



UNITED STATES BANKRUPTCY COURT
Eastern District of California
Honorable Jennifer E. Niemann
Hearing Date: Thursday, September 5, 2024
Department A – 510 19th street
Bakersfield, California

At this time, when in-person hearings in Bakersfield will resume is to be determined. No persons are permitted to appear in court for the time being. All appearances of parties and attorneys shall be as instructed below.

Unless otherwise ordered, all matters before the Honorable Jennifer E. Niemann shall be simultaneously: (1) via **ZoomGov Video**, (2) via **ZoomGov Telephone**, and (3) 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.

9:00 AM

1. [24-11810](#)-A-13 **IN RE: KELLY HARMEL-BLEDSON**
[LGT-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY TRUSTEE LILIAN G. TSANG
8-13-2024 [\[23\]](#)

DAVID CHUNG/ATTY. FOR DBT.

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Continued to October 3, 2024 at 9:00 a.m.

ORDER: The court will issue an order.

On June 28, 2024, Kelly Lynn Harmel-Bledsoe ("Debtor") filed a voluntary petition under chapter 13 along with a chapter 13 plan ("Plan"). Doc. ##1, 3. The chapter 13 trustee ("Trustee") objects to confirmation of the Plan because the meeting of creditors has not yet concluded, and Trustee may have further objections to confirmation based on Debtor's testimony at the continued meeting of creditors. Doc. #23.

The court's docket indicates that the meeting of creditors held on August 20, 2024 was continued to September 24, 2024 at 2:00 p.m. See court docket entry entered on August 20, 2024. Because the meeting of creditors will not be concluded before the hearing set on this objection to confirmation, the court is inclined to continue the hearing on this objection to confirmation to October 3, 2024 at 9:00 a.m.

2. [23-11229](#)-A-13 **IN RE: DUNCAN NORWOOD**
[LGT-2](#)

MOTION TO DISMISS CASE
7-9-2024 [\[119\]](#)

ROBERT WILLIAMS/ATTY. FOR DBT.
RESPONSIVE PLEADING

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Granted in part; the case will be converted.

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

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 debtor filed timely opposition on August 22, 2024. Doc. #123. The failure of creditors, 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). Therefore, the defaults of the non-responding parties in interest are entered. The matter will proceed as scheduled.

Here, the chapter 13 trustee asks the court to dismiss this case under 11 U.S.C. § 1307(c)(1) and (c)(6) for failure to make all payments due under the plan. Doc #119. Specifically, plan payments are delinquent in the amount of \$4,165.64 as of July 9, 2024. Id. While this motion is pending, further payments will come due each in the amount of \$1,041.41 for July 2024 and August 2024. Id.

Per the debtor's response to the motion, counsel for the debtor has been unable to contact the debtor; however, because the general unsecured debt is quite low, counsel asserts it is doubtful that a chapter 7 trustee would want to administer the non-exempt assets. Doc. #123.

Under 11 U.S.C. § 1307(c), the court may convert or dismiss a case, whichever is in the best interests of creditors and the estate, for "cause". There is "cause" for dismissal under 11 U.S.C. § 1307(c)(1) and (c)(6) for failure to make all payments due under the plan.

The order confirming the chapter 13 plan states that the chapter 7 liquidation test required priority and general unsecured creditors to receive a combined total of \$336,801.25 as of when the debtor's plan was confirmed on April 24, 2024. Doc. #114. Because there is significant non-exempt equity in the debtor's assets such that priority and general unsecured creditors likely would be paid in full plus interest in a chapter 7 case, the court finds that conversion, rather than dismissal, is in the best interests of creditors and the estate.

Accordingly, the debtor's opposition will be overruled, the motion will be GRANTED IN PART, and the case will be converted.

3. [23-12338](#)-A-13 **IN RE: SALINA THOMAS**
[DHC-5](#)

MOTION TO CONFIRM PLAN
7-22-2024 [\[85\]](#)

SALINA THOMAS/MV
DAVID CHUNG/ATTY. FOR DBT.

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

DISPOSITION: Denied without prejudice.

ORDER: The court will issue an order.

This matter is DENIED WITHOUT PREJUDICE for improper notice.

The certificate of service included a custom service list. Doc. #89. However, more than six people were served, so a custom list is not permitted under Local Rule of Practice 7005-1(a). Instead, not more than 7 days prior to the date notice was served, the moving party needed to use the court's website to generate a Clerk's Matrix of Creditors, a Matrix of Registered Users of the Electronic Filing System and a list of persons who have filed Requests for Special Notice to serve the motion and supporting papers and attach those lists to the certificate of service. Instructions on how to generate the required lists can be found on the court's website using the following link: [GeneratingMailingListsandLabelsQuickReference.pdf \(uscourts.gov\)](#).

MOTION FOR RELIEF FROM AUTOMATIC STAY
7-17-2024 [\[33\]](#)

SANTANDER CONSUMER USA INC./MV
ROBERT WILLIAMS/ATTY. FOR DBT.
SHERYL ITH/ATTY. FOR MV.

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

DISPOSITION: Granted.

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

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

The movant, Santander Consumer USA Inc. dba Chrysler Capital as Servicer for CCAP Auto Lease Ltd. ("Movant"), seeks relief from the automatic stay under 11 U.S.C. § 362(d)(1) with respect to a 2022 Jeep Wrangler, VIN: 1C4HJXDGXNW202011 ("Vehicle"). Doc. #33. Randel Martin Roque ("Debtor") entered into a Lease Agreement dated June 14, 2022 with Movant to lease the Vehicle. Decl. of Christopher Little, Doc. #39.

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).

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 post-petition lease payments. Movant has produced evidence that Debtor is delinquent by at least \$2,152.00, including late fees and vehicle return fees. Little Decl., Doc. #39. Debtor voluntarily surrendered the Vehicle on June 11, 2024. Id. Moreover, the confirmed chapter 13 plan in this case does not assume the lease with Movant, and the lease is deemed rejected. Plan ¶4.02, Doc. #3; Order, Doc. #21.

Accordingly, the motion will be granted pursuant to 11 U.S.C. § 362(d)(1) to permit Movant to proceed under applicable non-bankruptcy law to enforce its remedies with respect to the Vehicle. No other relief is awarded.

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

5. [24-11549](#)-A-13 **IN RE: GILBERT BERLANGA**
[LGT-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY LILIAN G. TSANG
7-22-2024 [\[13\]](#)

ROBERT WILLIAMS/ATTY. FOR DBT.

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

DISPOSITION: Continued to October 3, 2024 at 9:00 a.m.

ORDER: The court will issue an order.

On June 5, 2024, Gilbert Berlanga ("Debtor") filed a voluntary petition under chapter 13 along with a chapter 13 plan ("Plan"). Doc. ##1, 3. The chapter 13 trustee ("Trustee") objects to confirmation of the Plan because (1) the Plan provision to pay attorneys' fees does not comply with Local Rule of Practice 2016-1(c), (2) Debtor has not filed a motion to value collateral of One Main Financial, and (3) the Plan payments are insufficient to pay the arrears of MRC/United Wholesale based on that secured creditor's proof of claim. Doc. #13.

This objection will be continued to October 3, 2024 at 9:00 a.m. Unless this case is voluntarily converted to chapter 7, dismissed, or Trustee's objection to confirmation is withdrawn, Debtor shall file and serve a written response no later than September 19, 2024. The response shall specifically address each issue raised in the objection to confirmation, state whether the issue is disputed or undisputed, and include admissible evidence to support Debtor's position. Trustee shall file and serve a reply, if any, by September 26, 2024.

If Debtor elects to withdraw this plan and file a modified plan in lieu of filing a response, then a confirmable modified plan shall be filed, served, and set for hearing, not later than September 26, 2024. If Debtor does not timely file a modified plan or a written response, this objection to confirmation will be sustained on the grounds stated in Trustee's objection without a further hearing.

6. [24-11564](#)-A-13 **IN RE: JALAIN BEEMS**
[LGT-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY LILIAN G. TSANG
7-23-2024 [\[15\]](#)

LILIAN TSANG/MV
ANTHONY DIEHL/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 to confirmation is OVERULED AS MOOT. The debtor filed a modified plan on August 22, 2024 (APD-1, Doc. #23), with a motion to confirm the modified plan set for hearing on October 3, 2024 at 9:00 a.m. Doc. ##26-29.

7. [19-14266](#)-A-13 **IN RE: BENJAMIN TORRES**
[PLG-3](#)

MOTION TO SELL
8-2-2024 [\[47\]](#)

BENJAMIN TORRES/MV
RABIN POURNAZARIAN/ATTY. FOR DBT.

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

DISPOSITION: Granted.

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

This motion was set for hearing on at least 28 days' notice prior to the hearing date pursuant to Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of creditors, the 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 movants have done here.

Benjamin Timothy Torres ("Debtor") petitions the court for an order authorizing Debtor to sell real property located at: Parcel 4 of Parcel Map 3192 in the County of Kern, State of California, as per map recorded December 11, 1975 in Book 14, Page 199 of Parcel Maps, of Parcel Maps, in the Office of the County Recorder of said county (the "Property") to Christine Susan Jimerson and William F. Parker for \$70,000.00. Doc. #47; Ex. B, Doc. #50.

Debtor filed a voluntary chapter 13 petition on October 8, 2019. Doc. #1. Debtor's chapter 13 plan was confirmed on March 14, 2020 and provides for a 100% dividend to general unsecured creditors. Plan, Doc. #25; Order, Doc. #31. The Property was gifted to Debtor post-petition by his parents in March 2023. Decl. of Benjamin Torres, Doc. #49. Debtor intends to use the proceeds from the sale of the Property to pay the balance of his confirmed chapter 13 plan. Id.

LBR 3015-1(h)(1)(E) provides in relevant part that "if the debtor wishes to . . . transfer property on terms and conditions not authorized by [LBR 3015-1(h)(1)(A) through (D)], the debtor shall file the appropriate motion, serve it on the trustee, those creditors who are entitled to notice, and all persons requesting notice, and set the hearing on the Court's calendar with the notice required by Fed. R. Bankr. P. 2002 and LBR 9014-1."

This motion was properly served and noticed, and no opposition has been filed. Debtor has a fee simple ownership interest in the Property free and clear of a mortgage. Torres Decl., Doc. #49; Ex. A, Doc. #50. All costs of sale, including escrow fees, title insurance, and broker's commissions, will be paid in full from the sale proceeds. Torres Decl., Doc. #49. The court finds that the sale of the Property is in the best interests of the estate and will result in full payment of Debtor's confirmed chapter 13 plan.

Accordingly, this motion is GRANTED. Debtor is authorized, but not required, to sell the Property in a manner consistent with the motion.

8. [18-12667](#)-A-13 **IN RE: SAMANTHA JOHNSON**
[LGT-2](#)

MOTION TO DISMISS CASE
7-10-2024 [\[106\]](#)

LILIAN TSANG/MV
ROBERT WILLIAMS/ATTY. FOR DBT.
RESPONSIVE PLEADING

NO RULING.

9. [21-10384](#)-A-13 **IN RE: ELLIOTT/TIFFANY SHIPES**
[RSW-5](#)

MOTION TO MODIFY PLAN
7-15-2024 [\[82\]](#)

TIFFANY SHIPES/MV
ROBERT WILLIAMS/ATTY. FOR DBT.

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

DISPOSITION: Granted.

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

This motion was set for hearing on at least 35 days' notice prior to the hearing date pursuant to Local Rule of Practice ("LBR") 3015-1(d)(2). The failure of creditors, 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 movants have done here.

This motion is GRANTED. The confirmation order shall include the docket control number of the motion and it shall reference the plan by the date it was filed.

10. [24-10893](#)-A-13 **IN RE: CECELIA MCNABB**
[RSW-2](#)

MOTION TO CONFIRM PLAN
7-25-2024 [[26](#)]

CECELIA MCNABB/MV
ROBERT WILLIAMS/ATTY. FOR DBT.
RESPONSIVE PLEADING

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

DISPOSITION: Continued to October 3, 2024 at 9:00 a.m.

ORDER: The court will issue an order.

This motion was set for hearing on at least 35 days' notice as required by Local Rule of Practice 3015-1(d)(1). The chapter 13 trustee ("Trustee") filed an objection to the debtor's motion to confirm the chapter 13 plan. Tr.'s Opp'n, Doc. #33. Unless this case is voluntarily converted to chapter 7, dismissed, or Trustee's opposition to confirmation is withdrawn, the debtor shall file and serve a written response no later than September 19, 2024. The response shall specifically address each issue raised in the objection to confirmation, state whether the issue is disputed or undisputed, and include admissible evidence to support the debtor's position. Trustee shall file and serve a reply, if any, by September 26, 2024.

If the debtor elects to withdraw this plan and file a modified plan in lieu of filing a response, then a confirmable modified plan shall be filed, served, and set for hearing, not later than September 26, 2024. If the debtor does not timely file a modified plan or a written response, this motion will be denied on the grounds stated in Trustee's opposition without a further hearing.

11. [23-12780](#)-A-13 **IN RE: KARL NOLAND**
[RSW-1](#)

MOTION TO INCUR DEBT
8-22-2024 [[32](#)]

KARL NOLAND/MV
ROBERT WILLIAMS/ATTY. FOR DBT.

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Granted.

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

This motion was filed and served on at least 14 days' notice prior to the hearing date pursuant to Local Rule of Practice ("LBR") 9014-1(f)(2) and will proceed as scheduled. Unless opposition is presented at the hearing, the court

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

Karl Vinson Noland, Jr. ("Debtor"), the chapter 13 debtor in this case, moves the court for an order authorizing Debtor to incur new debt. Doc. #32. Debtor states that he needs to purchase a vehicle because Debtor only owns two vehicles, and one needs major repairs while the other is completely out of commission. Decl. of Karl Noland, Jr., Doc. #34. Debtor is looking to purchase a 2021 VW Atlas with 30,000 miles for \$25,195.00 with no downpayment. Id. Debtor expects the monthly payments on the new vehicle to be around \$649.00 per month for 60 months. Id. If that vehicle is no longer available, Debtor will purchase another vehicle with approximately the same monthly payment. Id.

LBR 3015-1(h)(1)(E) provides that "if the debtor wishes to incur new debt . . . on terms and conditions not authorized by [LBR 3015-1(h)(1)(A) through (D)], the debtor shall file the appropriate motion, serve it on the trustee, those creditors who are entitled to notice, and all persons requesting notice, and set the hearing on the Court's calendar with the notice required by Fed. R. Bankr. P. 2002 and LBR 9014-1."

The court is inclined to GRANT this motion. This motion was properly served and noticed, and opposition may be presented at the hearing. There is no indication that Debtor is not current on his chapter 13 plan payments or that the chapter 13 plan is in default. Debtor filed amended Schedules I and J that demonstrate an ability to pay future plan payments, projected living and business expenses, and the new debt. The new debt is a single loan incurred to purchase a motor vehicle that is reasonably necessary for the maintenance or support of Debtor. The only security for the new debt will be the motor vehicle to be purchased by Debtor.

Accordingly, subject to opposition raised at the hearing, this motion is GRANTED. Debtor is authorized, but not required, to purchase a vehicle in a manner consistent with the motion.

1. [24-10501](#)-A-7 **IN RE: BENJAMIN ESPARZA-DELGADO AND OLGA ESPARZA**
[JSP-2](#)

MOTION TO AVOID LIEN OF CAPITAL ONE BANK, N.A. AND CITIBANK, N.A.
6-13-2024 [\[16\]](#)

OLGA ESPARZA/MV
JOSEPH PEARL/ATTY. FOR DBT.

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

DISPOSITION: Granted.

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

This motion was set for hearing on at least 28 days' notice prior to the hearing date pursuant to Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of creditors, the 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 movants have done here.

As a procedural matter, the motion does not comply with LBR 9014-1(d)(5), which requires every request for an order to be filed separately from every other request. Under the court's interpretation of LBR 9014-1(d)(5), the request to avoid a judicial lien held by one lienholder is a separate request from the request to avoid the judicial lien of another lienholder, and a junior judicial lien held by one lienholder is a separate request from a senior judicial lien held by the same lienholder, even if all judicial liens are against the same property. Here, the debtors' motion requests avoidance of four separate judicial liens held by two separate lienholders. Doc. #16. Accordingly, the debtors should have filed four separate motions instead of asking for the avoidance of four separate liens in a single motion.

As a further procedural matter, the motion does not comply with LBR 9014-1(e)(2), which requires that proof of service of all pleadings be filed with the court not more than three (3) days after the pleading is filed with the court. Here, the certificate of service for the motion and supporting documents (Doc. #32) was filed more than two months after those pleadings were served, and the certificate of service for the amended notice of hearing (Doc. #33) was filed nearly one month after the amended notice of hearing was served.

Benjamin Esparza-Delgado and Olga Esparza (together, "Debtors"), the debtors in this chapter 7 case, move pursuant to 11 U.S.C. § 522(f) and Federal Rules of Bankruptcy Procedure 4003(d) and 9014 to avoid the judicial liens of Capital One Bank (USA), N.A. ("Capital One") and Citibank, N.A. ("Citibank") on the

residential real property commonly referred to as 5534 Viewcrest Drive, Bakersfield, CA 93313 (the "Property"). Doc. #16; Schedule C, Doc. #1.

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

Debtors filed the bankruptcy petition on February 29, 2024. Doc. #1. A judgment was entered against debtor Olga Esparza in the amount of \$5,418.26 in favor of Capital One on December 30, 2021. Ex. A, Doc. #18. The abstract of judgment was recorded pre-petition in Kern County on March 23, 2022 as document number 222045637 ("Capital One Senior Judicial Lien"). Ex. A, Doc. #18. A second judgment was entered against debtor Benjamin Esparza in the amount of \$6,654.75 in favor of Citibank on January 7, 2022. Ex. D, Doc. #18. The abstract of judgment was recorded pre-petition in Kern County on January 26, 2023 as document number 223009993 ("Citibank Senior Judicial Lien"). Ex. D, Doc. #18. A third judgment was entered against debtor Benjamin Esparza in the amount of \$5,106.16 in favor of Citibank on December 10, 2021. Ex. C, Doc. #18. The abstract of judgment was recorded pre-petition in Kern County on February 8, 2023 as document number 223015050 ("Citibank Junior Judicial Lien"). Ex. C, Doc. #18. A fourth judgment was entered against debtor Benjamin Esparza in the amount of \$8,767.63 in favor of Capital One on April 14, 2022. Ex. B, Doc. #18. The abstract of judgment was recorded pre-petition in Kern County on July 28, 2023, as document number 223087598 ("Capital One Junior Judicial Lien"). Ex. B, Doc. #18.

The liens attached to Debtors' interest in the Property located in Kern County. Doc. #16. According to Debtors' schedules, the Property also is encumbered by a lien in favor of Mr. Cooper/RightPath Servicing in the amount \$267,539.41. Schedule D, Doc. #1. Debtors claimed an exemption of \$234,460.59 in the Property under California Code of Civil Procedure § 704.730. Schedule C, Doc. #1. Debtors assert a market value for the Property as of the petition date at \$502,000.00. Schedule A/B, Doc. #1.

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

Applying the statutory formula to Capital One's Junior Judicial Lien, the most junior judicial lien, first:

Amount of Capital One's Junior Judicial Lien		\$8,767.63
Total amount of all other liens on the Property (excluding junior judicial liens)	+	\$284,718.58
Amount of Debtors' claim of exemption in the Property	+	\$234,460.59
		\$527,946.80
Value of Debtors' interest in the Property absent liens	-	\$502,000.00
Amount Capital One's lien impairs Debtors' exemption		\$25,946.80

After application of the arithmetical formula required by § 522(f)(2)(A), the court finds there is insufficient equity to support Capital One's Junior Judicial Lien recorded on July 28, 2023. Therefore, the fixing of Capital One's Junior Judicial Lien impairs Debtors' exemption in the Property and its fixing will be avoided.

Continuing in reverse order of priority and applying the statutory formula to Citibank's Junior Judicial Lien:

Amount of Citibank's Junior Judicial Lien		\$5,106.16
Total amount of all other liens on the Property (excluding junior judicial liens)	+	\$279,612.42
Amount of Debtors' claim of exemption in the Property	+	\$234,460.59
		\$519,179.17
Value of Debtors' interest in the Property absent liens	-	\$502,000.00
Amount Citibank's lien impairs Debtors' exemption		\$17,179.17

After application of the arithmetical formula required by § 522(f)(2)(A), the court finds there is insufficient equity to support Citibank's Junior Judicial Lien recorded on February 8, 2023. Therefore, the fixing of Citibank's Junior Judicial Lien impairs Debtors' exemption in the Property and its fixing will be avoided.

Continuing in reverse order of priority and applying the statutory formula to Citibank's Senior Judicial Lien:

Amount of Citibank's Senior Judicial Lien		\$6,654.75
Total amount of all other liens on the Property (excluding junior judicial liens)	+	\$272,957.67
Amount of Debtors' claim of exemption in the Property	+	\$234,460.59
		\$514,073.01
Value of Debtors' interest in the Property absent liens	-	\$502,000.00
Amount Citibank's lien impairs Debtors' exemption		\$12,073.01

After application of the arithmetical formula required by § 522(f)(2)(A), the court finds there is insufficient equity to support Citibank's Senior Judicial Lien recorded on January 26, 2023. Therefore, the fixing of Citibank's Senior Judicial Lien impairs Debtors' exemption in the Property and its fixing will be avoided.

Continuing in reverse order of priority and applying the statutory formula to Capital One's Senior Judicial Lien:

Amount of Capital One's Senior Judicial Lien		\$5,418.26
Total amount of all other liens on the Property (excluding junior judicial liens)	+	\$267,539.41
Amount of Debtors' claim of exemption in the Property	+	\$234,460.59
		\$507,418.26
Value of Debtors' interest in the Property absent liens	-	\$502,000.00
Amount Capital One's lien impairs Debtors' exemption		\$5,418.26

After application of the arithmetical formula required by § 522(f)(2)(A), the court finds there is insufficient equity to support Capital One's Senior Judicial Lien recorded on March 23, 2022. Therefore, the fixing of Capital One's Senior Judicial Lien impairs Debtors' exemption in the Property and its fixing will be avoided.

Debtors have established the four elements necessary to avoid a lien under 11 U.S.C. § 522(f)(1) with respect to the (a) Capital One Junior Judicial Lien,

(b) Citibank Junior Judicial Lien, (c) Citibank Senior Judicial Lien, and (d) Capital One Senior Judicial Lien. Accordingly, this motion is GRANTED. The proposed order shall state that the (a) Capital One Junior Judicial Lien, (b) Citibank Junior Judicial Lien, (c) Citibank Senior Judicial Lien, and (d) Capital One Senior Judicial Lien are avoided on the subject Property only and shall include copies of the relevant abstracts of judgment as exhibits.

2. [24-10017](#)-A-7 **IN RE: DANIEL/MADALENA HENSLEY**
[SAD-1](#)

CONTINUED MOTION FOR RELIEF FROM AUTOMATIC STAY
6-10-2024 [\[40\]](#)

STETSON CAPITAL ADVISORS I, LP/MV
ROBERT WILLIAMS/ATTY. FOR DBT.
SHANNON DOYLE/ATTY. FOR MV.
RESPONSIVE PLEADING

NO RULING.

3. [24-11853](#)-A-7 **IN RE: KEY ELECTRIC, INC.**
[SKI-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
7-24-2024 [\[15\]](#)

AMERICREDIT FINANCIAL SERVICES, INC./MV
LEONARD WELSH/ATTY. FOR DBT.
SHERYL ITH/ATTY. FOR MV.

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

DISPOSITION: Granted.

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

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

The movant, Americredit Financial Services, Inc. dba GM Financial ("Movant"), seeks relief from the automatic stay under 11 U.S.C. § 362(d)(1) and (d)(2) with respect to a 2019 RAM 2500, VIN: 3C7WR4AJ3KG551183 ("Vehicle"). Doc. #15.

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

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

After review of the included evidence, the court finds that "cause" exists to lift the stay because the debtor has failed to make at least four complete pre-petition payments. Movant has produced evidence that the debtor is delinquent by at least \$3,786.95, including late fees of \$437.95. Decl. of Phillip Ford, Doc. #20. The last payment received with respect to the Vehicle was on May 13, 2024 and applied to the payment due February 29, 2024. Id.

The court also finds that the debtor does not have any equity in the Vehicle and the Vehicle is not necessary to an effective reorganization because the debtor is in chapter 7. The Vehicle is valued at \$21,000.00 and the debtor owes \$25,496.18. Decl. of John Eng, Doc. #18; Ford Decl., Doc. #20.

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

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

4. [24-11877](#)-A-7 **IN RE: DOLLY ROMERO DUBON AND CHAHELIS RUBIO**
[SKI-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
8-2-2024 [\[27\]](#)

MERCEDES-BENZ VEHICLE TRUST/MV
CHRISTOPHER LAURIA/ATTY. FOR DBT.
SHERYL ITH/ATTY. FOR MV.

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

DISPOSITION: Granted.

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

This motion was set for hearing on at least 28 days' notice prior to the hearing date as required by Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of creditors, the debtors, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved

without oral argument. Upon default, factual allegations will be taken as true (except those relating to amount of damages). Televideo Sys., Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires a movant make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

The movant, Mercedes-Benz Vehicle Trust ("Movant"), seeks relief from the automatic stay under 11 U.S.C. § 362(d)(1) with respect to a 2022 Mercedes-Benz EQS, VIN: W1KCG2DB7NA017076 ("Vehicle"). Doc. #27.

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).

After review of the included evidence, the court finds that "cause" exists to lift the stay because the debtors have failed to make at least three complete pre-petition payments. Movant has produced evidence that the debtors are delinquent by at least \$2,980.20 plus late fees of \$181.56 and non-sufficient funds fees of \$75.00. Decl. of Star Faz, Doc. #30. Movant obtained possession of the Vehicle pre-petition on April 30, 2024. Id. Debtors do not list the Vehicles in their bankruptcy schedules. Doc. #1.

The court also finds that the debtors do not have any equity in the Vehicle and the Vehicle is not necessary to an effective reorganization because the debtors are in chapter 7. The debtors' possession of the Vehicle stems from a lease agreement with Movant that matures on May 1, 2025, according to which the debtors do not own the Vehicle. Faz Decl., Doc. #30; Ex. B, Doc. #31.

Accordingly, the motion will be granted pursuant to 11 U.S.C. § 362(d)(1) to permit Movant to gain immediate possession of the Vehicle pursuant to applicable law. No other relief is awarded.

The 14-day stay of Fed. R. Bankr. P. 4001(a)(3) will be ordered waived because the debtors have failed to make at least three pre-petition lease payments to Movant and Movant obtained possession of the Vehicle pre-petition.

5. [24-11884-A-7](#) **IN RE: DAVID RAMOS**
[SKI-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
7-19-2024 [\[10\]](#)

AMERICREDIT FINANCIAL SERVICES, INC./MV
D. GARDNER/ATTY. FOR DBT.
SHERYL ITH/ATTY. FOR MV.

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

DISPOSITION: Granted.

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

This motion was set for hearing on at least 28 days' notice prior to the hearing date as required by Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of creditors, the debtor, the U.S. Trustee, or any other party in

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

The movant, Americredit Financial Services, Inc. dba GM Financial ("Movant"), seeks relief from the automatic stay under 11 U.S.C. § 362(d)(1) and (d)(2) with respect to a 2022 Chevrolet Silverado 1500, VIN: 3GCPDFEK4NG532855 ("Vehicle"). Doc. #10.

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

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

After review of the included evidence, the court finds that "cause" exists to lift the stay because the debtor has failed to make at least two complete pre- and post-petition payments. Movant has produced evidence that the debtor is delinquent by at least \$1,827.11, including late fees of \$44.42. Decl. of Phillip Ford, Doc. #12. According to the debtor's Statement of Intention, the Vehicle will be surrendered. Doc. #1.

The court also finds that the debtor does not have any equity in the Vehicle and the Vehicle is not necessary to an effective reorganization because the debtor is in chapter 7. The Vehicle is valued at \$46,800.00 and the debtor owes \$50,694.28. Ford Decl., Doc. #12; Decl. of John Eng, Doc. #14.

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

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

10:30 AM

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

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

D. GARDNER/ATTY. FOR DBT.

NO RULING.

11:00 AM

1. [22-10825](#)-A-7 **IN RE: JAMIE/MARIA GARCIA**
[22-1018](#) [CAE-1](#)

RESCHEDULED STATUS CONFERENCE RE: COMPLAINT
8-19-2022 [[1](#)]

AGRO LABOR SERVICES, INC. ET AL V. GARCIA ET AL
VIVIANO AGUILAR/ATTY. FOR PL.
RESPONSIVE PLEADING

NO RULING.

2. [20-13451](#)-A-7 **IN RE: AMANDEEP SINGH**
[21-1004](#)

CONTINUED PRE-TRIAL CONFERENCE RE: COMPLAINT
2-5-2021 [[1](#)]

BMO HARRIS BANK, N.A. V. SINGH
RAFFI KHATCHADOURIAN/ATTY. FOR PL.
CLOSED 8/6/24

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

DISPOSITION: Dropped from calendar

NO ORDER REQUIRED.

A judgment in favor of the plaintiff was entered on July 19, 2024. Doc. #152.
Accordingly, this pre-trial conference is dropped from calendar. This adversary
proceeding was administratively closed on August 6, 2024.

3. [23-12471](#)-A-7 **IN RE: LIEN QUACH**
[24-1018](#) [CAE-1](#)

STATUS CONFERENCE RE: COMPLAINT
7-2-2024 [[1](#)]

QUACH V. NELNET, INC. ET AL
D. GARDNER/ATTY. FOR PL.

NO RULING.