the property is declining in value or accruing interest and taxes eat up the equity cushion to the point where the cushion no longer provides adequate protection, the court may either grant the motion to lift the stay or order the debtor to provide some other form of adequate protection." Kathleen P. March, Hon. Alan M. Ahart & Janet A. Shapiro, *California Practice Guide: Bankruptcy* ¶ 8:1096 (rev. 2017). Further, "[a]n undersecured creditor is entitled to adequate protection only for the decline in the [collateral's] value after the bankruptcy filing." *Id.* ¶ 8:1065.1 (citing *United Sav. Ass'n v. Timbers of Inwood Forest Assocs., Ltd.*, 484 U.S. 365, 370-73 (1988)).

When a creditor is oversecured, however, an existing equity cushion may provide adequate protection of its security interest while the stay remains in effect. See *id.* ¶ 8:1072 (citing cases).

In calculating the amount of the movant creditor's equity cushion, the court ignores the debt secured by junior liens. *In re Mellor*, 734 F.2d 1396, 1400-01 (9th Cir. 1984). The Ninth Circuit has held that a 20% equity cushion adequately protects a creditor's security interest." *Id.* at 1401.

"[U]nder section 362(d)(1), the stay must be terminated for 'cause.' Lack of adequate protection is but one example of "cause" for relief from stay." *In re Ellis*, 60 B.R. 432, 435 (B.A.P. 9th Cir. 1985).

The panel in the *Ellis* case rejected the argument that under § 362(d)(1) "the stay can only be terminated if [the movant-creditors] show a lack of adequate protection." *Id.*

OPPOSITION

The debtors oppose the motion on the ground that they need additional time to vacate the property due to joint debtor's serious health problems. The debtors are resigned to the fact that they will lose the property to foreclosure. They simply request an additional month before stay relief is effective.

The debtors also point out that the equity cushion has not been correctly calculated by the movant. The movant asserts that the equity cushion is 4%. But using the motion's own figures, the court divides the debtors' equity (\$30,247.23) by the property's fair market value (\$264,500.00). The court does not factor in costs of sale. The result is that the equity cushion is approximately 11.4%. The court finds that this equity cushion is adequate to protect the movant for an additional month before relief from stay will be effective. But beyond the additional month, this will not be adequate, and stay relief will be effective as of October 1, 2018.

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

Provident Funding Associates, L.P.'s motion for relief from the automatic stay has been presented to the court. Having entered the default of respondent for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the motion,

IT IS ORDERED that the motion is granted effective as of October 1, 2018, on which date the automatic stay shall be vacated with respect to the property described in the motion, commonly known as 3345 San Felipe Ct., Merced, CA, as to all parties in interest. On or after October 1, 2018, any party with standing may pursue its rights against the property pursuant to applicable non-bankruptcy law.

IT IS FURTHER ORDERED that no other relief is awarded. To the extent that the motion includes any request for attorney's fees or other costs for bringing this motion, the request is denied.

17. [18-12793](#)-A-7 **IN RE: BLANCA HERNANDEZ**
[APN-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
7-26-2018 [\[12\]](#)

KIA MOTORS FINANCE/MV
AUSTIN NAGEL/ATTY. FOR MV.

Final Ruling

Motion: Stay Relief

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

Disposition: Granted

Order: Civil minute order

Subject: 2012 Hyundai Elantra

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

STAY RELIEF

Section 362(d)(2) authorizes stay relief if the debtor lacks equity in the property and the property is not necessary to an effective reorganization. 11 U.S.C. § 362(d)(2). Chapter 7 is a mechanism for liquidation, not reorganization, and, therefore, property of the estate is never necessary for reorganization. *In re Casgul of Nevada, Inc.*, 22 B.R. 65, 66 (B.A.P. 9th Cir. 1982). In this case, the aggregate amount due all liens exceeds the value of the collateral and the debtor has no equity in the property. The motion will be granted, and the 14-day stay of Federal Rule of Bankruptcy Procedure 4001(a)(3) will be waived. No other relief will be awarded.

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

Kia Motors Finance's motion for relief from the automatic stay has been presented to the court. Having entered the default of respondent for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the motion,

IT IS ORDERED that the motion is granted. The automatic stay is vacated with respect to the property described in the motion, commonly known as a 2012 Hyundai Elantra, as to all parties in interest. The 14-day stay of the order under Federal Rule of Bankruptcy Procedure 4001(a)(3) is waived. Any party with standing may pursue its rights against the property pursuant to applicable non-bankruptcy law.

IT IS FURTHER ORDERED that no other relief is awarded. To the extent that the motion includes any request for attorney's fees or other costs for bringing this motion, the request is denied.

18. [18-11947](#)-A-7 **IN RE: JOHN KOCAK**

MOTION FOR ENTRY OF DEFAULT JUDGMENT
8-20-2018 [[81](#)]

JOHN KOCAK/ATTY. FOR MV.

Final Ruling

The motion denied by separate order, the matter is dropped from calendar.