

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Fredrick E. Clement
Bankruptcy Judge

2500 Tulare Street, Fifth Floor
Department A, Courtroom 11
Fresno, California

Wednesday

September 10, 2014

PRE-HEARING DISPOSITIONS

GENERAL DESIGNATIONS

Each pre-hearing disposition is prefaced by the words "Final Ruling," "Tentative Ruling" or "No Tentative Ruling." Except as indicated below, matters designated "Final Ruling" will not be called and counsel need not appear at the hearing on such matters. Matters designated "Tentative Ruling" or "No Tentative Ruling" will be called.

MATTERS RESOLVED BEFORE HEARING

If the court has issued a final ruling on a matter and the parties directly affected by a matter have resolved the matter by stipulation or withdrawal of the motion before the hearing, then the moving party shall, not later than 4:00 p.m. (PST) on the day before the hearing, inform the following persons by telephone that they wish the matter to be dropped from calendar notwithstanding the court's ruling: (1) all other parties directly affected by the motion; and (2) Kathy Torres, Judicial Assistant to the Honorable Fredrick E. Clement, at (559) 499-5860.

ERRORS IN FINAL RULINGS

If a party believes that a final ruling contains an error that would, if reflected in the order or judgment, warrant a motion under Federal Rule of Civil Procedure 52(b), 59(e) or 60, as incorporated by Federal Rules of Bankruptcy Procedure, 7052, 9023 and 9024, then the party affected by such error shall, not later than 4:00 p.m. (PST) on the day before the hearing, inform the following persons by telephone that they wish the matter either to be called or dropped from calendar, as appropriate, notwithstanding the court's ruling: (1) all other parties directly affected by the motion; and (2) Kathy Torres, Judicial Assistant to the Honorable Fredrick E. Clement, at (559) 499-5860. Absent such a timely request, a matter designated "Final Ruling" will not be called.

9:00 a.m.

1. [14-12107](#)-A-7 AMADO GOMEZ
JES-1
JAMES SALVEN/MV
8-6-14 [[26](#)]
OSCAR SWINTON/Atty. for dbt.
- OBJECTION TO DEBTOR'S CLAIM OF
EXEMPTIONS

Tentative Ruling

Objection: Objection to Debtor's Claim of Exemptions

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

Disposition: Denied without prejudice

Order: Civil minute order if appropriate

The objection was not properly served on the debtor. If service on the debtor is required, and the debtor is represented by an attorney, then the attorney must also be served pursuant to Rule 7004(g). Fed. R. Bankr. P. 7004(g). Under Rule 7004(g), service must be made upon the debtor's attorney by any means authorized under Rule 5(b) of the Federal Rules of Civil Procedure. The debtor's attorney was not served at the correct address.

2. [10-18510](#)-A-7 JESUS JIMENEZ
ALG-3
JESUS JIMENEZ/MV
JANINE ESQUIVEL/Atty. for dbt.
- AMENDED MOTION TO AVOID LIEN OF
CITIBANK (SOUTH DAKOTA), N.A. .
7-30-14 [[48](#)]

Final Ruling

Motion: Avoid Lien that Impairs Exemption

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

Disposition: Granted

Order: Prepared by moving party

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

Section 522(f) of the Bankruptcy Code authorizes the court to avoid a lien "on an interest of the debtor in property to the extent that such lien impairs an exemption to which the debtor would have been entitled." 11 U.S.C. § 522(f)(1). There are four elements to avoidance of a lien that impairs an exemption: (1) there must be an exemption to which the debtor would have been entitled; (2) the property must be listed on the schedules and claimed as exempt; (3) the lien must impair the exemption claimed; and (4) the lien must be a judicial lien or nonpossessory, nonpurchase-money security interest in property described in § 522(f)(1)(B). *Goswami v. MTC Distrib. (In re Goswami)*, 304 B.R. 386, 390-91 (B.A.P. 9th Cir. 2003). Impairment is statutorily defined: a lien impairs an exemption "to the extent that the sum of-(i) the lien; (ii) all other liens on the property; and

(iii) the amount of the exemption that the debtor could claim if there were no liens on the property; exceeds the value that the debtor's interest in the property would have in the absence of any liens." 11 U.S.C. § 522(f)(2)(A).

The responding party's judicial lien, all other liens, and the exemption amount together exceed the property's value by an amount greater than or equal to the debt secured by the responding party's lien. As a result, the responding party's judicial lien will be avoided entirely.

3. [14-12114](#)-A-7 CRYSTAL GARLICK
JES-2
JAMES SALVEN/MV

MOTION TO COMPROMISE
CONTROVERSY/APPROVE SETTLEMENT
AGREEMENT WITH CRYSTAL GARLICK
8-13-14 [[43](#)]

THOMAS ARMSTRONG/Atty. for dbt.

Final Ruling

Motion: Approve Compromise or Settlement of Controversy

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

Disposition: Granted

Order: Prepared by moving party

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

In determining whether to approve a compromise under Federal Rule of Bankruptcy Procedure 9019, the court determines whether the compromise was negotiated in good faith and whether the party proposing the compromise reasonably believes that the compromise is the best that can be negotiated under the facts. *In re A & C Props.*, 784 F.2d 1377, 1381 (9th Cir. 1982). More than mere good faith negotiation of a compromise is required. The court must also find that the compromise is fair and equitable. *Id.* "Fair and equitable" involves a consideration of four factors: (i) the probability of success in the litigation; (ii) the difficulties to be encountered in collection; (iii) the complexity of the litigation, and expense, delay and inconvenience necessarily attendant to litigation; and (iv) the paramount interest of creditors and a proper deference to the creditors' expressed wishes, if any. *Id.* The party proposing the compromise bears the burden of persuading the court that the compromise is fair and equitable and should be approved. *Id.*

Based on the motion and supporting papers, the court finds that the compromise is fair and equitable considering the relevant A & C *Properties* factors. The compromise will be approved.

4. [14-12714](#)-A-7 MARIANA BELTRAN
TMT-1
TRUDI MANFREDO/MV
MARK ZIMMERMAN/Atty. for dbt.
TRUDI MANFREDO/Atty. for mv.

MOTION TO SELL
7-31-14 [[19](#)]

Tentative Ruling

Motion: Sell Property

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

Disposition: Granted

Order: Prepared by moving party

Property: 2004 Ford Explorer

Buyer: Debtor

Sale Price: \$3540 (\$640 cash plus \$2900 exemption credit)

Sale Type: Private sale subject to overbid opportunity

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

Section 363(b)(1) of Title 11 authorizes sales of property of the estate "other than in the ordinary course of business." 11 U.S.C. § 363(b)(1); *see also In re Lionel Corp.*, 722 F.2d 1063, 1071 (2d Cir. 1983) (requiring business justification). The moving party is the Chapter 7 trustee and liquidation of property of the estate is a proper purpose. *See* 11 U.S.C. § 704(a)(1). As a result, the court will grant the motion. The stay of the order provided by Federal Rule of Bankruptcy Procedure 6004(h) will be waived.

5. [14-12626](#)-A-7 JOSE HERNANDEZ
ALG-1
JOSE HERNANDEZ/MV

JANINE ESQUIVEL/Atty. for dbt.
WITHDRAWN

AMENDED MOTION TO AVOID LIEN OF
MID-VALLEY PIPE AND SUPPLY,
INC. .
8-9-14 [[24](#)]

Final Ruling

The motion withdrawn, the matter is dropped as moot.

6. [14-12626](#)-A-7 JOSE HERNANDEZ
ALG-2
JOSE HERNANDEZ/MV

MOTION TO AVOID LIEN OF
MID-VALLEY PIPE AND SUPPLY,
INC.
8-12-14 [[32](#)]

JANINE ESQUIVEL/Atty. for dbt.

Final Ruling

Motion: Avoid Lien that Impairs Exemption

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

Disposition: Granted

Order: Prepared by moving party

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

Section 522(f) of the Bankruptcy Code authorizes the court to avoid a lien "on an interest of the debtor in property to the extent that such lien impairs an exemption to which the debtor would have been entitled." 11 U.S.C. § 522(f)(1). There are four elements to avoidance of a lien that impairs an exemption: (1) there must be an exemption to which the debtor would have been entitled; (2) the property must be listed on the schedules and claimed as exempt; (3) the lien must impair the exemption claimed; and (4) the lien must be a judicial lien or nonpossessory, nonpurchase-money security interest in property described in § 522(f)(1)(B). *Goswami v. MTC Distrib. (In re Goswami)*, 304 B.R. 386, 390-91 (B.A.P. 9th Cir. 2003). Impairment is statutorily defined: a lien impairs an exemption "to the extent that the sum of—(i) the lien; (ii) all other liens on the property; and (iii) the amount of the exemption that the debtor could claim if there were no liens on the property; exceeds the value that the debtor's interest in the property would have in the absence of any liens." 11 U.S.C. § 522(f)(2)(A).

The respondent has a judicial lien that was created when it filed a notice of judgment lien with the California Secretary of State. This notice was filed on or about March 20, 2009.

The debtor has exempted a dump truck (1975 Chevy C65) for the entire amount of its fair market value (\$2500). The respondent's judgment lien secures a judgment debt totaling \$10,510.15. The judgment lien plus the exemption amount together exceed the value of the property by an amount equal to the judgment lien debt. Based on the factual grounds stated in the motion, the court concludes that a judicial lien impairs the debtor's exemption.

7. [13-15835](#)-A-7 ANTONIO/RUTH RAMOS
JES-1
JAMES SALVEN/MV

MOTION TO SELL
8-6-14 [[19](#)]

ADRIAN WILLIAMS/Atty. for dbt.

Tentative Ruling

Motion: Sell Property

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

Disposition: Granted

Order: Prepared by moving party

Property: 1996 Jeep Cherokee and 1998 Toyota RAV4

Buyer: Debtors

Sale Price: \$2500 cash

-1996 Jeep Cherokee: \$500 cash

-1998 Toyota RAV4: \$2000 cash

Sale Type: Private sale subject to overbid opportunity

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

Section 363(b)(1) of Title 11 authorizes sales of property of the estate "other than in the ordinary course of business." 11 U.S.C. § 363(b)(1); *see also In re Lionel Corp.*, 722 F.2d 1063, 1071 (2d Cir. 1983) (requiring business justification). The moving party is the Chapter 7 trustee and liquidation of property of the estate is a proper purpose. *See* 11 U.S.C. § 704(a)(1). As a result, the court will grant the motion. The stay of the order provided by Federal Rule of Bankruptcy Procedure 6004(h) will be waived.

8. [14-13941](#)-A-7 DONALD HARPER

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
8-20-14 [[11](#)]

\$29.00 FILING FEE PAID
8/25/14

Final Ruling

The unpaid fee being paid, the order to show cause is discharged.

9. [13-16844](#)-A-7 ROBERT/LISA GARTIN
JES-2
JAMES SALVEN/MV

MOTION TO SELL
8-7-14 [[34](#)]

JAMES MILLER/Atty. for dbt.

Tentative Ruling

Motion: Sell Property

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

Disposition: Granted

Order: Prepared by moving party

Property: 2004 Kia Sedona

Buyer: Debtors

Sale Price: \$3456 (\$556 cash plus \$2900 exemption credit)

Sale Type: Private sale subject to overbid opportunity

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

Section 363(b)(1) of Title 11 authorizes sales of property of the estate "other than in the ordinary course of business." 11 U.S.C. § 363(b)(1); *see also In re Lionel Corp.*, 722 F.2d 1063, 1071 (2d Cir. 1983) (requiring business justification). The moving party is the Chapter 7 trustee and liquidation of property of the estate is a proper purpose. *See* 11 U.S.C. § 704(a)(1). As a result, the court will grant the motion. The stay of the order provided by Federal Rule of Bankruptcy Procedure 6004(h) will be waived.

10. [11-13750](#)-A-7 PEDRO/MAGDALENA OCHOA
ALG-3
PEDRO OCHOA/MV
JANINE ESQUIVEL/Atty. for dbt.

MOTION TO AVOID LIEN OF HSBC
CREDIT CENTER, INC.
8-8-14 [[40](#)]

Final Ruling

Motion: Avoid Lien that Impairs Exemption

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

Disposition: Granted

Order: Prepared by moving party

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

Section 522(f) of the Bankruptcy Code authorizes the court to avoid a lien "on an interest of the debtor in property to the extent that such

lien impairs an exemption to which the debtor would have been entitled." 11 U.S.C. § 522(f)(1). There are four elements to avoidance of a lien that impairs an exemption: (1) there must be an exemption to which the debtor would have been entitled; (2) the property must be listed on the schedules and claimed as exempt; (3) the lien must impair the exemption claimed; and (4) the lien must be a judicial lien or nonpossessory, nonpurchase-money security interest in property described in § 522(f)(1)(B). *Goswami v. MTC Distrib. (In re Goswami)*, 304 B.R. 386, 390-91 (B.A.P. 9th Cir. 2003). Impairment is statutorily defined: a lien impairs an exemption "to the extent that the sum of-(i) the lien; (ii) all other liens on the property; and (iii) the amount of the exemption that the debtor could claim if there were no liens on the property; exceeds the value that the debtor's interest in the property would have in the absence of any liens." 11 U.S.C. § 522(f)(2)(A).

The responding party's judicial lien, all other liens, and the exemption amount together exceed the property's value by an amount greater than or equal to the debt secured by the responding party's lien. As a result, the responding party's judicial lien will be avoided entirely.

11. [14-12157](#)-A-7 ELIZABETH GARCIA
JDR-4
ELIZABETH GARCIA/MV
JEFFREY ROWE/Atty. for dbt.

MOTION TO AVOID LIEN OF
CREDITORS BUREAU USA
8-14-14 [[45](#)]

Tentative Ruling

Motion: Avoid Lien that Impairs Exemption

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

Disposition: Granted

Order: Prepared by moving party

The motion was filed and served August 14, 2014, which is less than 28 days' notice as required by LBR 9014-1(f)(1). The court will treat the motion as having been noticed under LBR 9014-1(f)(2).

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

Section 522(f) of the Bankruptcy Code authorizes the court to avoid a lien "on an interest of the debtor in property to the extent that such lien impairs an exemption to which the debtor would have been entitled." 11 U.S.C. § 522(f)(1). There are four elements to avoidance of a lien that impairs an exemption: (1) there must be an exemption to which the debtor would have been entitled; (2) the property must be listed on the schedules and claimed as exempt; (3) the lien must impair the exemption claimed; and (4) the lien must be a judicial lien or nonpossessory, nonpurchase-money security interest in property described in § 522(f)(1)(B). *Goswami v. MTC Distrib. (In re Goswami)*, 304 B.R. 386, 390-91 (B.A.P. 9th Cir. 2003). Impairment is statutorily defined: a lien impairs an exemption "to the extent that the sum of-(i) the lien; (ii) all other liens on the property; and (iii) the amount of the exemption that the debtor could claim if there

were no liens on the property; exceeds the value that the debtor's interest in the property would have in the absence of any liens." 11 U.S.C. § 522(f)(2)(A).

The debtor has brought motions to avoid several liens on the real property located at 516 Madera Street, Avenal, California. In cases in which there are multiple liens to be avoided, the liens must be avoided in the reverse order of their priority. See *In re Meyer*, 373 B.R. 84, 87-88 (B.A.P. 9th Cir. 2007). "[L]iens 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 finds it unnecessary to apply the reverse-priority analysis individually to each of the responding parties' liens. See *In re Meyer*, 373 B.R. at 88 ("[O]ne 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."). Under the reverse-priority analysis, respondent Creditors Bureau USA holds the judicial lien that would be the last judicial lien to be avoided because it has a higher priority than the other judicial liens, though it is still subject to any senior consensual lien. In determining whether Creditors Bureau USA's lien may be avoided, the court must exclude all junior judicial liens that would already have been avoided. See 11 U.S.C. § 522(f)(2)(B); *In re Meyer*, 373 B.R. at 87-88.

Creditors Bureau USA's judicial lien (\$1769.68), plus all other liens excluding judicial liens lower in priority (\$0.00), plus the exemption amount (\$67,233) together exceed the property's value (\$67,233) by an amount equal to the debt secured by such judicial lien. As a result, Creditors Bureau USA's judicial lien may be avoided entirely.

All other judicial liens held by the responding parties may be avoided as well because they are lower in priority than Creditors Bureau USA's avoidable judicial lien. Stated differently, the debtor's exemption amount equals or exceeds the fair market value of the real property, so all judicial liens are properly avoidable under § 522(f).

12. [14-12157](#)-A-7 ELIZABETH GARCIA
JDR-5
ELIZABETH GARCIA/MV
JEFFREY ROWE/Atty. for dbt.

MOTION TO AVOID LIEN OF FORD
MOTOR CREDIT COMPANY
8-14-14 [[51](#)]

Tentative Ruling

Motion: Avoid Lien that Impairs Exemption

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

Disposition: Granted

Order: Prepared by moving party

The motion was filed and served August 14, 2014, which is less than 28 days' notice as required by LBR 9014-1(f)(1). The court will treat the motion as having been noticed under LBR 9014-1(f)(2).

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

Section 522(f) of the Bankruptcy Code authorizes the court to avoid a lien "on an interest of the debtor in property to the extent that such lien impairs an exemption to which the debtor would have been entitled." 11 U.S.C. § 522(f)(1). There are four elements to avoidance of a lien that impairs an exemption: (1) there must be an exemption to which the debtor would have been entitled; (2) the property must be listed on the schedules and claimed as exempt; (3) the lien must impair the exemption claimed; and (4) the lien must be a judicial lien or nonpossessory, nonpurchase-money security interest in property described in § 522(f)(1)(B). *Goswami v. MTC Distrib. (In re Goswami)*, 304 B.R. 386, 390-91 (B.A.P. 9th Cir. 2003). Impairment is statutorily defined: a lien impairs an exemption "to the extent that the sum of—(i) the lien; (ii) all other liens on the property; and (iii) the amount of the exemption that the debtor could claim if there were no liens on the property; exceeds the value that the debtor's interest in the property would have in the absence of any liens." 11 U.S.C. § 522(f)(2)(A).

The debtor has brought motions to avoid several liens on the real property located at 516 Madera Street, Avenal, California. In cases in which there are multiple liens to be avoided, the liens must be avoided in the reverse order of their priority. See *In re Meyer*, 373 B.R. 84, 87-88 (B.A.P. 9th Cir. 2007). "[L]iens 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 finds it unnecessary to apply the reverse-priority analysis individually to each of the responding parties' liens. See *In re Meyer*, 373 B.R. at 88 ("[O]ne 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."). Under the reverse-priority analysis, respondent Creditors Bureau USA holds the judicial lien that would be the last judicial lien to be avoided because it has a higher priority than the other judicial liens on the property, though it is still subject to any senior consensual lien. In determining whether Creditors Bureau USA's lien may be avoided, the court must exclude all junior judicial liens that would already have been avoided. See 11 U.S.C. § 522(f)(2)(B); *In re Meyer*, 373 B.R. at 87-88. Creditors Bureau USA's judicial lien (\$1769.68), plus all other liens excluding judicial liens lower in priority (\$0.00), plus the exemption amount (\$67,233) together exceed the property's value (\$67,233) by an amount equal to the debt secured by such judicial lien. As a result, Creditors Bureau USA's judicial lien may be avoided entirely.

Because the highest-priority judicial lien is avoidable, all junior judicial liens may be avoided as well. The judicial lien of respondent Ford Motor Credit Company may be avoided because it is lower in priority than Creditors Bureau USA's avoidable judicial lien. Stated differently, the debtor's exemption amount equals or exceeds the fair market value of the real property, so all judicial liens are properly avoidable under § 522(f).

13. [14-12157](#)-A-7 ELIZABETH GARCIA
JDR-6
ELIZABETH GARCIA/MV
JEFFREY ROWE/Atty. for dbt.

MOTION TO AVOID LIEN OF KINGS
CREDIT SERVICES
8-14-14 [[57](#)]

Tentative Ruling

Motion: Avoid Lien that Impairs Exemption

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

Disposition: Granted

Order: Prepared by moving party

The motion was filed and served August 14, 2014, which is less than 28 days' notice as required by LBR 9014-1(f)(1). The court will treat the motion as having been noticed under LBR 9014-1(f)(2).

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

Section 522(f) of the Bankruptcy Code authorizes the court to avoid a lien "on an interest of the debtor in property to the extent that such lien impairs an exemption to which the debtor would have been entitled." 11 U.S.C. § 522(f)(1). There are four elements to avoidance of a lien that impairs an exemption: (1) there must be an exemption to which the debtor would have been entitled; (2) the property must be listed on the schedules and claimed as exempt; (3) the lien must impair the exemption claimed; and (4) the lien must be a judicial lien or nonpossessory, nonpurchase-money security interest in property described in § 522(f)(1)(B). *Goswami v. MTC Distrib. (In re Goswami)*, 304 B.R. 386, 390-91 (B.A.P. 9th Cir. 2003). Impairment is statutorily defined: a lien impairs an exemption "to the extent that the sum of—(i) the lien; (ii) all other liens on the property; and (iii) the amount of the exemption that the debtor could claim if there were no liens on the property; exceeds the value that the debtor's interest in the property would have in the absence of any liens." 11 U.S.C. § 522(f)(2)(A).

The debtor has brought motions to avoid several liens on the real property located at 516 Madera Street, Avenal, California. In cases in which there are multiple liens to be avoided, the liens must be avoided in the reverse order of their priority. *See In re Meyer*, 373 B.R. 84, 87-88 (B.A.P. 9th Cir. 2007). "[L]iens 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 finds it unnecessary to apply the reverse-priority analysis individually to each of the responding parties' liens. *See In re Meyer*, 373 B.R. at 88 ("[O]ne 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."). Under the reverse-priority analysis, respondent Creditors Bureau USA holds the judicial lien that would be the last judicial lien to be avoided because it has a higher priority than the other judicial liens on the property, though it is still subject to any senior consensual lien. In determining whether Creditors Bureau USA's lien may be avoided, the court must exclude all junior judicial liens that would already have been avoided. *See* 11 U.S.C. § 522(f)(2)(B); *In re Meyer*, 373 B.R. at 87-88. Creditors Bureau USA's judicial lien (\$1769.68), plus all other liens excluding

judicial liens lower in priority (\$0.00), plus the exemption amount (\$67,233) together exceed the property's value (\$67,233) by an amount equal to the debt secured by such judicial lien. As a result, Creditors Bureau USA's judicial lien may be avoided entirely.

Because the highest-priority judicial lien is avoidable, all junior judicial liens may be avoided as well. The judicial lien of respondent Kings Credit Services may be avoided because it is lower in priority than Creditors Bureau USA's avoidable judicial lien. Stated differently, the debtor's exemption amount equals or exceeds the fair market value of the real property, so all judicial liens are properly avoidable under § 522(f).

14. [14-12558](#)-A-7 SHARON OLSON MOTION TO SELL
TMT-2 8-13-14 [[30](#)]
TRUDI MANFREDO/MV
DAVID JENKINS/Atty. for dbt.
TRUDI MANFREDO/Atty. for mv.

Final Ruling

The motion withdrawn, the matter is dropped as moot.

15. [14-13167](#)-A-7 BRANDON/AUDREY FLUD ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
8-15-14 [[42](#)]
MARK ZIMMERMAN/Atty. for dbt.
\$176.00 FILING FEE PAID
8/25/14

Final Ruling

The fee paid in full, the order to show cause is discharged.

16. [14-13667](#)-A-7 KAO YANG MOTION TO COMPEL ABANDONMENT
JKX-1 8-1-14 [[10](#)]
KAO YANG/MV
JAMIE XIONG-VANG/Atty. for dbt.

Tentative Ruling

Motion: Compel Abandonment of Property of the Estate

Disposition: Continued to October 15, 2014, at 9:00 a.m.; no later than 14 days before the continued hearing date, movant will ensure that the motion is served, file a proof of service, and a notice of continued hearing

Order: Civil minute order

Rule 6007(a) expressly requires a trustee or debtor in possession to provide notice to all creditors, indenture trustees, and any committees. But Rule 6007(b) does not specifically state who must receive notice of a motion to abandon property of the estate. See Fed. R. Bankr. P. 6007(a)-(b). But a motion under Rule 6007(b) seeks an order to compel the trustee to abandon property of the estate, the same action that is described in Rule 6007(a) and for which notice to creditors is required.

Because a motion under Rule 6007(b) requests a type of relief that requires notice to all creditors and parties in interest under Rule 6007(a), the same notice required by Rule 6007(a) should be required when a party in interest seeks to compel the trustee to take such an action under Rule 6007(b). See *Sierra Switchboard Co. v. Westinghouse Elec. Corp.*, 789 F.2d 705, 709-10 (9th Cir. 1986) (finding that a trustee's abandonment would not be effective without notice to creditors); *Hie of Effingham, LLC v. WBCMT 2007-C33 Mid America Lodging, LLC (In re Hie of Effingham, LLC)*, 490 B.R. 800, 807-08 (Bankr. S.D. Ill. 2013) (concluding that Rule 6007(b) incorporates service requirements of Rule 6007(a)); *In re Jandous Elec. Constr. Corp.*, 96 B.R. 462, 464-65 (Bankr. S.D.N.Y. 1989) (finding that parties in interest requesting abandonment of estate property for which a hearing is contemplated must provide notice to the parties listed in Rule 6007(a)).

Accordingly, the court requires all creditors and parties in interest described in Rule 6007(a), and the trustee pursuant to Rule 9014(a), to be provided notice of a motion requesting abandonment under Rule 6007(b). In this case, all creditors and parties in interest described in Rule 6007(a) and Rule 9014(a) have not received notice of the motion. No proof of service has been filed. The court cannot grant the motion at this time due to insufficient notice of the motion.

For matters requiring notice to all creditors and parties in interest, the court prefers that a current copy of the ECF master address list, accessible through PACER, be attached to the certificate of service to indicate that notice has been transmitted to all creditors and parties in interest. The copy of the master address list should indicate a date near in time to the date of service of the notice. In addition, governmental creditors must be noticed at the address provided on the Roster of Governmental Agencies, Form EDC 2-785, so the master address list and schedule of creditors must be completed using the correct addresses shown on such roster. See Fed. R. Bankr. P. 2002(j), 5003(e); LBR 2002-1.

17. [10-61970](#)-A-7 BRIAN ENNIS
THA-7

MOTION FOR COMPENSATION FOR
THOMAS H. ARMSTRONG, TRUSTEE'S
ATTORNEY(S).
8-13-14 [[302](#)]

RILEY WALTER/Atty. for dbt.

Final Ruling

Application: Fourth Interim Compensation and Expense Reimbursement

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

Disposition: Approved

Order: Civil Minute Order

Applicant: Thomas H. Armstrong

Compensation approved: \$3,608.75

Costs approved: \$659.32

Aggregate fees and costs approved in this application: \$4,268.07

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

DISCUSSION

Section 330(a) of the Bankruptcy Code authorizes "reasonable compensation for actual, necessary services" rendered by a trustee, examiner or professional person employed under § 327 or § 1103 and "reimbursement for actual, necessary expenses." 11 U.S.C. § 330(a)(1). Reasonable compensation is determined by considering all relevant factors. See *id.* § 330(a)(3).

The court finds that the compensation and expenses sought are reasonable, and the court will approve the application on an interim basis as to the amounts requested. Such amounts shall be perfected, and may be adjusted, by a final application for compensation and expenses, which shall be filed prior to case closure.

CIVIL MINUTE ORDER

The court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Fourth Interim Fee Application filed by Thomas H. Armstrong having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

It is hereby ordered that: (1) defaults of the respondents are entered; (2) compensation of \$3,608.75 is approved on an interim basis; and (3) costs of \$659.32 are approved on an interim basis.

18. [12-13170](#)-A-7 AUGUSTINE PENA
THA-9

MOTION FOR COMPENSATION FOR
THOMAS H. ARMSTRONG, TRUSTEE'S
ATTORNEY(S).
8-11-14 [[570](#)]

FRANCISCO ALDANA/Atty. for dbt.

Final Ruling

Application: Second Interim Compensation and Expense Reimbursement

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

Disposition: Approved

Order: Civil Minute Order

Applicant: Thomas H. Armstrong

Compensation approved: \$51,846.00

Costs approved: \$1,990.53

Aggregate fees and costs approved in this application: \$53,836.53

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

DISCUSSION

Section 330(a) of the Bankruptcy Code authorizes "reasonable compensation for actual, necessary services" rendered by a trustee, examiner or professional person employed under § 327 or § 1103 and "reimbursement for actual, necessary expenses." 11 U.S.C. § 330(a)(1). Reasonable compensation is determined by considering all relevant factors. See *id.* § 330(a)(3).

The court finds that the compensation and expenses sought are reasonable, and the court will approve the application on an interim basis as to the amounts requested. Such amounts shall be perfected, and may be adjusted, by a final application for compensation and expenses, which shall be filed prior to case closure.

CIVIL MINUTE ORDER

The court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Second Interim Fee Application filed by Thomas H. Armstrong having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

It is hereby ordered that: (1) defaults of the respondents are entered; (2) compensation of \$51,846.00 is approved on an interim basis; and (3) costs of \$1,990.53 are approved on an interim basis.

19. [14-13174](#)-A-7 BRANDY MAYFIELD MOTION TO AVOID LIEN OF MIDLAND
NEA-1 FUNDING LLC
BRANDY MAYFIELD/MV 7-25-14 [[12](#)]
NICHOLAS ANIOTZBEHERE/Atty. for dbt.

Final Ruling

Motion: Avoid Lien that Impairs Exemption

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

Disposition: Granted

Order: Prepared by moving party

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

Section 522(f) of the Bankruptcy Code authorizes the court to avoid a lien "on an interest of the debtor in property to the extent that such lien impairs an exemption to which the debtor would have been entitled." 11 U.S.C. § 522(f)(1). There are four elements to avoidance of a lien that impairs an exemption: (1) there must be an exemption to which the debtor would have been entitled; (2) the property must be listed on the schedules and claimed as exempt; (3) the lien must impair the exemption claimed; and (4) the lien must be a judicial lien or nonpossessory, nonpurchase-money security interest in property described in § 522(f)(1)(B). *Goswami v. MTC Distrib. (In re Goswami)*, 304 B.R. 386, 390-91 (B.A.P. 9th Cir. 2003). Impairment is statutorily defined: a lien impairs an exemption "to the extent that the sum of—(i) the lien; (ii) all other liens on the property; and (iii) the amount of the exemption that the debtor could claim if there were no liens on the property; exceeds the value that the debtor's interest in the property would have in the absence of any liens." 11 U.S.C. § 522(f)(2)(A).

The responding party's judicial lien, all other liens, and the exemption amount together exceed the property's value by an amount greater than or equal to the debt secured by the responding party's lien. As a result, the responding party's judicial lien will be avoided entirely.

20. [13-16682](#)-A-7 RICHARD/BARBARA GRENINGER MOTION TO EMPLOY WEST HILL REAL
JES-7 ESTATE AS BROKER(S) AND/OR
JAMES SALVEN/MV MOTION FOR APPROVAL OF
CORRECTED EMPLOYMENT
APPLICATION
8-4-14 [[73](#)]

BRIAN HADDIX/Atty. for dbt.
ROBERT HAWKINS/Atty. for mv.

Final Ruling

For the reasons set forth in the moving papers, the court will issue a civil minute order granting the motion. Moving party shall submit an appropriate form of order on the corrected motion.

21. [14-12293](#)-A-7 GINO CATTUZZO
JDR-1
GINO CATTUZZO/MV
JEFFREY ROWE/Atty. for dbt.

MOTION TO AVOID LIEN OF KROEGER
EQUIPMENT & SUPPLY CO, INC
8-18-14 [[37](#)]

Tentative Ruling

Motion: Avoid Lien that Impairs Exemption

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

Disposition: Granted

Order: Prepared by moving party

The motion was filed and served August 18, 2014, which is less than 28 days' notice as required by LBR 9014-1(f)(1). The court will treat the motion as having been noticed under LBR 9014-1(f)(2).

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

Section 522(f) of the Bankruptcy Code authorizes the court to avoid a lien "on an interest of the debtor in property to the extent that such lien impairs an exemption to which the debtor would have been entitled." 11 U.S.C. § 522(f)(1). There are four elements to avoidance of a lien that impairs an exemption: (1) there must be an exemption to which the debtor would have been entitled; (2) the property must be listed on the schedules and claimed as exempt; (3) the lien must impair the exemption claimed; and (4) the lien must be a judicial lien or nonpossessory, nonpurchase-money security interest in property described in § 522(f)(1)(B). *Goswami v. MTC Distrib. (In re Goswami)*, 304 B.R. 386, 390-91 (B.A.P. 9th Cir. 2003). Impairment is statutorily defined: a lien impairs an exemption "to the extent that the sum of—(i) the lien; (ii) all other liens on the property; and (iii) the amount of the exemption that the debtor could claim if there were no liens on the property; exceeds the value that the debtor's interest in the property would have in the absence of any liens." 11 U.S.C. § 522(f)(2)(A).

The debtor has brought two motions on this calendar to avoid two liens on the real property located at 16881 S. Marks Avenue, Caruthers, California. The present motion is directed at the lien of Kroeger Equipment & Supply Co., Inc. ("Kroeger").

In cases in which there are multiple liens to be avoided, the liens must be avoided in the reverse order of their priority. See *In re Meyer*, 373 B.R. 84, 87-88 (B.A.P. 9th Cir. 2007). "[L]iens 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 finds it unnecessary to apply the reverse-priority analysis individually to each of the responding parties' liens. See *In re Meyer*, 373 B.R. at 88 ("[O]ne 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."). Under the reverse-priority analysis, respondent Kroeger holds the judicial lien that would be the last judicial lien to be avoided because it has a higher priority than

the other judicial lien on the property sought to be avoided, though it is still subject to any senior consensual lien. In determining whether Kroeger's lien may be avoided, the court must exclude all junior judicial liens that would already have been avoided. See 11 U.S.C. § 522(f)(2)(B); *In re Meyer*, 373 B.R. at 87-88. Kroeger's judicial lien (\$1214.90), plus all other liens (\$209,728.18) excluding judicial liens lower in priority, plus the exemption amount (\$35,251.82) together exceed the property's value (\$244,980.00) by an amount equal to the debt secured by such judicial lien. As a result, Kroeger's judicial lien may be avoided entirely.

22. [14-12293](#)-A-7 GINO CATTUZZO
JDR-2
GINO CATTUZZO/MV
JEFFREY ROWE/Atty. for dbt.

MOTION TO AVOID LIEN OF WELLS
FARGO FINANCIAL LEASING, INC.
8-18-14 [[43](#)]

Tentative Ruling

Motion: Avoid Lien that Impairs Exemption

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

Disposition: Granted

Order: Prepared by moving party

The motion was filed and served August 18, 2014, which is less than 28 days' notice as required by LBR 9014-1(f)(1). The court will treat the motion as having been noticed under LBR 9014-1(f)(2).

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

Section 522(f) of the Bankruptcy Code authorizes the court to avoid a lien "on an interest of the debtor in property to the extent that such lien impairs an exemption to which the debtor would have been entitled." 11 U.S.C. § 522(f)(1). There are four elements to avoidance of a lien that impairs an exemption: (1) there must be an exemption to which the debtor would have been entitled; (2) the property must be listed on the schedules and claimed as exempt; (3) the lien must impair the exemption claimed; and (4) the lien must be a judicial lien or nonpossessory, nonpurchase-money security interest in property described in § 522(f)(1)(B). *Goswami v. MTC Distrib. (In re Goswami)*, 304 B.R. 386, 390-91 (B.A.P. 9th Cir. 2003). Impairment is statutorily defined: a lien impairs an exemption "to the extent that the sum of-(i) the lien; (ii) all other liens on the property; and (iii) the amount of the exemption that the debtor could claim if there were no liens on the property; exceeds the value that the debtor's interest in the property would have in the absence of any liens." 11 U.S.C. § 522(f)(2)(A).

The debtor has brought two motions on this calendar to avoid two liens on the real property located at 16881 S. Marks Avenue, Caruthers, California. The present motion is directed at the lien of Wells Fargo Financial Leasing, Inc. ("Wells Fargo").

In cases in which there are multiple liens to be avoided, the liens must be avoided in the reverse order of their priority. See *In re*

Meyer, 373 B.R. 84, 87-88 (B.A.P. 9th Cir. 2007). "[L]iens 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 finds it unnecessary to apply the reverse-priority analysis individually to each of the responding parties' liens. See *In re Meyer*, 373 B.R. at 88 ("[O]ne 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."). Under the reverse-priority analysis, Kroeger Equipment & Supply Co., Inc. ("Kroeger") holds the judicial lien that would be the last judicial lien to be avoided because it has a higher priority than respondent Wells Fargo's judicial lien on the property, though it is still subject to any senior consensual lien. In determining whether Kroeger's lien may be avoided, the court must exclude all junior judicial liens that would already have been avoided. See 11 U.S.C. § 522(f)(2)(B); *In re Meyer*, 373 B.R. at 87-88. Kroeger's judicial lien (\$1214.90), plus all other liens excluding judicial liens lower in priority (\$209,728.18), plus the exemption amount (\$35,251.82) together exceed the property's value (\$244,980.00) by an amount equal to the debt secured by such judicial lien. As a result, Kroeger's judicial lien may be avoided entirely.

Because Kroeger's highest-priority judicial lien is avoidable, all junior judicial liens may be avoided as well. The judicial lien of respondent Wells Fargo may be avoided because it is lower in priority than Kroeger's avoidable judicial lien. Stated differently, the sum of the debt secured by the consensual liens plus the debtor's exemption amount equals or exceeds the fair market value of the real property, so all judicial liens on the debtor's property are avoidable under § 522(f).

23. 13-16495 -A-7 JAMES/SHIRLEY PARKER THA-3	MOTION FOR COMPENSATION FOR THOMAS H. ARMSTRONG, TRUSTEE'S ATTORNEY(S). 8-13-14 [35]
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PHILLIP GILLET/Atty. for dbt.

Final Ruling

Application: First and Final Compensation and Expense Reimbursement
Notice: LBR 9014-1(f)(1); written opposition required
Disposition: Approved
Order: Civil Minute Order

Applicant: Thomas H. Armstrong
Compensation approved: \$3,880.00
Costs approved: \$122.70
Aggregate fees and costs approved in this application: \$4,002.70

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

DISCUSSION

Section 330(a) of the Bankruptcy Code authorizes "reasonable compensation for actual, necessary services" rendered by a trustee, examiner or professional person employed under § 327 or § 1103 and "reimbursement for actual, necessary expenses." 11 U.S.C. § 330(a)(1). Reasonable compensation is determined by considering all relevant factors. See *id.* § 330(a)(3).

The court finds that the compensation and expenses sought are reasonable, and the court will approve the application on an interim basis as to the amounts requested. Such amounts shall be perfected, and may be adjusted, by a final application for compensation and expenses, which shall be filed prior to case closure.

CIVIL MINUTE ORDER

The court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The First and Final Application filed by Thomas H. Armstrong having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

It is hereby ordered that: (1) defaults of the respondents are entered; (2) compensation of \$3,880.00 is approved on a first and final basis; and (3) costs of \$122.70 are approved on a final basis.

9:15 a.m.

- | | | |
|----|---|---|
| 1. | 12-16876 -A-7 WILLIAM VANDER POEL
14-1033 WW-2
VANDER POEL, SR. V. MEDINA ET
AL | MOTION FOR LEAVE TO FILE FIRST
AMENDED COMPLAINT FOR VIOLATION
OF AUTOMATIC STAY UNDER 11 USC
SECTION 362
8-8-14 [76] |
| | MICHAEL FLETCHER/Atty. for mv. | |

Final Ruling

Motion: File First Amended Complaint

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

Disposition: Granted

Order: Civil minute order

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

DISCUSSION

Motions for leave to file amended complaints are governed by Federal

Rule of Civil Procedure 15(a)(2). Here, no party has filed opposition to the motion. No prejudice to any party is apparent. The adversary proceeding was filed March 2014. No discovery cut offs or trial has been scheduled. The motion is granted.

CIVIL MINUTE ORDER

The court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Motion to File First Amended Complaint filed by William Vander Poel, Sr. having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

It is hereby ordered that is granted and plaintiff William Vander Poel Sr. may file the First Amended Complaint, attached as Exhibit A to the motion, no later than 14 days from service of this Civil Minute Order.

It is also ordered the defendants Luis Medina and Mallison & Martinez file a response to the First Amended Complaint no later than 14 days after service of the First Amended Complaint. No enlargements of time to respond to the First Amended Complaint shall be granted without leave of court. In the event that the defendant, or either of them, fails to respond to the First Amended Complaint the plaintiff shall forthwith seek entry of default of that defendant or those defendants.

10:00 a.m.

- | | |
|--|---|
| 1. 14-14106 -A-7 GARY MURRAY
MET-1
BANK OF THE WEST/MV
SCOTT LYONS/Atty. for dbt.
MARY TANG/Atty. for mv. | MOTION FOR RELIEF FROM
AUTOMATIC STAY
8-26-14 [9] |
|--|---|

Tentative Ruling

Motion: Stay Relief

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

Disposition: Granted

Order: Prepared by moving party

Subject: 2013 Jeep Grand Cherokee

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

Section 362(d)(2) authorizes stay relief if the debtor lacks equity in the property and the property is not necessary to an effective reorganization. 11 U.S.C. § 362(d)(2). Chapter 7 is a mechanism for liquidation, not reorganization, and, therefore, property of the estate is never necessary for reorganization. *In re Casgul of Nevada*,

Inc., 22 B.R. 65, 66 (B.A.P. 9th Cir. 1982). In this case, the aggregate amount due all liens exceeds the value of the collateral and the debtor has no equity in the property. The motion will be granted, and Federal Rule of Bankruptcy Procedure 4001(a)(3) will be waived. No other relief will be awarded.

2. [14-12850](#)-A-7 DANIEL VUE AND STEPHANIE MOTION FOR RELIEF FROM
SW-1 XIONG AUTOMATIC STAY
WELLS FARGO BANK, N.A./MV 8-20-14 [[14](#)]
IRMA EDMONDS/Atty. for dbt.
TORIANA HOLMES/Atty. for mv.

Tentative Ruling

Motion: Stay Relief

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

Disposition: Granted

Order: Prepared by moving party

Subject: 2007 Toyota Corolla

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

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

"Where the property is declining in value or accruing interest and taxes eat up the equity cushion to the point where the cushion no longer provides adequate protection, the court may either grant the motion to lift the stay or order the debtor to provide some other form of adequate protection." Kathleen P. March, Hon. Alan M. Ahart & Janet A. Shapiro, *California Practice Guide: Bankruptcy* ¶ 8:1096 (rev. 2011). Adequate protection is also required where the property is declining in value, but "[a]n undersecured creditor is entitled to adequate protection only for the decline in the [collateral's] value *after* the bankruptcy filing." See *id.* ¶ 8:1065.1 (rev. 2012) (citing *United Sav. Ass'n v. Timbers of Inwood Forest Assocs., Ltd.*, 484 U.S. 365, 370-73 (1988)).

The debtor has missed 3 post-petition payments due on the debt secured by the moving party's lien. This constitutes cause for stay relief. The court does not address grounds for relief under § 362(d)(2) as relief is warranted under § 362(d)(1). The motion will be granted, and the 14-day stay of Federal Rule of Bankruptcy Procedure 4001(a)(3) will be waived. No other relief will be awarded.

3. [14-13167](#)-A-7 BRANDON/AUDREY FLUD
SMK-1 MOTION FOR RELIEF FROM
SUMRULD GARCIA, INC./MV AUTOMATIC STAY
MARK ZIMMERMAN/Atty. for dbt. 8-1-14 [[30](#)]
STEVEN KOCH/Atty. for mv.
RESPONSIVE PLEADING

Final Ruling

The motion withdrawn, the matter is dropped as moot.

4. [14-12970](#)-A-7 PAULA LOMBERA
ASW-1 MOTION FOR RELIEF FROM
LAKEVIEW LOAN SERVICING, AUTOMATIC STAY
LLC/MV 8-11-14 [[17](#)]
PETER BUNTING/Atty. for dbt.
JOELY BUI/Atty. for mv.

Final Ruling

Motion: Stay Relief

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

Disposition: Granted

Order: Prepared by moving party

Subject: 5959 East Kerckhoff Avenue, Fresno, California

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

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

5. [14-14187](#)-A-7 GLORIA MORFIN
DJP-1
JASON POOL/MV
DON POOL/Atty. for mv.

MOTION FOR RELIEF FROM
AUTOMATIC STAY
8-27-14 [[13](#)]

Tentative Ruling

Motion: Stay Relief

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

Disposition: Granted

Order: Prepared by moving party

Subject: 1837 North Rector Avenue, Clovis, California

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

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

6. [14-13094](#)-A-7 JUAN MORENO
DJD-1
SETERUS, INC./MV
ALBERT GARCIA/Atty. for dbt.
DARREN DEVLIN/Atty. for mv.

MOTION FOR RELIEF FROM
AUTOMATIC STAY
8-14-14 [[18](#)]

Tentative Ruling

Motion: Stay Relief

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

Disposition: Granted

Order: Prepared by moving party

Subject: 1023 Mountain View Drive, Lindsay, California

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

Section 362(d)(2) authorizes stay relief if the debtor lacks equity in the property and the property is not necessary to an effective reorganization. 11 U.S.C. § 362(d)(2). Chapter 7 is a mechanism for liquidation, not reorganization, and, therefore, property of the estate is never necessary for reorganization. *In re Casgul of Nevada,*

Inc., 22 B.R. 65, 66 (B.A.P. 9th Cir. 1982). In this case, the aggregate amount due all liens exceeds the value of the collateral and the debtor has no equity in the property. The motion will be granted, and Federal Rule of Bankruptcy Procedure 4001(a)(3) will be waived. No other relief will be awarded.

1:30 p.m.

1. [10-12709](#)-A-11 ENNIS COMMERCIAL
LRP-23 PROPERTIES, LLC
DAVID STAPLETON/MV

MOTION TO COMPROMISE
CONTROVERSY/APPROVE SETTLEMENT
AGREEMENT WITH BACCHUS
VINEYARDS, EHA MODESTO, LLC,
DAVID STAPLETON
8-13-14 [[1317](#)]

PETER FEAR/Atty. for dbt.
JENNIFER BROOKS/Atty. for mv.
RESPONSIVE PLEADING

No tentative ruling.

2. [10-62315](#)-A-11 BEN ENNIS
LRP-14
DAVID STAPLETON/MV
RILEY WALTER/Atty. for dbt.
WILLIAM FREEMAN/Atty. for mv.

CONTINUED OBJECTION TO CLAIM OF
WARE MALCOMB, CLAIM NUMBER 11
3-19-14 [[1449](#)]

Final Ruling

Objection: Objection to Claim of Ware Malcomb, Claim No. 11

Notice: LBR 9014-1(f)(1) / LBR 3007-1(b)(1); written opposition required

Disposition: Sustained

Order: Prepared by objecting party

Unopposed objections are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c); LBR 9001-1(d), (n) (contested matters include objections). Written opposition to the sustaining of this objection was required not less than 14 days before the hearing on this objection. None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

The court's civil minutes from the hearing on May 14, 2014, docket no. 1521, state the court's reasons for concluding that a substantial portion of the Ware Malcomb's Claim No. 11 is unenforceable against the debtor, Ben Ennis. Such portions of the claim are contractual liabilities of the limited liability companies that entered those contracts with Malcomb rather than contractual liabilities of the debtor.

However, the court continued the hearing to resolve certain portions of Claim No. 11 that were not addressed by the initial objection as those portions related to contracts that were not attached to the

proof of claim. These portions of the claim were, however, referenced in the supporting documentation.

The court has reviewed the plan administrator's Second Supplement in Support of the Objection to Ware Malcomb's Claim No. 11. The Second Supplement sufficiently resolves the portions of the claimant's claim that were not addressed in the initial objections, which portions related to projects for which contracts were not attached to the proof of claim.

Based on the court's civil minutes from the May 14, 2014 hearing, at docket 1521, and the Second Supplement in Support of the Objection, the court will sustain the objection and disallow the claim of Malcomb. Claim No. 11 is disallowed in its entirety.

3. [12-17336](#)-A-11 VISSER FARMS
RAC-41
VISSER FARMS/MV

MOTION TO COMPROMISE
CONTROVERSY/APPROVE SETTLEMENT
AGREEMENT WITH FRUIT GROWERS
SUPPLY COMPANY
8-1-14 [[421](#)]

SCOTT BLAKELEY/Atty. for dbt.

Tentative Ruling

Motion: Approve Compromise or Settlement of Controversy

Disposition: Denied without prejudice

Order: Prepared by moving party

All creditors and parties in interest have not received sufficient notice. Given the number of parties shown on the court's ECF matrix and that the proof of service shows that only one creditor and its counsel were given notice, along with the U.S. Trustee, the court infers that notice to all creditors has not been provided. The hearing on an approval of a compromise or settlement of a controversy must be noticed to all creditors and parties in interest in the debtor's bankruptcy case as required by Federal Rule of Bankruptcy Procedure 2002(a)(3).

For matters requiring notice to all creditors and parties in interest, the court prefers that a current copy of the ECF master mailing list, accessible through PACER, be attached to the certificate of service to indicate that notice has been transmitted to all creditors and parties in interest. The copy of the master mailing list should indicate a date near in time to the date of service of the notice. In addition, governmental creditors must be noticed at the address provided on the Roster of Governmental Agencies, Form EDC 2-785, so the master address list and schedule of creditors must be completed using the correct addresses shown on such roster. See Fed. R. Bankr. P. 2002(j), 5003(e); LBR 2002-1.

4. [13-17444](#)-A-11 A & A TRANSPORT, CO.,
HAR-17 INC.
MOTION FOR COMPENSATION BY THE
LAW OFFICE OF MCCORMICK,
BARSTOW, SHEPPARD, WAYTE AND
CARRUTH LLP FOR HILTON A.
RYDER, DEBTOR'S ATTORNEY(S).
8-6-14 [[197](#)]

HILTON RYDER/Atty. for dbt.

No tentative ruling.

5. [13-17444](#)-A-11 A & A TRANSPORT, CO.,
WW-3 INC.
MOTION FOR COMPENSATION BY THE
LAW OFFICE OF WALTER AND
WILHELM LAW GROUP FOR MICHAEL
L. WILHELM, CREDITOR COMM.
ATTY(S).
8-19-14 [[208](#)]

HILTON RYDER/Atty. for dbt.

No tentative ruling.

6. [14-10851](#)-A-11 JOHN/BETTY VAN DYK
WW-1
JOHN VAN DYK/MV
MOTION TO USE CASH COLLATERAL
2-26-14 [[10](#)]

RILEY WALTER/Atty. for dbt.

Final Ruling

The matter has been resolved by prior stipulation and order. This matter is dropped as moot.

7. [14-11991](#)-A-11 CENTRAL AIR
BJG-3 CONDITIONING, INC.
PARADE: FREEDOM HOMES, INC./MV
MOTION TO APPROVE STIPULATION
FOR RELIEF FROM THE AUTOMATIC
STAY
8-13-14 [[156](#)]

HAGOP BEDOYAN/Atty. for dbt.
FRANK LEE/Atty. for mv.

Tentative Ruling

Motion: Approve Stipulation for Relief from the Automatic Stay

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

Disposition: Granted

Order: Prepared by moving party pursuant to the instructions below

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

For the reasons stated in the motion, and given the terms of the

stipulation sought to be approved, the court will grant the motion. The court will approve the stipulation for relief from the automatic stay to allow the state court actions identified in the motion and stipulation attached to the motion. A copy of the stipulation shall be attached as an exhibit to the order submitted by the moving party.

8. [14-11991](#)-A-11 CENTRAL AIR MOTION FOR COMPENSATION BY THE
KDG-12 CONDITIONING, INC. LAW OFFICE OF KLEIN, DENATALE,
GOLDNER, COOPER, ROSENLIB AND
KIMBALL, LLP FOR HAGOP T.
BEDOYAN, DEBTOR'S ATTORNEY(S).
8-13-14 [[161](#)]

HAGOP BEDOYAN/Atty. for dbt.

Tentative Ruling

Application: Compensation and Expenses

Disposition: Denied without prejudice

Order: Prepared by moving party

All creditors and parties in interest have not received sufficient notice. The hearing on an application for approval of compensation or reimbursement of expenses, when the application requests approval of an amount exceeding \$1000, must be noticed to all creditors and parties in interest in the debtor's bankruptcy case as required by Federal Rule of Bankruptcy Procedure 2002(a)(3).

Here, the amount for which approval is requested exceeds \$1000. The proof of service reveals slightly more than 1 page of parties and their addresses in three columns, whereas the court's matrix shows about 7 pages of parties and their addresses in three columns. The court infers that notice to all creditors has not been provided.

In addition, at the end of the proof of service is a symbols key, which explains the various types of creditors indicated by the different asterisk symbols used. This key lists the following categories of creditors and parties: the 20 largest unsecured creditors, secured creditors, requests for special notice, and employed professionals. All creditors and parties on the proof of service have a symbol beside their name. Given the categories of creditors indicated by the key, those not receiving notice include unsecured creditors (who are not among the 20 largest creditors), equity security holders, and other parties in interest.

For matters requiring notice to all creditors and parties in interest, the court prefers that a current copy of the ECF master mailing list, accessible through PACER, be attached to the certificate of service to indicate that notice has been transmitted to all creditors and parties in interest. The copy of the master mailing list should indicate a date near in time to the date of service of the notice. In addition, governmental creditors must be noticed at the address provided on the Roster of Governmental Agencies, Form EDC 2-785, so the master address list and schedule of creditors must be completed using the correct addresses shown on such roster. See Fed. R. Bankr. P. 2002(j), 5003(e); LBR 2002-1.

9. [14-11991](#)-A-11 CENTRAL AIR MOTION FOR COMPENSATION FOR
KDG-13 CONDITIONING, INC. GILMAN, HARRIS & TRAVIOLI,
GILMAN, HARRIS AND TRAVIOLI/MV ACCOUNTANT(S).
8-13-14 [[167](#)]
HAGOP BEDOYAN/Atty. for dbt.

Final Ruling

Application: First Interim Compensation and Expense Reimbursement

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

Disposition: Approved

Order: Civil Minute Order

Applicant: Gilman, Harris & Travioli

Compensation approved: \$6,755.25

Costs approved: \$0.00

Aggregate fees and costs approved in this application: \$6,755.25

Retainer held: \$6,920.00

Amount to be paid as administrative expense: \$0.00

Applicant Gilman, Harris & Travioli's First Interim Application seeks fees of \$6,77.25 and no costs. No party in interest has filed opposition.

DISCUSSION

Section 330(a) of the Bankruptcy Code authorizes "reasonable compensation for actual, necessary services" rendered by an employed professional in a Chapter 11 case and "reimbursement for actual, necessary expenses." 11 U.S.C. § 330(a)(1). Reasonable compensation is determined by considering all relevant factors. See *id.* § 330(a)(3).

The court finds that the compensation and expenses sought are reasonable, and the court will approve the application on an interim basis. Such amounts shall be perfected, and may be adjusted, by a final application for compensation and expenses, which shall be filed prior to case closure.

CIVIL MINUTE ORDER

The court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The First Interim Fee Application filed by Gilman, Harris & Travioli having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

It is hereby ordered that: (1) compensation of \$6,755.25 is approved on an interim basis; and (3) costs of \$0.00 are approved on an interim basis.

10. [14-11991](#)-A-11 CENTRAL AIR
LMW-1 CONDITIONING, INC.
CASTLEWOOD PARTNERS, INC/MV
MOTION FOR APPROVAL OF
STIPULATION FOR RELIEF FROM
AUTOMATIC STAY
8-7-14 [[150](#)]

HAGOP BEDOYAN/Atty. for dbt.
LAURA WINSTON/Atty. for mv.

Tentative Ruling

Motion: Approval of Stipulation for Relief from Stay

Disposition: Denied without prejudice

Order: Civil minute order

If a case is a chapter 11 reorganization case and a committee of unsecured creditors has not been appointed under § 1102, then a motion to approve a stipulation for relief from the stay must be served on the creditors included on the list of the 20-largest creditors filed under Rule 1007(d). See Fed. R. Bankr. P. 4001(a)(1). Service must be made on each of the creditors according to Rule 7004. See, e.g., *In re LSSR, LLC*, No. CC-12-1636-DKiTa, 2013 WL 2350853, *4 (B.A.P. 9th Cir. May 29, 2013) (unpublished decision).

The creditors on the list of the 20-largest creditors have not been served pursuant to Rule 7004. Service of the motion must be made to the creditors on this list, if a committee has not been appointed, in addition to service on the debtor, debtor's counsel, and the U.S. Trustee.

In addition, no information has been provided in the notice of hearing as to when oppositions are due and whether oppositions must be in writing or may be presented at the hearing. The notice of hearing does not comply with the court's local rules. See LBR 9014-1(d), (f).

1:45 p.m.

1. [10-12709](#)-A-11 ENNIS COMMERCIAL
[12-1033](#) PROPERTIES, LLC LRP-3
ENNIS COMMERCIAL PROPERTIES,
LLC V. NICHOLSON ET AL
MICHAEL GOMEZ/Atty. for mv.
MOTION FOR AUTHORIZATION FOR
USE OF SUBPOENAS IN RELATED
ADVERSARY PROCEEDINGS
8-13-14 [[126](#)]

Final Ruling

Motion: Authorization for Use of Subpoenas in Related Adversary Proceedings

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

Disposition: Granted

Order: Prepared by the moving party

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

For the reasons stated in the motion and supporting papers, and based on the stipulation filed as Exhibit 1, the court will grant the motion. The moving party's order shall attach a copy of the stipulation as an exhibit to the order, and the order shall be approved and signed by all parties to this proceeding as to form and content.

2. [10-12709](#)-A-11 ENNIS COMMERCIAL MOTION FOR AUTHORIZATION FOR
 [12-1050](#) PROPERTIES, LLC LRP-3 USE OF SUBPOENAS IN RELATED
ENNIS COMMERCIAL PROPERTIES, ADVERSARY PROCEEDINGS
LLC ET AL V. HA DEVCO, INC. ET 8-13-14 [[108](#)]
MICHAEL GOMEZ/Atty. for mv.

Final Ruling

Motion: Authorization for Use of Subpoenas in Related Adversary Proceedings

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

Disposition: Granted

Order: Prepared by the moving party

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

For the reasons stated in the motion and supporting papers, and based on the stipulation filed as Exhibit 1, the court will grant the motion. The moving party's order shall attach a copy of the stipulation as an exhibit to the order, and the order shall be approved and signed by all parties to this proceeding as to form and content.

3. [10-62315](#)-A-11 BEN ENNIS MOTION FOR AUTHORIZATION FOR
 [13-1107](#) LRP-3 USE OF SUBPOENAS IN RELATED
STAPLETON ET AL V. WATKINS ET ADVERSARY PROCEEDINGS
AL 8-13-14 [[84](#)]
MICHAEL GOMEZ/Atty. for mv.

Final Ruling

Motion: Authorization for Use of Subpoenas in Related Adversary Proceedings

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

Disposition: Granted

Order: Prepared by the moving party

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

For the reasons stated in the motion and supporting papers, and based on the stipulation filed as Exhibit 1, the court will grant the motion. The moving party's order shall attach a copy of the stipulation as an exhibit to the order, and the order shall be approved and signed by all parties to this proceeding as to form and content.

4.	10-62315 -A-11 BEN ENNIS 13-1108 LRP-3 STAPLETON ET AL V. NICHOLSON ET AL MICHAEL GOMEZ/Atty. for mv.	MOTION FOR AUTHORIZATION FOR USE OF SUBPOENAS IN RELATED ADVERSARY PROCEEDINGS 8-13-14 [77]
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Final Ruling

Motion: Authorization for Use of Subpoenas in Related Adversary Proceedings

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

Disposition: Granted

Order: Prepared by the moving party

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

For the reasons stated in the motion and supporting papers, and based on the stipulation filed as Exhibit 1, the court will grant the motion. The moving party's order shall attach a copy of the stipulation as an exhibit to the order, and the order shall be approved and signed by all parties to this proceeding as to form and content.