

UNITED STATES BANKRUPTCY COURT
Eastern District of California
Honorable René Lastreto II
Hearing Date: Tuesday, September 1, 2020
Place: Department B - Courtroom #13
Fresno, California

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

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

INSTRUCTIONS FOR PRE-HEARING DISPOSITIONS

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

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

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

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

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

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

9:30 AM

1. [20-10800](#)-B-11 **IN RE: 4-S RANCH PARTNERS, LLC**
[WJH-1](#)

STATUS CONFERENCE RE: MOTION FOR RELIEF FROM AUTOMATIC STAY
3-16-2020 [\[21\]](#)

SANDTON CREDIT SOLUTIONS MASTER FUND IV, LP/MV
RENO FERNANDEZ/ATTY. FOR DBT.
KURT VOTE/ATTY. FOR MV.
RESPONSIVE PLEADING

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

DISPOSITION: Concluded.

ORDER: The court will issue an order.

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

There will be no hearing on this status conference. The evidentiary hearing will be held on the Zoom platform. The technical pre-trial conference is scheduled for September 15, 2020 at 10:00 a.m. Further instructions will be provided by the court in the order.

2. [20-11612](#)-B-11 **IN RE: BENTON ENTERPRISES, LLC**

CONTINUED STATUS CONFERENCE RE: CHAPTER 11 VOLUNTARY PETITION
5-5-2020 [\[1\]](#)

PETER FEAR/ATTY. FOR DBT.

NO RULING.

3. [20-12633](#)-B-11 **IN RE: SIMPLY ESSENTIALS, LLC, A DELAWARE LIMITED LIABILITY COMPANY**
[WJH-1](#)

MOTION TO REJECT LEASE OR EXECUTORY CONTRACT
8-14-2020 [\[9\]](#)

SIMPLY ESSENTIALS, LLC, A DELAWARE LIMITED LIABILITY
RILEY WALTER/ATTY. FOR DBT.

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

DISPOSITION: The matter will be continued to September 22,
2020 at 9:30 am.

ORDER: The court will issue the order.

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

This debtor is subject to a pending, contested involuntary proceeding in the Northern District of Iowa. Case no. 20-00305. An interim order has been issued in the Iowa case that all proceedings pending in this case shall be stayed until further hearing by the bankruptcy court in the Northern District of Iowa currently scheduled for September 10, 2020. Doc. #73. This bankruptcy case may be further stayed thereafter.

For now, this motion will be continued to September 22, 2020. The order continuing the hearing will provide that if this motion is heard on September 22, 2020, it will be a preliminary hearing under Local Rule of Practice 9014-1(f)(2) and no party need file opposition before the continued hearing.

4. [20-11992](#)-B-11 **IN RE: CHAR PHAR INVESTMENTS, LLC**
[WLC-5](#)

CONTINUED MOTION TO USE CASH COLLATERAL
7-14-2020 [\[45\]](#)

CHAR PHAR INVESTMENTS, LLC/MV
WILLIAM COWIN/ATTY. FOR DBT.

NO RULING.

5. [20-11992](#)-B-11 **IN RE: CHAR PHAR INVESTMENTS, LLC**
[WLC-6](#)

MOTION TO ASSUME LEASE OR EXECUTORY CONTRACT
7-27-2020 [\[64\]](#)

CHAR PHAR INVESTMENTS, LLC/MV
WILLIAM COWIN/ATTY. FOR DBT.

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Continued to October 20, 2020 at 9:30 a.m.

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

This motion was originally scheduled for hearing on September 1, 2020 at 9:30 a.m. Doc. #65. On August 10, 2020 an amended notice of hearing was filed and served, setting the hearing for October 20, 2020 at 9:30 a.m. Doc. #85. Continuances without a court order are not permitted under the Local Rules of Practice ("LBR"). See LBR 9014-1(j).

However, LBR 9014-1(j) permits oral requests for continuances if made at the scheduled hearing, or in advance by written application.

If no written application for a continuance is received by the court before this hearing, and if debtor's counsel does not appear at the hearing to orally request a continuance, then the motion will be denied without prejudice for failure to comply with the Local Rules of Practice.

6. [20-12496](#)-B-11 **IN RE: NORTHGRAND ESTATES, LLC**
[FRB-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY AND/OR MOTION FOR ADEQUATE PROTECTION
8-11-2020 [\[26\]](#)

REDWOOD BPL HOLDINGS, INC./MV
MICHAEL TOTARO/ATTY. FOR DBT.
MICHAEL GOMEZ/ATTY. FOR MV.

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Granted.

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

This motion was filed and served pursuant to Local Rule of Practice ("LBR") 9014-1(f)(2) and will proceed as scheduled. Unless opposition is presented at the hearing, the court intends to enter

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

The movant, Redwood BPL Holdings, Inc. ("Movant"), seeks relief from the automatic stay under 11 U.S.C. §§ 362(d)(1) and (d)(4) concerning real property located at 1883 West North Grand in Porterville, CA 93257 ("Property").

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).

An order entered under § 362(d)(4) is binding in any other bankruptcy case purporting to affect such real property filed not later than two years after the date of entry of the order.

To obtain relief under § 362(d)(4), Movant must show and the court must affirmatively find the following three elements: (1) the debtor's bankruptcy filing must have been part of a scheme; (2) the object of the scheme must have been to delay, hinder, or defraud creditors, and (3) the scheme must have involved either the transfer of some interest in the real property without the secured creditor's consent or court approval, or multiple bankruptcy filings affecting the property. First Yorkshire Holdings, Inc. v. Pacifica L 22, LLC (In re First Yorkshire Holdings, Inc.), 470 B.R. 864, 870 (B.A.P. 9th Cir. 2012).

A scheme is an intentional construct - it does not happen by misadventure or negligence. In re Duncan & Forbes Dev., Inc., 368 B.R. 27, 32 (Bankr. C.D. Cal. 2007). A § 362(d)(4)(A) scheme is an "intentional artful plot or plan to delay, hinder or defraud creditors." Id. It is not common to have direct evidence of an artful plot or plan to deceive others - the court must infer the existence and contents of a scheme from circumstantial evidence. Id. Movant must present evidence sufficient for the trier of fact to infer the existence and content of the scheme. Id.

Unless opposition is presented at the hearing, the court finds that "cause" exists to lift the stay because debtor has failed to make at least seven post-petition payments. The movant has produced evidence that debtor is delinquent at least \$305,384.97. Doc. #30.

The court also finds that the debtor's filing of the petition was part of a scheme to delay, hinder, or defraud creditors that involved the transfer of all or part ownership of the subject real property without the consent of the secured creditor or court approval.

This is the debtor's second bankruptcy case filed within 5 weeks. The first case, a chapter 7 filed on June 24, 2020, was dismissed on July 23, 2020. It was dismissed for failure to timely file documents. This case was filed on June 29, 2020. The court takes

judicial notice of the docket, and notes that the debtor's attorney has filed a motion to withdraw (MRT-3), stating that debtor's principals have not signed a retainer agreement, have not provided a retainer, and have not been in contact with counsel. Doc. #50. Schedule A lists two parcels of real property, totaling \$425,000.00, which comprise essentially the entirety of the estate's property. Doc. #1. Debtor's secured debtors are only secured by the subject property. Debtor lists one unsecured creditor.

5 Arch made a loan to the debtor on or about October 21, 2019 in the amount of \$262,500.00, secured by the Property. Doc. #30. The note's maturity date is November 1, 2020. On or about October 24, 2019, 5 Arch assigned the deed of trust securing the Property to Movant. Id. Debtor subsequently defaulted, and has reportedly never made a payment on the note. Id. Debtor currently owes not less than \$305,384.97 under the note. Id.

The court finds that this second bankruptcy filing is part of a scheme to delay or hinder creditors. The record supports a finding that debtor is not serious about reorganizing and participating in good faith with counsel to successfully exit bankruptcy. As the debtor is a corporation, the debtor may not represent itself. The court does note that counsel for the debtor withdrew the motion to be relieved (#7 below).

Debtor's first bankruptcy case was dismissed for failure to timely file documents. While that problem has not arisen in this case, counsel's motion to withdraw is evidence of a lack of seriousness in participating in the bankruptcy process. Ninety-nine percent of debtor's assets are comprised of the Property and a vacant lot adjacent to the property. Debtor has one unsecured creditor. This is not a complicated case.

The Court having rendered findings of fact and conclusions of law pursuant to Federal Rule of Civil Procedure 52, as incorporated by Federal Rule of Bankruptcy Procedure 7052:

IT IS ORDERED that the automatic stay of 11 U.S.C. § 362(a) is vacated concerning real property located at 1883 West North Grand in Porterville, CA 93257; and

IT IS FURTHER ORDERED, pursuant to 11 U.S.C. § 362(d)(4), that the filing of the petition was part of a scheme to delay, hinder, or defraud creditors that involved either transfer of all or part ownership of, or other interest in, the aforesaid real property without the consent of the secured creditor or court approval; or multiple bankruptcy filing affecting such real property. The order shall be binding in any other case under Title 11 of the United States Code purporting to affect the real property described in the motion not later than two years after the date of entry of the order.

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

The order shall also provide that the bankruptcy proceeding has been finalized for purposes of California Civil Code § 2923.5.

The 14-day stay of Fed. R. Bankr. P. 4001(a)(3) will be ordered waived due to the fact that the debtor has never made a payment on the loan.

7. [20-12496](#)-B-11 **IN RE: NORTHGRAND ESTATES, LLC**
[MRT-2](#)

MOTION BY MICHAEL R. TOTARO TO WITHDRAW AS ATTORNEY
8-17-2020 [\[36\]](#)

MICHAEL TOTARO/ATTY. FOR DBT.
WITHDRAWN

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

DISPOSITION: Dropped from calendar.

NO ORDER REQUIRED: Movant withdrew the motion. Doc. #46.

8. [17-13797](#)-B-9 **IN RE: TULARE LOCAL HEALTHCARE DISTRICT**
[WJH-4](#)

CONTINUED OBJECTION TO CLAIM OF DEPARTMENT OF HEALTH CARE
SERVICES, CLAIM NUMBER 197
7-1-2019 [\[1512\]](#)

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

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

DISPOSITION: The hearing on this objection is continued to
October 20, 2020 at 9:30 am.

ORDER: No order is necessary.

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

The California Department of Health Care Services filed a motion for an order granting them leave to amend their proof of claim which the court denied without prejudice. See order entered July 15, 2020,

doc. #2241. That order also continues the hearing on this objection to October 20, 2020 at 9:30 am. Id.

The court notes the Department of Health Care services has filed another motion to amend their proof of claim which is scheduled to be heard September 22, 2020 at 9:30 am. See GL-1.

11:00 AM

1. [20-12023](#)-B-7 **IN RE: GABRIELA COVARRUBIAS**

PRO SE REAFFIRMATION AGREEMENT WITH MECHANICS BANK
8-11-2020 [\[15\]](#)

MARK HANNON/ATTY. FOR DBT.

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

DISPOSITION: Denied.

ORDER: The court will issue an order.

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

Both the reaffirmation agreement and the bankruptcy schedules show that reaffirmation of this debt creates a presumption of undue hardship which has not been rebutted in the reaffirmation agreement. In this case, the debtor's attorney affirmatively represented that he could not recommend the reaffirmation agreement. Therefore, the agreement does not meet the requirements of 11 U.S.C. §524(c) and is not enforceable.

2. [20-12134](#)-B-7 **IN RE: CORLEEN THOMPSON**

PRO SE REAFFIRMATION AGREEMENT WITH FIRST TECH FEDERAL
CREDIT UNION
8-11-2020 [\[13\]](#)

NO RULING.

3. [20-11668](#)-B-7 **IN RE: JESSICA MALDONADO**

PRO SE REAFFIRMATION AGREEMENT WITH SANTANDER CONSUMER USA
INC.
8-12-2020 [\[16\]](#)

NO RULING.

1:30 PM

1. [20-11706](#)-B-7 **IN RE: ANDREW/LUCINDA GONZALES**
[ALG-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
7-28-2020 [\[22\]](#)

KINECTA FEDERAL CREDIT UNION/MV
NEIL SCHWARTZ/ATTY. FOR DBT.
ARNOLD GRAFF/ATTY. FOR MV.

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

DISPOSITION: Granted.

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

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

The movant, 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 2017 Chevrolet Trax ("Vehicle"). Doc. #22.

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

11 U.S.C. § 362(d)(2) allows the court to grant relief from the stay if the debtor does not have an equity in such property and such property is not necessary to an effective reorganization.

After review of the included evidence, the court finds that "cause" exists to lift the stay because debtors have failed to make at least two pre-petition payments and two post-petition payments. The movant

has produced evidence that debtors are delinquent at least \$1,664.66. Doc. #25, 27.

The court also finds that the debtors do not have any equity in the Vehicle and the Vehicle is not necessary to an effective reorganization because debtors are in chapter 7. The Vehicle is valued at \$12,034.00 and debtor owes \$18,518.48. Doc. Id.

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

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

2. 20-12315-B-7 **IN RE: JEREMY/MIKAL MARRS**
NES-1

MOTION TO COMPEL ABANDONMENT
8-6-2020 [10]

JEREMY MARRS/MV
NEIL SCHWARTZ/ATTY. FOR DBT.

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

DISPOSITION: Granted.

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

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

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

Debtor asks this court to compel the chapter 7 trustee to abandon the estate's interest in debtor's sole proprietorship business "Marrs Electric Services." Doc. #10. The assets include various tools, accounts receivable, a business checking account at Mechanic's Bank, and all interest in Marrs Electric Services ("Business Assets"). There has been no opposition to this motion.

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

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

3. [19-12631](#)-B-7 **IN RE: JOEL SALAZAR**
[FW-3](#)

MOTION TO APPROVE STIPULATION COMPROMISING CLAIMS
7-30-2020 [\[43\]](#)

JAMES SALVEN/MV
MARIO LANGONE/ATTY. FOR DBT.
PETER FEAR/ATTY. FOR MV.

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

DISPOSITION: Granted.

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

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

This motion is GRANTED. It appears from the moving papers that the chapter 7 trustee ("Trustee") has considered the standards of In re Woodson, 839 F.2d 610, 620 (9th Cir. 1987) and In re A & C Properties, 784 F.2d 1377, 1381 (9th Cir. 1986):

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

Accordingly, it appears that the compromise pursuant to Federal Rule of Bankruptcy Procedure 9019 is a reasonable exercise of Trustee's business judgment. The order should be limited to the claims compromised as described in the motion.

Trustee requests approval of a settlement agreement between the estate and the debtor with regards to debtor's homestead exemption. Doc. #43.

Under the terms of the compromise, the debtor is authorized to claim the sum of \$85,000.00 of the proceeds of the sale of his real property with the remaining \$15,000.00 being a carve-out to the estate and not subject to any claim of exemption by the debtor.

On a motion by Trustee and after notice and a hearing, the court may approve a compromise or settlement. Fed. R. Bankr. P. 9019. Approval of a compromise must be based upon considerations of fairness and equity. In re A & C Properties, 784 F.2d 1377, 1381 (9th Cir. 1986). The court must consider and balance four factors: 1) the probability of success in the litigation; 2) the difficulties, if any, to be encountered in the matter of collection; 3) the complexity of the litigation involved, and the expense, inconvenience, and delay necessarily attending it; and 4) the paramount interest of the creditors with a proper deference to their reasonable views. In re Woodson, 839 F.2d 610, 620 (9th Cir. 1988).

The court concludes that the Woodson factors balance in favor of approving the compromise. That is: Trustee believes that he would succeed, but acknowledges "that it is possible that given the current conditions the court may find differently"; collection is not an issue as Trustee is holding the funds; the litigation is not complex, but the equitable considerations are uncertain and moving forward would decrease the net to the estate due to the legal fees; and the creditors will greatly benefit from the net to the estate, that would otherwise not exist; the settlement is equitable and fair.

Therefore, the court concludes the compromise to be in the best interests of the creditors and the estate. The court may give weight to the opinions of the trustee, the parties, and their attorneys. In re Blair, 538 F.2d 849, 851 (9th Cir. 1976). Furthermore, the law favors compromise and not litigation for its own sake. Id. Accordingly, the motion will be granted.

This ruling is not authorizing the payment of any fees or costs associated with the stipulation.

4. [20-12037](#)-B-7 **IN RE: GURDIAL SINGH**
[JES-1](#)

OBJECTION TO DEBTOR'S CLAIM OF EXEMPTIONS
7-31-2020 [\[17\]](#)

JAMES SALVEN/MV
MARK HANNON/ATTY. FOR DBT.
RESPONSIVE PLEADING

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

DISPOSITION: Overruled as moot.

ORDER: The court will issue an order.

This objection is OVERRULED AS MOOT. Debtor filed an amended
Schedule C. Doc. #21.

5. [20-11640](#)-B-7 **IN RE: CAROL LYNCH**
[GB-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
7-30-2020 [\[18\]](#)

BRIDGECREST CREDIT COMPANY, LLC/MV
JERRY LOWE/ATTY. FOR DBT.
ANGIE MARTH/ATTY. FOR MV.
DISCHARGED 8/18/20

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

The motion will be GRANTED IN PART as to the trustee's interest and 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 18, 2020. Doc. #24. The motion will be GRANTED IN PART for cause shown as to the chapter 7 trustee.

The movant, Bridgecrest Credit Company, LLC ("Movant"), seeks relief from the automatic stay under 11 U.S.C. §§ 362(d)(1) and (d)(2) with respect to a 2016 Chevrolet Malibu Limited ("Vehicle"). Doc. #18.

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

11 U.S.C. § 362(d)(2) allows the court to grant relief from the stay if the debtor does not have an equity in such property and such property is not necessary to an effective reorganization.

After review of the included evidence, the court finds that "cause" exists to lift the stay because debtor has failed to make at least two pre-petition payments and 5 post-petition payments. The movant has produced evidence that debtor is delinquent at least \$1,643.11. Doc. #20, 22.

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 debtor is in chapter 7. The Vehicle is valued at \$11,325.00 and debtor owes \$15,570.28. Doc. Id.

Accordingly, the motion will be granted pursuant to 11 U.S.C. §§ 362(d)(1) and (d)(2) to permit the movant to dispose of its collateral pursuant to applicable law and to use the proceeds from its disposition to satisfy its claim. No other relief is awarded. According to the debtor's statement of Intention filed on July 1, 2020 (Doc. #15), the Vehicle will be surrendered.

The 14-day stay of Fed. R. Bankr. P. 4001(a)(3) will be ordered waived because debtor has failed to make at least 7 pre- and post-petition payments to Movant and the Vehicle is a depreciating asset.

6. [19-14045](#)-B-7 **IN RE: DAVID MARTIN**
[ADJ-4](#)

MOTION FOR COMPENSATION BY THE LAW OFFICE OF FORES MACKO
JOHNSTON, INC. FOR ANTHONY D. JOHNSTON, TRUSTEES ATTORNEY(S)
8-3-2020 [\[25\]](#)

MARK ZIMMERMAN/ATTY. FOR DBT.

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

DISPOSITION: Granted.

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

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

The motion will be GRANTED. Trustee's counsel, Anthony D. Johnston, requests fees of \$3,500.00 for services rendered from February 15, 2018 through April 19, 2018.

11 U.S.C. § 330(a)(1)(A) & (B) permits approval of "reasonable compensation for actual necessary services rendered by . . .[a] professional person" and "reimbursement for actual, necessary expenses." Movant's services included, without limitation: (1) Researched and drafted a complaint to avoid fraudulent transfer of real property, (2) Discussed and successfully negotiated a compromise on the matter, (3) Prepared a motion to approve the settlement agreement, and (4) Prepared order approving the compromise. The court finds the services reasonable and necessary and the expenses requested actual and necessary.

Movant shall be awarded \$3,500.00.

7. [19-14649](#)-B-7 **IN RE: MORGAN/CHERYL MOSELEY**
[DMS-2](#)

OPPOSITION RE: TRUSTEE'S MOTION TO DISMISS FOR FAILURE TO
APPEAR AT SEC. 341(A) MEETING OF CREDITORS
7-2-2020 [\[28\]](#)

JOEL WINTER/ATTY. FOR DBT.

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

DISPOSITION: Dropped from calendar.

ORDER: The court will issue the order.

The § 341 meeting concluded on July 30, 2020.

8. [20-11858](#)-B-7 **IN RE: VIRGINIA REYES**
[EML-2](#)

MOTION TO REDEEM
7-23-2020 [\[32\]](#)

VIRGINIA REYES/MV
EVAN LIVINGSTONE/ATTY. FOR DBT.

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

DISPOSITION: Denied without prejudice.

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

This motion is DENIED WITHOUT PREJUDICE. Constitutional due process requires that the movant make a *prima facie* showing that they are entitled to the relief sought. Here, the moving papers do not present "sufficient factual matter, accepted as true, to 'state a claim to relief that is plausible on its face.'" In re Tracht Gut, LLC, 503 B.R. 804, 811 (9th Cir. BAP, 2014), citing Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009), and Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 570 (2007).

The court notes movant's procedural errors.

Local Rule of Practice ("LBR") 9004-2(d) requires that exhibits shall be filed as a separate document, requires an index, and that exhibit pages be consecutively numbered.

In this instance, the exhibits were not filed separately from the debtor's declaration, there was no index, and the exhibit pages were not consecutively numbered.

Failure to comply with the LBR in the future may result in the motion being denied without prejudice solely on those grounds.

Debtor asks the court for an order allowing Debtor to redeem personal property pursuant to 11 U.S.C. § 722 and Federal Rule of Bankruptcy Procedure 6008 from creditor OneMain Financial Group, LLC. Doc. #32. Debtor wishes to redeem a 2002 Toyota Camry ("Vehicle").

11 U.S.C. § 722 states:

An individual debtor may, whether or not the debtor has waived the right to redeem under this section, redeem tangible personal property intended primarily for personal, family, or household use, from a lien securing a dischargeable consumer debt, if such property is exempted under section 522 of this title or has been abandoned under section 554 of this title, by paying the holder of such lien the amount of the allowed secured claim of such holder that is secured by such lien in full at the time of redemption.

The vehicle is exempted under § 522 in the amount of \$0.00. Doc. #1, Schedule C. Because no amount of the value of the Vehicle has been exempted, the Vehicle has not been exempted and the requirements under § 722 have not been met. The motion is DENIED WITHOUT PREJUDICE.

9. [20-11778](#)-B-7 **IN RE: JOSE MERCADO GODINES AND VERONICA GODINEZ**
[DVW-2](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
8-18-2020 [\[28\]](#)

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

This motion was filed and served pursuant to Local Rule of Practice ("LBR") 9014-1(f)(2) and will proceed as scheduled. Unless opposition is presented at the hearing, the court intends to enter the respondents' defaults and grant the motion. If opposition is presented at the hearing, the court will consider the opposition and whether further hearing is proper pursuant to LBR 9014-1(f)(2). The court will issue an order if a further hearing is necessary.

The movant, 21st Mortgage Corporation ("Movant"), seeks relief from the automatic stay under 11 U.S.C. §§ 362(d)(1) and (d)(2) with respect to a 1991 Fleetwood Manufactured home located at 860 E. Grangeville Blvd., Sp. 130, Hanford, California ("Property").

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

11 U.S.C. § 362(d)(2) allows the court to grant relief from the stay if the debtor does not have an equity in such property and such property is not necessary to an effective reorganization.

After review of the included evidence, the court finds that "cause" exists to lift the stay because debtors are past due two post-petition payments in the amount of \$922.48. Doc. #32.

The court also finds that the debtors do not have any equity in the Property and the Property is not necessary to an effective reorganization because debtors are in chapter 7. Movant values the Property at \$37,072.00 and the amount owed to Movant is \$38,154.02. Id.

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

The 14-day stay of Fed. R. Bankr. P. 4001(a)(3) will be waived. The declaration filed in support of the motion states the mobile home is currently vacant. The debtors have said in their schedules they intend to surrender the mobile home.