



UNITED STATES BANKRUPTCY COURT
Eastern District of California
Honorable Jennifer E. Niemann
Hearing Date: Wednesday, October 16, 2024
Department A - Courtroom #11
Fresno, California

Unless otherwise ordered, all matters before the Honorable Jennifer E. Niemann shall be simultaneously: (1) **In Person** at, Courtroom #11 (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 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/CourtAppearances>. Each party who has signed up will receive a Zoom link or phone number, meeting I.D., and password via e-mail.

If the deadline to sign up has passed, parties who wish to appear remotely must contact the Courtroom Deputy for the Department holding the hearing.

Please also note the following:

- Parties in interest may connect to the video or audio feed free of charge and should select which method they will use to appear when signing up.
- Members of the public and the press appearing by ZoomGov may only listen in to the hearing using the zoom telephone number. Video appearances are not permitted.
- Members of the public and the press may not listen in to trials or evidentiary hearings, though they may appear in person in most instances.

To appear remotely for law and motion or status conference proceedings, you must comply with the following guidelines and procedures:

1. Review the [Pre-Hearing Dispositions](#) prior to appearing at the hearing.
2. Parties appearing via CourtCall are encouraged to review the [CourtCall Appearance Information](#).

If you are appearing by ZoomGov phone or video, please join at least 10 minutes prior to the start of the calendar and wait with your microphone muted until the matter is called.

Unauthorized Recording is Prohibited: Any recording of a court proceeding held by video or teleconference, including "screen shots" or other audio or visual copying of a hearing is prohibited. Violation may result in sanctions, including removal of court-issued media credentials, denial of entry to future hearings, or any other sanctions deemed necessary by the court. For more information on photographing, recording, or broadcasting Judicial Proceedings, please refer to Local Rule 173(a) of the United States District Court for the Eastern District of California.

INSTRUCTIONS FOR PRE-HEARING DISPOSITIONS

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

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

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

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

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

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

1. [24-12501](#)-A-11 **IN RE: US JET TRANS INC**
[CAE-1](#)

STATUS CONFERENCE RE: CHAPTER 11 SUBCHAPTER V VOLUNTARY PETITION
8-27-2024 [[1](#)]

DAVID JOHNSTON/ATTY. FOR DBT.

NO RULING.

2. [24-12709](#)-A-11 **IN RE: KEWEL MUNGER**
[WJH-1](#)

MOTION TO EMPLOY RILEY C. WALTER AS ATTORNEY(S)
9-26-2024 [[14](#)]

KEWEL MUNGER/MV
RILEY WALTER/ATTY. FOR DBT.

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Granted.

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

This motion was filed and served on at least 14 days' notice prior to the hearing date pursuant to Local Rule of Practice ("LBR") 9014-1(f)(2) and will proceed as scheduled. Unless opposition is presented at the hearing, the court intends to enter the respondents' defaults and grant the motion. If opposition is presented at the hearing, the court will consider the opposition and whether further hearing is proper pursuant to LBR 9014-1(f)(2). The court will issue an order if a further hearing is necessary.

Debtor in possession Kewel K. Munger dba Munger Investments ("Debtor" or "DIP") moves pursuant to 11 U.S.C. § 327(a) for authorization to employ Wanger Jones Helsley ("Counsel") to serve as general bankruptcy counsel during the pendency of the chapter 11 case. Doc. #14.

Section 1107 of the Bankruptcy Code gives DIP all the rights and powers of a trustee and requires DIP to perform all the functions and duties of a trustee, subject to certain exceptions not applicable here. 11 U.S.C. § 1107. Section 327(a) of the Bankruptcy Code permits DIP to employ, with court approval, professionals "that do not hold or represent an interest adverse to the estate, and that are disinterested persons, to represent or assist" DIP in carrying out DIP's duties under the Bankruptcy Code. 11 U.S.C. § 327(a).

DIP and Counsel have entered into a fee agreement, which establishes, *inter alia*, the scope of services to be rendered, fees and costs, payments of fees and cost, termination, duties of client and general case administration. Ex. B, Doc. #18. DIP understands that normally the U.S. Trustee asks for a narrative of the steps taken to ensure Counsel's billing rates are comparable to those of other non-bankruptcy practitioners. Decl. of Kewel K. Munger, Doc. #17.

However, DIP is basing his opinion that Counsel's billing rates are comparable to other non-bankruptcy practitioners from DIP's experiences being involved in several litigation matters during the last several years. Munger Decl., Doc. #17. Further, DIP understands that the U.S. Trustee requests a list of other firms that were interviewed in connection to this matter, but no other interview was conducted after Counsel. Id.

DIP believes that Counsel's rates are justified as the instant bankruptcy case will be very complex and require considerable expertise. Munger Decl., Doc. #17. DIP believes Counsel has these required skills and its rates reflect that skill. Id. Lastly, DIP has taken steps to control fees by directing DIP's chief financial officer to carefully review each billing and requesting monthly reports setting forth fees incurred by Counsel in the previous months. Id. In addition, DIP will personally review all fee applications prior to authorizing Counsel to file any fee application with the court. Id.

Counsel has verified there is no connection with DIP other than representing DIP's entities in unrelated matters several years ago, and attorney Riley C. Walter working with and against Tad Hoppe, outside general counsel for the Munger Entities, for over 30 years. Ex. A, Doc. #18; Decl. of Riley C. Walter, Doc. #16. Counsel has no connection with DIP's creditors, accountants, any other party in interest, or the United States Trustee, except as set forth in the verified statement. Walter Decl., Doc. #16; Ex. A, Doc. #18. Counsel believes it is a disinterested person as defined in 11 U.S.C. § 101(14). Walter Decl., Doc. #16.

After review of the evidence, the court finds that Counsel does not represent or hold an adverse interest to DIP or to the estate with respect to the matter on which Counsel is to be employed.

Counsel also requests that this court entertain monthly applications for interim compensation pursuant to 11 U.S.C. § 331 if the combined fees and expenses sought exceed \$5,000.00. Section 331 provides, in relevant part, "any professional person employed under section 327 or 1103 of this title may apply to the court not more than once every 120 days after an order for relief in a case under this title, or more often if the court permits, for such compensation for services rendered before the date of such an application or reimbursement for expenses incurred before such date as is provided under section 330 of this title." 11 U.S.C. § 331. The court will permit monthly applications for interim fees under the limitations requested by Counsel.

Accordingly, pending opposition being raised at the hearing, the court is inclined to GRANT DIP's motion to employ Counsel as general counsel in this bankruptcy matter. DIP will be authorized to employ Counsel. Pursuant to LBR 2014-1(b)(1), the effective date of such employment shall be the petition date, September 17, 2024. The order authorizing employment of Counsel shall specify that any compensation or reimbursement from the estate is subject to the court's approval pursuant to 11 U.S.C. § 330(a). In addition, the order authorizing employment of Counsel shall permit monthly applications for interim compensation pursuant to 11 U.S.C. § 331 if the combined fees and expenses sought exceed \$5,000.00.

3. [24-11545](#)-A-11 **IN RE: RIDGELINE CAPITAL INVESTMENTS, LLC**
[MJB-6](#)

CHAPTER 11 DISCLOSURE STATEMENT FILED BY DEBTOR RIDGELINE CAPITAL
INVESTMENTS, LLC
9-3-2024 [[98](#)]

MICHAEL BERGER/ATTY. FOR DBT.
RESPONSIVE PLEADING

NO RULING.

As a procedural matter, the reply and supporting declaration do not comply with Local Rule of Practice ("LBR") 9004-2(c)(1), which requires that every document listed in LBR 9004-2(c)(1) be filed as a separate document. Here, the reply includes the supporting declaration. Doc. #140. Pursuant to LBR 9004-2(c)(1), Movant should have filed the reply and the supporting declaration as separate documents. In addition, the declaration of Michael Jay Berger in support of the reply is signed by Shaun Michael Reynolds, and not by Mr. Berger. Doc. #140.

4. [24-11967](#)-A-11 **IN RE: LA HACIENDA MOBILE ESTATES, LLC**
[CAE-1](#)

CONTINUED STATUS CONFERENCE RE: CHAPTER 11 VOLUNTARY PETITION
5-9-2024 [[1](#)]

GREGORY TAYLOR/ATTY. FOR DBT.

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

DISPOSITION: Continued to October 30, 2024 at 9:30 a.m.

ORDER: The court will issue an order.

This chapter 11 status conference will be continued to October 30, 2024 at 9:30 a.m. to be heard in connection with the debtor's motion to approve its disclosure statement. Doc. ##242-243, 254-255.

5. [24-11545](#)-A-11 **IN RE: RIDGELINE CAPITAL INVESTMENTS, LLC**
[CAE-1](#)

CONTINUED STATUS CONFERENCE RE: CHAPTER 11 VOLUNTARY PETITION
6-4-2024 [[1](#)]

MICHAEL BERGER/ATTY. FOR DBT.

NO RULING.

11:00 AM

1. [24-12099](#)-A-7 **IN RE: JOSE AGUIRRE-TALAMANTES**

REAFFIRMATION AGREEMENT WITH CAPITAL ONE AUTO FINANCE
9-26-2024 [\[17\]](#)

TIMOTHY SPRINGER/ATTY. FOR DBT.

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

DISPOSITION: Denied.

ORDER: The court will issue an order.

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

Both the reaffirmation agreement and the bankruptcy schedules show that reaffirmation of this debt creates a presumption of undue hardship that has not been rebutted in the reaffirmation agreement. Although the debtor's attorney executed the agreement, the attorney could not affirm that (a) the agreement was not a hardship, and (b) the debtor would be able to make the payments.

1. [24-12608](#)-A-7 **IN RE: VINCENT RODRIQUEZ**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES
9-27-2024 [[25](#)]

\$34.00 FILING FEE PAID 9/30/24

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

DISPOSITION: The order to show cause will be vacated.

ORDER: The court will issue an order.

The record shows that the filing fees now due have been paid. The case shall remain pending.

2. [23-11240](#)-A-7 **IN RE: PEER SERVICES INC.**
[RTW-2](#)

MOTION FOR COMPENSATION FOR RATZLAFF, TAMBERI & WONG, ACCOUNTANT(S)
8-28-2024 [[41](#)]

RATZLAFF TAMBERI & WONG/MV
HAGOP BEDOYAN/ATTY. FOR DBT.

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

DISPOSITION: Granted.

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

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

Ratzlaff Tamberi & Wong ("Movant"), accountants for chapter 7 trustee Peter L. Fear ("Trustee"), requests allowance of final compensation and reimbursement for expenses for services rendered from January 25, 2024 through August 26, 2024. Doc. #41. Movant provided accounting services valued at \$1,846.00, and requests compensation for that amount. Doc. #41; Ex. A, Doc. #45. Movant requests reimbursement for expenses in the amount of \$18.32. Id. This is

Movant's first and final fee application. Trustee has no objection to the fees and expenses requested. Tr.'s Stmt., Doc. #43.

Section 330(a)(1) of the Bankruptcy Code authorizes "reasonable compensation for actual, necessary services rendered" and "reimbursement for actual, necessary expenses" to a "professional person." 11 U.S.C. § 330(a)(1). In determining the amount of reasonable compensation to be awarded to a professional person, the court shall consider the nature, extent, and value of such services, taking into account all relevant factors. 11 U.S.C. § 330(a)(3).

Movant's services included, without limitation: (1) reviewing information relating to tax attributes of the debtor; (2) corresponding with Trustee; (3) preparing 2023 federal and state income tax returns; and (4) preparing the employment and fee applications. Decl. of Christopher A. Ratzlaff, Doc. #44; Ex. A, Doc. #45. The court finds the compensation and reimbursement sought are reasonable, actual, and necessary.

This motion is GRANTED on a final basis. The court allows final compensation in the amount of \$1,846.00 and reimbursement for expenses in the amount of \$18.32. Trustee is authorized to make a combined payment of \$1,864.32, representing compensation and reimbursement, to Movant. Trustee is authorized to pay the amount allowed by this order from available funds only if the estate is administratively solvent and such payment is consistent with the priorities of the Bankruptcy Code.

3. [23-11149](#)-A-7 **IN RE: ROSE CAINE**
[KMM-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
9-5-2024 [[20](#)]

TOYOTA MOTOR CREDIT CORPORATION/MV
MARK ZIMMERMAN/ATTY. FOR DBT.
KIRSTEN MARTINEZ/ATTY. FOR MV.
DISCHARGED 09/05/2023

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

DISPOSITION: Granted in part and denied as moot in part.

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

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

The motion will be GRANTED IN PART as to the trustee's interest and DENIED AS MOOT IN PART as to the debtor's interest pursuant to 11 U.S.C. § 362(c)(2)(C). The debtor's discharge was entered on September 5, 2023. Doc. #17. The motion will be GRANTED IN PART for cause shown as to the chapter 7 trustee.

The movant, Toyota Motor Credit Corporation ("Movant"), seeks relief from the automatic stay under 11 U.S.C. § 362(d)(1) and (d)(2) with respect to a 2022 Toyota Camry (the "Vehicle").

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

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

After review of the included evidence, the court finds that "cause" exists to lift the stay because the debtor has failed to make at least four complete post-petition payments. Movant has produced evidence that the debtor is delinquent by at least \$2,185.70. Decl. of Debra Knight, Doc. #22. Movant also is unable to verify the debtor's insurance coverage on the Vehicle. Id.

The court also finds that the debtor does not have any equity in the Vehicle and the Vehicle is not necessary to an effective reorganization because the debtor is in chapter 7. Movant values the Vehicle at \$24,000.00 and the amount owed to Movant is \$29,031.31. Knight Decl., Doc. #22.

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

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

4. [24-10680](#)-A-7 **IN RE: CENTRAL CALIFORNIA CARTAGE CO, INC**
[ADJ-2](#)

MOTION TO SELL
9-13-2024 [[14](#)]

IRMA EDMONDS/MV
PETER FEAR/ATTY. FOR DBT.
ANTHONY JOHNSTON/ATTY. FOR MV.

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

DISPOSITION: Granted.

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

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

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

Irma C. Edmonds ("Trustee"), the chapter 7 trustee of the bankruptcy estate of Central California Cartage Co, Inc., ("Debtor"), moves the court pursuant to 11 U.S.C. § 363 for an order authorizing the sale of the bankruptcy estate's interest in a 1989 West Mark Tanker, VIN: 16WTE12H5KC121356 (the "Vehicle"), to Matthew Mendonca ("Buyer") for the purchase price of \$2,000.00. Doc. #14.

Pursuant to 11 U.S.C. § 363(b)(1), the trustee, after notice and a hearing, may "use, sell, or lease, other than in the ordinary course of business, property of the estate." Proposed sales under § 363(b) are reviewed to determine whether they are: (1) in the best interests of the estate resulting from a fair and reasonable price; (2) supported by a valid business judgment; and (3) proposed in good faith. In re Alaska Fishing Adventure, LLC, 594 B.R. 883, 887 (Bankr. D. Alaska 2018) (citing 240 N. Brand Partners, Ltd. v. Colony GFP Partners, L.P. (In re 240 N. Brand Partners, Ltd.), 200 B.R. 653, 659 (B.A.P. 9th Cir. 1996)). "In the context of sales of estate property under § 363, a bankruptcy court 'should determine only whether the trustee's judgment [is] reasonable and whether a sound business justification exists supporting the sale and its terms.'" Alaska Fishing Adventure, 594 B.R. at 889 (quoting 3 COLLIER ON BANKRUPTCY ¶ 363.02[4] (Richard Levin & Henry J. Sommer eds., 16th ed.)). "[T]he trustee's business judgment is to be given great judicial deference." Id. at 889-90 (quoting In re Psychometric Sys., Inc., 367 B.R. 670, 674 (Bankr. D. Colo. 2007)).

Debtor's schedules list the value of the Vehicle as \$5.00. Schedule A/B, Doc. #1. Buyer offered to buy the Vehicle for \$2,000.00 and has given a check to Trustee for the purchase price, which is being held by Trustee pending approval of this motion. Doc. #14; Decl. of Irma C. Edmonds, Doc. #16. Because Debtor lists the value of the Vehicle at \$5.00 but the agreed upon price between Trustee and Buyer is \$2,000.00 and Trustee will not incur any transaction costs in the sale of the Vehicle to Buyer, Trustee believes that approval of the sale on the terms set forth in the motion is in the best interests of creditors and the estate. Doc. #14; Edmonds Decl., Doc. #16.

It appears that the sale of the estate's interest in the Vehicle is in the best interests of the estate, the Vehicle will be sold for a fair and reasonable price, and the sale is supported by a valid business judgment and proposed in good faith.

Accordingly, this motion is GRANTED. Trustee's business judgment is reasonable, and the proposed sale of the Vehicle is in the best interests of creditors and the estate. Trustee is authorized to sell the Vehicle to Buyer on the terms set forth in the motion.