



**UNITED STATES BANKRUPTCY COURT
Eastern District of California
Honorable René Lastreto II
Department B – Courtroom #13
Fresno, California**

Hearing Date: Thursday, September 5, 2024

Unless otherwise ordered, all matters before the Honorable René Lastreto II, shall be simultaneously: (1) **In Person** at, Courtroom #13 (Fresno hearings only), (2) via **ZoomGov Video**, (3) via **ZoomGov Telephone**, and (4) via **CourtCall**. You may choose any of these options unless otherwise ordered or stated below.

All parties or their attorneys 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/attorney 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 and their attorneys who wish to appear remotely must contact the Courtroom Deputy for the Department holding the hearing.

Please also note the following:

- Parties in interest and/or their attorneys 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 who wish to attend by ZoomGov may only listen in to the hearing using the Zoom telephone number. Video participation or observing are not permitted.
- Members of the public and the press may not listen in to trials or evidentiary hearings, though they may attend in person unless otherwise ordered.

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.

Post-Publication Changes: 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 any possible updates.

9:30 AM

1. [24-11198](#)-B-12 **IN RE: EDUARDO/AMALIA GARCIA**
[CAE-1](#)

CONTINUED STATUS CONFERENCE RE: CHAPTER 12 VOLUNTARY
PETITION
5-1-2024 [[1](#)]

PETER FEAR/ATTY. FOR DBT.

NO RULING.

2. [24-11198](#)-B-12 **IN RE: EDUARDO/AMALIA GARCIA**
[FW-3](#)

MOTION TO CONFIRM CHAPTER 12 PLAN
8-1-2024 [[43](#)]

AMALIA GARCIA/MV
PETER FEAR/ATTY. FOR DBT.
RESPONSIVE PLEADING

NO RULING.

11:00 AM

1. [24-11702](#)-B-7 **IN RE: AL HAYTHAM DOSOUQI**

PRO SE REAFFIRMATION AGREEMENT WITH LAKEVIEW LOAN SERVICING,
LLC
8-13-2024 [\[19\]](#)

NO RULING.

2. [24-11675](#)-B-7 **IN RE: EDITH REYES**

REAFFIRMATION AGREEMENT WITH GOLDEN 1 CREDIT UNION
8-9-2024 [\[15\]](#)

JEFFREY ROWE/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.

A Reaffirmation Agreement between Edith Yanira Reyes ("Debtor") and Golden 1 Credit Union for a 2016 Grand Design Reflection F317RST Trailer ("Trailer") was filed on 2024-11675. Doc. #15.

11 U.S.C. § 524(c)(6)(A)(ii) states "An agreement between a holder of a claim and the debtor, the consideration for which, in whole or in part, is based on a debt that is dischargeable in a case under this title is enforceable only to any extent enforceable under applicable non-bankruptcy law, whether or not discharge of such debt is waived, only if the court approves such agreement as in the best interest of the debtor."

There is no presumption of undue hardship because the lender is a Credit Union. But the evidence submitted by the Debtor shows a negative monthly expense deficit. Though the court does not presume reaffirmation is an undue hardship, the amount of the monthly deficit is evidence of undue hardship without the presumption.

Independently though, with the remaining term, current value, and age of the Trailer, reaffirmation of this debt is not in the Debtor's best interest. Nothing prevents the Debtor from continuing to make payments to the Creditor nor the creditor from accepting those payments. Approval of the reaffirmation agreement is DENIED.

3. [24-11675](#)-B-7 **IN RE: EDITH REYES**

REAFFIRMATION AGREEMENT WITH WELLS FARGO BANK, N.A.
8-15-2024 [\[21\]](#)

JEFFREY ROWE/ATTY. FOR DBT.

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

DISPOSITION: Dropped.

ORDER: The court will issue an order.

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

A Reaffirmation Agreement between Edith Reyes ("Debtor") and Wells Fargo Bank, N.A. for 731 Chenin Blanco Court, Los Banos, California was filed on August 15, 2024. Doc. # 21.

The court is not approving or denying approval of the reaffirmation agreement. Debtor was represented by counsel when entering into the agreement. The form of the reaffirmation agreement complies with 11 U.S.C. § 524(c) and (k), and it was signed by the Debtor's attorney with the appropriate attestations. *Id.* Pursuant to § 524(d), the court need not approve the agreement.

4. [24-11791](#)-B-7 **IN RE: ANTHONY/ANDREA VALDEZ**

REAFFIRMATION AGREEMENT WITH MERCO CREDIT UNION
8-16-2024 [\[17\]](#)

JEFFREY ROWE/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.

A Reaffirmation Agreement between Anthony Parker Valdez and Andrea Michelle Valdez ("Debtors") and Merco Credit Union for a 2022 Acura ILX ("Vehicle") was filed on August 16, 2024. Doc. #17.

11 U.S.C. § 524(c)(6)(A)(ii) states "An agreement between a holder of a claim and the debtor, the consideration for which, in whole or in part, is based on a debt that is dischargeable in a case under this title is enforceable only to any extent enforceable under applicable non-bankruptcy law, whether or not discharge of such debt is waived, only if the court approves such agreement as in the best interest of the debtor."

Here, the Vehicle is valued at \$25,153.00. The amount being reaffirmed by Debtors is \$30,686.04 with an 5.79% interest rate. Debtors have negative equity of \$5,533.04 with approximately 63 months (over five years) remaining on the loan and \$0.00 remaining in the budget every month according to the Debtors' schedules. Though there is no presumption of undue hardship because the lender is a Credit Union, reaffirming this debt is not in the Debtors' best interest. Accordingly, approval of the Reaffirmation Agreement between Debtors and Merco Credit Union will be DENIED.

1:30 PM

1. [24-11114](#)-B-7 **IN RE: MOHAMED DEROUAZ AND NOEMI FERNANDEZ**
[SKI-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
7-31-2024 [\[18\]](#)

KINECTA FEDERAL CREDIT
UNION/MV
ALIA KHAN/ATTY. FOR DBT.
SHERYL ITH/ATTY. FOR MV.
DISCHARGE 8/15/24

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.

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 2016 Jeep Wrangler (VIN: 1C4BJWFGXGL166077 ("Vehicle")). Doc. #18. Movant also requests waiver of the 14-day stay of Fed. R. Bankr. P. 4001(a)(3). Id.

Debtors did not oppose and no other party in interest timely filed written opposition. This motion will be GRANTED IN PART AND DENIED IN PART.

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 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 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. § 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.

11 U.S.C. § 362(c)(2)(C) provides that the automatic stay of § 362(a) continues until a discharge is granted. The Debtors' discharge was entered on August 15, 2024. Doc. #25. Therefore, the automatic stay terminated with respect to the Debtors on August 15, 2024. This motion will be DENIED AS MOOT IN PART as to the Debtors' interest and will be GRANTED IN PART for cause shown as to the chapter 7 trustee's (or estate's) interest.

After review of the included evidence, the court finds that "cause" exists to lift the stay because Debtors contacted Movant on July 19, 2024, and advised Movant of their intent to surrender the Vehicle. Docs. #21, #23.

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 this is a chapter 7 case. Movant values the Vehicle at \$29,300.00 and Debtors owe \$39,621.77, which leaves Movant under secured. Doc. #23.

Accordingly, the motion will be GRANTED IN PART as to the trustee's interest pursuant to § 362(d)(1) and (d)(2) and DENIED AS MOOT IN PART as to the Debtors' interest under § 362(c)(2)(C).

The 14-day stay of Fed. R. Bankr. P. 4001(a)(3) will be ordered waived because the Vehicle is a depreciating asset.

2. [24-11843](#)-B-7 **IN RE: DAMIEN HERRERA AND BEATRIZ CANACA**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES
8-20-2024 [\[26\]](#)

NO RULING.

3. [24-12274](#)-B-7 **IN RE: RONNIE CARRILLO**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES
8-20-2024 [\[12\]](#)

GRISelda TORRES/ATTY. FOR DBT.

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

DISPOSITION: The OSC will be vacated.

ORDER: The court will issue an order.

The record shows that the \$338.00 filing fee was paid on August 27, 2024. Accordingly, this order to show cause will be VACATED.

4. [24-12181](#)-B-7 **IN RE: AARON/KATIE SALYERS**
[EPE-1](#)

MOTION TO COMPEL ABANDONMENT
8-5-2024 [\[12\]](#)

KATIE SALYERS/MV
ERIC ESCAMILLA/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.

Aaron James Salyers and Katie Louise-Anamay Salyers ("Katie"; collectively "Debtors") move for an order compelling chapter 7 trustee Peter L. Fear ("Trustee") to abandon the estate's interest in a sole proprietorship owned by Katie, specifically a small home cleaning service business, and the assets used therein ("the Assets"). Doc. #12.

This motion was set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1). Thus, pursuant to LBR 9014-1(f)(1)(B), the failure of any party in interest (including but not limited to creditors, the debtor, the U.S. Trustee, or any other properly-served party in interest) to file written opposition at least 14 days prior to the hearing may be deemed a waiver of any such opposition to the granting of the motion. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). When there is no opposition to a motion, the defaults of all parties in interest who failed to timely respond will be entered, and, in the absence of any opposition, the movant's factual allegations will be taken as true (except those relating to amounts of damages). *Televideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917 (9th Cir. 1987). Because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary when an unopposed movant has made a prima facie case for the requested relief. *See Boone v. Burk (In re Eliapo)*, 468 F.3d 592 (9th Cir. 2006).

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."

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 (B.A.P. 9th Cir. 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). 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 (B.A.P. 9th Cir. 2014).

Katie declares that she is the owner and operator of Katie Salyers Cleaning Service, a sole proprietorship engaged in the business of providing cleaning services. Doc. #15. Debtors seek to compel Trustee to abandon the Assets, which are listed in the schedules as follows:

Asset	Value	Exempt	Lien	Net
Goodwill	\$250.00	\$0.00	\$0.00	\$250.00
Tools of the Trade: Cleaning Service Supplies.	\$100.00	\$100.00	\$0.00	\$0.00

Id.; Sched. A/B ¶ 40, Doc. #1. None of the Assets are encumbered by any secured creditors. Sched. D, *Id.* Debtor exempted the Cleaning Service Supplies for their full value as tools of the trade under Cal. Code Civ. Proc. § 703.060. Debtors did not claim an exemption in the Goodwill associated with the sole proprietorship.

Debtor contends there is only nominal goodwill value (\$250.00) in the business because substantially all the income from the business is the result of the labor of Debtor, and Debtor does not have any employees. Doc. #15. Further, Debtor certifies that Debtor was qualified and eligible to claim the exemptions under applicable law and understands that if for any reason it is determined that Debtor is not qualified to claim an exemption in the property listed, or if there is some other error in the exemption claimed, Trustee may demand that Debtor compensate the estate for any damage caused by the claimed exemption. Debtor agrees to not amend the exemptions affecting the Business Assets unless Trustee stipulated to that amendment or such relief is granted by further order of the court. *Id.*

No party in interest timely filed written opposition, and the defaults of all nonresponding parties are entered. This motion will be GRANTED. The order shall specifically include the property to be abandoned.

5. [24-11486](#)-B-7 **IN RE: DONALD/JINGJING SHAPLEY**
[DWE-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
7-31-2024 [\[15\]](#)

FREEDOM MORTGAGE
CORPORATION/MV
SETH HANSON/ATTY. FOR DBT.
DANE EXNOWSKI/ATTY. FOR MV.

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

DISPOSITION: Denied without prejudice.

ORDER: The court will enter the order.

Freedom Mortgage Corporation ("Movant") seeks an order lifting the automatic stay under 11 U.S.C. § 362 in the above-captioned matter so that Movant may enforce its remedies against the property in accordance with applicable non-bankruptcy law on the real property commonly known as 3303 Madroan Avenue, Merced, California (the "Property").

This motion will be DENIED WITHOUT PREJUDICE for failure to comply with the Local Rules of Practice ("LBR").

LBR 4001-1 states that motions for relief from the automatic stay of 11 U.S.C. § 362(a) shall be set for hearing in accordance with LBR 9014-1. LBR 9014-1, in turn, states that, under LBR 9014-1(d)(3)(B)(i), the Notice of the motion must include the names and addresses of the persons who must be served with such opposition. Here, the Notice only directed that written opposition should be served upon Movant's counsel. See *Doc. #17*. However, as the motion to lift stay implicates assets of the estate, the Chapter 7 Trustee and the U.S. Trustee are included among "the persons who must be served with such opposition." Though the Trustee has filed a "Notice of No Distribution," the Property has not been abandoned from the estate. Accordingly, the Notice is deficient, and this motion must be DENIED WITHOUT PREJUDICE.

6. [22-11587](#)-B-7 **IN RE: CARY SHAKESPEARE**
[YW-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
8-15-2024 [\[98\]](#)

CARY SHAKESPEARE/MV
LEONARD WELSH/ATTY. FOR DBT.
DISCHARGED 1/5/23

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.

Cary Shakespeare ("Debtor" or "Cary") seeks relief from the automatic stay to permit prosecution of state court appeals on Debtor's and his former spouse's behalf, Jan Shakespeare ("Jan"). Doc. #98. Both appeals arise from the disposition of Cary and Jan's divorce proceedings and the Judgment of Dissolution that resulted from a trial conducted in the Kern County Superior Court ("the Family Law Court"). Doc. #98,100.

Written opposition was not required and may be presented at the hearing. In the absence of opposition, this motion will be GRANTED.

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 instant motion has its genesis in prior rulings of the court. On September 29, 2022, Jan brought a *Motion for Relief from Stay* asking for stay relief for cause to authorize the Family Law Court to divide property between Cary and Jan and to determine the amount and allowance of Jan's claims against Cary ("the Family Law Case"). Doc. #19. Both Cary and Chapter 7 Trustee Jeffrey M. Vetter ("Trustee") opposed. Doc. ##38,40,54.

The court's minutes of the hearing conducted on November 2, 2022, contain an exhaustive analysis of the motion under the standards announced in *Tucson Estates* and *Curtis*. Doc. #56. The court sees no need to revisit that analysis here. On January 18, 2023, the court entered an Order that, *inter alia*:

1. modified the automatic stay to permit the Family Law Court to adjudicate the Family Law Case in full, including any marital property division issues;
2. stating that a further order from this court would be required to enforce any Family Law Court judgment determining or

dividing the community property or to collect or enforce any Family Law Court judgment from property of the estate.

Doc. #64. According to the moving papers supporting this motion, the Family Law Court conducted a trial in the Family Law Case on April 24-27, 2023, and May 1-5, 2023, ultimately entering a Judgment for Dissolution. Doc. ##98,100. Both Cary and Jan dispute many of the findings of fact and conclusions of law made by the Family Law Court, and each of them filed separate appeals to the Fifth District Court of Appeal ("the Appellate Court"). *Id.* However, the Appellate Court stayed prosecution of both appeals due to Cary's ongoing Chapter 7 case. Doc. #101 (*Exhib. E*). Cary has filed the instant motion and prays that the stay be modified or lifted so that the prosecution of both Cary and Jan's appeals can proceed and those issues relevant to the Family Law Judgment be concluded. Doc. #98-100.

In its November 2, 2022, interim order, the court engaged in a lengthy analysis of the *Tucson Estate* factors and the *Curtis* factors. Doc. #56. The court sees no need to do so again, as the only relief sought in the instant motion that differs from that previously granted by the court is to allow Cary and Jan to appeal the judgment entered in the Family Law Court after this court had previously modified the stay to allow the Family Court to enter judgment in the first place. The court merely extends that modification to the Fifth District Court of Appeals under the same analysis.

If no opposition is brought forth at the hearing, the court is inclined to GRANT this motion and modify the stay pursuant 11 U.S.C. § 362(d)(1). The order shall state that the automatic stay will be modified to permit the Fifth District Court of Appeal to adjudicate the appeal of the Family Law Judgment previously entered by the Kern County Superior Court. The modification will permit the family law issues to be finally adjudicated. Notwithstanding the result of the cross-appeals, any judgment of the State Court dividing community property cannot be enforced absent further relief from this court. Nothing in this ruling is permitting the collection or enforcement of any judgments from property of the estate.

The instant motion does not contain any request for waiver of the 14-day stay of Rule 4001(a)(3), and no such relief will be granted.