



**UNITED STATES BANKRUPTCY COURT
Eastern District of California**

Chief Judge Fredrick E. Clement
Sacramento Federal Courthouse
501 I Street, 7th Floor
Courtroom 28, Department A
Sacramento, California

DAY: MONDAY
DATE: OCTOBER 21, 2024
CALENDAR: 10:30 A.M. CHAPTER 7 CASES

Unless otherwise ordered, all matters before Chief Judge Fredrick E. Clement shall be simultaneously: (1) **IN PERSON** at Sacramento Courtroom No. 28, (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/RemoteAppearances>.

Each party who has signed up will receive a Zoom link or phone number, meeting I.D., and password via e-mail.

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

Please also note the following:

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

- Review the [Pre-Hearing Dispositions](#) prior to appearing at the hearing.
- Review the court's [Zoom Procedures and Guidelines](#) for these, and additional instructions.
- 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.

PRE-HEARING DISPOSITION INSTRUCTIONS

RULINGS

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

"No Ruling" means the likely disposition of the matter will not be disclosed in advance of the hearing. The matter will be called; parties wishing to be heard should rise and be heard.

"Tentative Ruling" means the likely disposition, and the reasons therefor, are set forth herein. The matter will be called. Aggrieved parties or parties for whom written opposition was not required should rise and be heard. Parties favored by the tentative ruling need not appear. However, non-appearing parties are advised that the court may adopt a ruling other than that set forth herein without further hearing or notice.

"Final Ruling" means that the matter will be resolved in the manner, and for the reasons, indicated below. The matter will not be called; parties and/or counsel need not appear and will not be heard on the matter.

CHANGES TO PREVIOUSLY PUBLISHED RULINGS

On occasion, the court will change its intended ruling on some of the matters to be called and will republish its rulings. The parties and counsel are advised to recheck the posted rulings after 3:00 p.m. on the next business day prior to the hearing. Any such changed ruling will be preceded by the following bold face text: **"[Since posting its original rulings, the court has changed its intended ruling on this matter]"**.

ERRORS IN RULINGS

Clerical errors of an insignificant nature, e.g., nomenclature ("2017 Honda Accord," rather than "2016 Honda Accord"), amounts, ("\$880," not "\$808"), may be corrected in (1) tentative rulings by appearance at the hearing; or (2) final rulings by appropriate ex parte application. Fed. R. Civ. P. 60(a) *incorporated by* Fed. R. Bankr. P. 9024. All other errors, including those occasioned by mistake, inadvertence, surprise, or excusable neglect, must be corrected by noticed motion. Fed. R. Bankr. P. 60(b), *incorporated by* Fed. R. Bankr. P. 9023.

1. [24-22311](#)-A-7 **IN RE: KRISTOPHER/SHANNON KASHUBA**
[KMT-3](#)

MOTION TO COMPROMISE CONTROVERSY/APPROVE SETTLEMENT
AGREEMENT WITH KRISTOPHER KASHUBA AND SHANNON LYNN KASHUBA
9-30-2024 [\[32\]](#)

ESTELA PINO/ATTY. FOR DBT.
GABRIEL HERRERA/ATTY. FOR MV.
DEBTORS DISCHARGED: 09/12/24

Final Ruling

The Motion to Approve Compromise with the Debtors, seeks approval of a settlement agreement between the debtors and Nikki B. Farris the Chapter 7 trustee. Settlement Agreement, Exhibit A, ECF No. 34. The agreement provides for: (1) the sale of certain estate assets to the debtors; and (2) abandonment of additional estate assets to the debtors.

For the following reasons the court will deny the motion without prejudice.

Notice

The trustee acknowledges that the settlement agreement includes a sale of assets to the debtors. Motion, 7:1-19, ECF No. 32. However, the notice of the motion does not inform interested parties that the sale is subject to overbidding. Nor does the notice provide information regarding how an interested party might participate in the overbidding process. Notice of Motion, ECF No. 33.

Combined Relief

Except as otherwise provided herein, every application, motion, contested matter, or other request for an order shall be filed separately from every other request. All requests for relief shall state with particularity the grounds therefor and shall set forth the relief or order sought. Other documents, exhibits, or supporting pleadings shall not be incorporated by reference.

LBR 9014-1(d)(5).

The motion seeks combined relief for the approval of the sale of certain assets and the trustee's abandonment of certain other assets. This is not authorized under Fed. R. Bankr. P. 7018, 9014(c) or LBR 9014-1(d)(5). A separate motion for the abandonment of assets must be filed under 11 U.S.C. § 554(a), Fed. R. Bankr. P. 6007(a).

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

The trustee's motion to approve stipulation has been presented to the court. Given the procedural deficiencies discussed by the court in its ruling,

IT IS ORDERED that the motion is denied without prejudice.

2. [24-21913](#)-A-7 **IN RE: ROBERT PUTNAM**

MOTION FOR RELIEF FROM AUTOMATIC STAY
9-20-2024 [\[28\]](#)

CHANLER SPARLER/ATTY. FOR MV.
DEBTOR DISCHARGED: 09/18/2024
SHEILA REDD VS.

Final Ruling

Motion: Stay Relief

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

Disposition: Denied as moot

Order: Civil minute order

Subject: Exercise of state law rights and remedies to obtain possession of real property located at 3111 Eastern Avenue, #23, Sacramento, California, including all actions necessary to pursue an unlawful detainer action and execute a writ of possession

Case Closed: August 13, 2024

Case Reopened: August 15, 2024

Discharge: September 18, 2024

These minutes constitute the court's findings of fact and conclusions of law required by Fed. R. Civ. P. 52(a), *incorporated* by Fed. R. Bankr. P. 7052, 9014(c). The findings of fact are as set forth above; the conclusions of law are as set forth below.

Sheila Redd, movant, seeks an order for relief from the automatic stay of 11 U.S.C. § 362(a). The motion will be denied as moot.

The case was closed on August 13, 2024, without the entry of a discharge. The case was reopened at the request of the debtor on August 15, 2024, so that he could file his financial management course certificate of completion as required. This motion for stay relief was filed on September 20, 2024, just after entry of the discharge.

STAY RELIEF

Federal courts have no authority to decide moot questions. *Arizonans for Official English v. Arizona*, 520 U.S. 43, 67-68, 72 (1997). "The basic question in determining mootness is whether there is a present controversy as to which effective relief can be granted." *Nw. Env'tl. Def. Ctr. v. Gordon*, 849 F.2d 1241, 1244-45 (9th Cir. 1988) (citing *United States v. Geophysical Corp.*, 732 F.2d 693, 698 (9th Cir.1984)).

As to the Debtor

The motion will be denied as moot to the extent it seeks stay relief as to the debtor. The stay that protects the debtor terminates at the entry of discharge. 11 U.S.C. § 362(c)(2). In this case, discharge has been entered. As a result, the motion will be denied as moot as to the debtor.

As to the Estate

Unless the court orders otherwise, any property scheduled under section 521(a)(1) of this title not otherwise administered at the time of the closing of a case is abandoned to the debtor and administered for purposes of section 350 of this title.

11 U.S.C. § 554(c).

The debtor scheduled the leasehold interest on Schedule G. Schedule G, ECF No. The case was closed on August 13, 2024. The leasehold is property of the estate which has been administered and as such it is abandoned to the debtor. Accordingly, this motion is also moot as to the estate.

Because a discharge has been entered and the case closed the automatic stay no longer exists. The court is unable to grant effective relief. The motion will be denied as moot.

DOCKET CONTROL NUMBER

- 1) In motions filed in the bankruptcy case, a Docket Control Number (designated as DCN) shall be included by all parties immediately below the case number on all pleadings and other documents, including proofs of service, filed in support of or opposition to motions.
- 2) In motions filed in adversary proceedings, the Docket Control Number shall be placed immediately below the adversary number.
- 3) *The Docket Control Number shall consist of not more than three letters, which may be the initials of the attorney for the moving party (e.g., first, middle, and last name) or the first three initials of the law firm for the moving party, and the number that is one number higher than the number of motions previously filed by*

said attorney or law firm in connection with that specific bankruptcy case.

Example: The first Docket Control Number assigned to attorney John D. Doe would be DCN JDD-1, the second DCN JDD-2, the third DCN JDD-3, and so on. This sequence would be repeated for each specific bankruptcy case and adversary proceeding in which said attorney or law firm filed motions.

4) Once a Docket Control Number is assigned, all related papers filed by any party, including motions for orders shortening the amount of notice and stipulations resolving that motion, shall include the same number. However, motions for reconsideration and countermotions shall be treated as separate motions with a new Docket Control Number assigned in the manner provided for above.

LBR 9014-1(c) (emphasis added).

Because this unique docket control number is the method by which the court locates items on its docket, failing to assign a docket control number makes it difficult for the court to locate documents associated with the motion. Here, no docket control number was assigned to this motion.

FAILURE TO FILE SUMMARY SHEET

With all motions for relief from stay, the movant shall file and serve as a separate document completed Form EDC 3-468, *Relief from Stay Summary Sheet*.

LBR 4001-1(a)(3).

In this case the movant failed to complete and file a *Relief From Stay Summary Sheet* as required. Failure to comply with local rules may result in denial of relief or sanctions. LBR 1001-1(g).

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

Sheila Redd's motion for relief from the automatic stay has been presented to the court. Having considered the motion,

IT IS ORDERED that the motion is denied as moot. Relief from the automatic stay as to the interest of the debtor in such property is denied as moot given the entry of the discharge in this case. 11 U.S.C. § 362(c)(2)(C). Relief from the automatic stay as to the interest of the estate in such property is denied as moot given the

closing of the bankruptcy case and abandonment of property to the debtor on August 13, 2024. 11 U.S.C. § 554(c).

3. [24-22325](#)-A-7 **IN RE: KIMBERLYN OGREN**
[MJP-2](#)

MOTION TO VACATE DISMISSAL OF CASE
9-19-2024 [\[25\]](#)

MICHAEL PRIMUS/ATTY. FOR DBT.
DEBTOR DISMISSED: 08/19/24

Final Ruling

Motion: Vacate Dismissal

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

Disposition: Denied

Order: Civil minute order

The debtor seeks an order vacating the dismissal of her Chapter 7 bankruptcy case.

ORAL ARGUMENT

The issues in this matter having been sufficiently briefed by the debtor, the court finds that the matter does not require oral argument. LBR 9014-1(h); *Morrow v. Topping*, 437 F.2d 1155, 1156 (9th Cir. 1971) (approving local rules that authorize disposition without oral argument). Further, no evidentiary hearing is necessary for resolution of material, factual issues.

FACTS

The debtor filed this chapter 7 case on May 28, 2024. The meeting of creditors was scheduled to be held on July 8, 2024, at 09:00 a.m., Notice of Chapter 7 Bankruptcy Case, ECF No. 6. The filing deadlines to object to discharge or to challenge whether certain debts are dischargeable were September 6, 2024. *Id.*

On July 8, 2024, due to a calendaring error, the debtor and counsel failed to timely attend the meeting of creditors. Motion to Vacate, 1:25-28, 2:1-2, ECF No. 25. On July 8, 2024, the trustee filed a Notice of Motion to Dismiss, ECF No. 12. The Notice contained the following provision:

The debtor or any other party in interest who does not want the case dismissed *must file and serve an opposition to the trustee's motion and a notice of hearing on the trustee's motion no later than 14 days before the hearing date below*. In the absence of a timely opposition and a notice of hearing filed, no hearing will be held and the case will be dismissed. Note: we have enclosed two documents that will help

you file and serve the opposition: "Notice of Hearing and Opposition on Trustee's Motion to Dismiss for Failure to Appear at §341(a) Meeting of Creditors" and a Certificate of Mailing.

If a timely opposition is filed to the trustee's motion and notice given, *the court will consider the dismissal of the case at a hearing on 8/12/24 at 10:30 a.m. in Sacramento Courtroom 28, Department A of the U.S. Bankruptcy Court, at the address shown above.*

Id. (emphasis added).

On August 5, 2024, the debtor filed a Notice of Hearing on the trustee's motion to dismiss the case. Notice of Hearing, ECF No. 14. The debtor's request for a hearing was not timely. Accordingly, the case was dismissed on August 19, 2024.

RULE 60(b)

The debtor's motion to vacate the dismissal is brought pursuant to Fed. R. Civ. P. 60(b), *incorporated by* Fed. R. Bankr. P. 9024.

Rule 60(b) authorizes this court to grant relief after considering "all relevant circumstances surrounding the party's omission" including "[1] the danger of prejudice to the debtor, [2] the length of the delay and its potential impact on judicial proceedings, [3] the reason for the delay, including whether it was within the reasonable control of the movant, and [4] whether the movant acted in good faith," *Pioneer Investment Services Co. v. Brunswick Assocs. Ltd. Partnership*, 507 US 380, 395 (1993).

The court finds that: (1) the debtor has not articulated prejudice that cannot be cured by re-filing, 11 U.S.C. § 349(a); *contra*, 11 U.S.C. § 362(c)(3)-(4) (stay limitations for serial filings); (2) vacating the dismissal prejudices creditors by (A) delaying their ability to review the schedules and statements, as well as other documents necessary to evaluate and respond to the petition; and (B) if applicable, allowing them to act in reliance upon the dismissal; (3) reinstatement of the case negatively impacts the administration of the case (A) engenders confusion among creditors as to the status of the case, i.e. dismissed or pending; (B) shortens the time in which creditors and the trustee have to perform statutorily required acts, e.g. convene the meeting of creditors (21-40 days in chapter 7, 21-50 days in chapter 13, Fed. R. Bankr. 2003(a)), file a proof of claim (70 days after the petition, Fed. R. Bankr. P. 3002(c)); and (C) adds administrative burdens associated with noticing duties for the Clerk of the Court, Fed. R. Bankr. P. 2002(a)(1). Finally, reinstatement of the case prejudices the rights of creditors as the deadlines to object to the dischargeability of debt or to the debtor's discharge have passed.

The court will deny the motion.

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

The debtor's motion to vacate dismissal has been presented to the court. Having considered the motion together with papers filed in support and opposition, and having heard the arguments of counsel, if any,

IT IS ORDERED that the motion is denied.

4. [24-23835](#)-A-7 IN RE: IL P AND L INVESTMENTS LLC

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES
9-25-2024 [\[29\]](#)

Final Ruling

The case was dismissed on October 10, 2024, the order to show cause is discharged as moot.

5. [23-23040](#)-A-7 IN RE: CATHY DEIMEKE [JCC-1](#)

CONTINUED MOTION TO COMPROMISE CONTROVERSY/APPROVE
SETTLEMENT AGREEMENT WITH CATHY R. DEIMEKE
8-27-2024 [\[20\]](#)

THOMAS AMBERG/ATTY. FOR DBT.
JONATHAN CAHILL/ATTY. FOR MV.
DEBTOR DISCHARGED: 12/18/23

Final Ruling

Motion: Approve Compromise of Controversy

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).

Plaintiffs, Douglas Deimeke and Dianne C. Deimeke, Co-Trustees of the Deimeke Trust Dated June 9, 1993, and defendant (debtor) Cathy

Rae Deimeke jointly seek approval of the compromise and settlement of the complaint to determine dischargeability of a debt reached in Adversary Proceeding 23-02102. The settlement agreement is attached to the motion as Exhibit A, ECF No. 20.

APPROVAL OF COMPROMISE

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. 1986). 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.*

The movant requests approval of a compromise. The compromise is reflected in the settlement agreement attached to the motion as an exhibit. Based on the motion and supporting papers, the court finds that the compromise presented for the court's approval is fair and equitable considering the relevant *A & C Properties* factors. The compromise or settlement will be approved.

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

The motion to approve a compromise has been presented to the court. Having entered the default of respondent for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the motion,

IT IS ORDERED that the motion is granted. The court hereby approves the compromise that is reflected in the settlement agreement attached to the motion as Exhibit A and filed at docket no. 20.

6. [24-21058](#)-A-7 **IN RE: HUNG/ANGELICIA NGUYEN**
[PVR-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
9-24-2024 [\[29\]](#)

MOHAMMAD MOKARRAM/ATTY. FOR DBT.
PAUL REZA/ATTY. FOR MV.
SCHOOLSFIRST FEDERAL CREDIT UNION VS.
TRUSTEE NON-OPPOSITION

Final Ruling

Motion: Stay Relief

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

Disposition: Denied without prejudice

Order: Civil minute order

SchoolsFirst Federal Credit Union seeks an order for relief from the automatic stay of 11 U.S.C. § 362(a). The motion will be denied without prejudice as follows.

INSUFFICIENT NOTICE

Amount of Notice.

- 1) Motions Set on 28 Days' Notice. *Unless a different amount of time is required by the Federal Rules of Bankruptcy Procedure, these Local Rules, or by order of the Court, or the moving party elects to give the notice permitted by LBR 9014-1(f)(2), the moving party shall file and serve the motion at least twenty-eight (28) days prior to the hearing date.*
- A) If the motion is a motion for relief from the automatic stay, it shall be the duty of the moving party to set a hearing within thirty (30) days of the filing of the motion. The failure of the moving party to set the hearing within thirty (30) days shall be deemed a waiver of the time constraints of 11 U.S.C. § 362(e).
- B) Opposition. *Opposition, if any, to the granting of the motion shall be in writing and shall be served and filed with the Court by the responding party at least fourteen (14) days preceding the date or continued date of the hearing. Opposition shall be accompanied by evidence establishing its factual allegations. Without good cause, no party shall be heard in opposition to a motion at oral argument if written opposition to the motion has not been timely filed. Failure of the responding party to timely file written opposition may be deemed a waiver of any opposition to the granting of the motion or may result in the imposition of sanctions.*

LBR 9014-1(f)(1) (emphasis added).

The notice of motion states that opposition is required in writing no less than 14 days prior to the hearing date. Notice, 2:1-3, ECF No. 30. Written opposition may only be required when a motion for stay relief is filed pursuant to LBR 9014-1(f)(1). In such a case 28 days' notice is required.

In this case only 27 days' notice was provided. The certificate of service states that service of the motion and supporting papers was accomplished on September 24, 2024. Certificate of Service, ECF No. 34.

IMPROPER SERVICE

The certificate of service does not include an attachment listing the names and addresses of the parties served with the moving papers. Accordingly, the court is unable to determine if the proper parties were served with the motion. Fed. R. Bank. P. 7004, 9014. See Certificate of Service, ECF No. 34.

The court will deny the motion without prejudice.

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

SchoolsFirst Federal Credit Union's Motion for Relief from the Automatic Stay has been presented to the court. Given the procedural deficiencies discussed by the court in its ruling,

IT IS ORDERED that the motion is denied without prejudice.

7. [22-22290](#)-A-7 **IN RE: AMD METAL WORKS, INC**
[DNL-10](#)

MOTION TO APPROVE STIPULATION
9-23-2024 [\[192\]](#)

MARK WOLFF/ATTY. FOR DBT.
J. CUNNINGHAM/ATTY. FOR MV.

Final Ruling

Motion: Approve Compromise of Controversy
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).

Chapter 7 trustee Geoffrey Richards seeks an order approving the stipulation reached between the trustee and secured claimant Commercial Credit Group, Inc. (CCG), Claim No. 21.

FACTS

CCG asserts a \$335,530.25 claim secured by: (a) the debtor's interest in accounts; (b) accounts receivable; and (c) general intangibles. The security interest was perfected by UCC-1 financing statements filed on November 7, 2019, August 16, 2021, and March 18, 2022. CCG contends that the current balance due on its claim, after recovery from other sources and collateral, is approximately \$49,930.49. Motion, 2:12-16, ECF No. 192.

The trustee currently has funds on hand in the approximate amount of \$208,201.93 from administration of assets. The trustee has recovered monies from the following sources in the amounts indicated: (a) accounts receivable of \$51,599.17; (b) monies from deposit accounts in the amount of \$56,306.51; (c) transfer avoidance recoveries of \$79,267.31; (d) receipt of intangibles totaling \$6,415.10; and (e) a postpetition deposit of 14,613.84. *Id.*, 2:17-23.

The trustee contends that the lien asserted by CCG: (a) is perfected as to the accounts receivable, but subject to a \$12,134.16 surcharge for fees, costs, bank and bond charges incurred in preservation and recovery by the estate; (b) is not perfected as to the deposit accounts due to the absence of a deposit control agreement; (c) is not perfected as to the preference recoveries because they are post-petition assets; and (d) is perfected as to the general intangibles. There is a question as to whether the postpetition deposit is subject to the liens as a general intangible. Declaration of Geoffrey Richards, 2:21-28, 3:1-2, ECF No. 194.

Stipulation

The parties have agreed that the trustee shall pay \$48,000 to CCG for full and final payment on account of all claims that have been asserted or could be asserted against the Funds on Hand, including by way of Proof of Claim 21-1. Pursuant to that agreement, CCG will reserve its right to full payment on account of its claim(s) if a later order determines that the postpetition deposit is subject to the lien rights asserted by the creditors of the Debtor. Stipulation, Exhibit A, ECF No. 195.

APPROVAL OF COMPROMISE

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. 1986). 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.*

The movant requests approval of a compromise. The compromise is reflected in the settlement agreement attached to the motion as an exhibit. Based on the motion and supporting papers, the court finds that the compromise presented for the court's approval is fair and equitable considering the relevant *A & C Properties* factors. The compromise or settlement will be approved.

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

Geoffrey Richard's motion to approve a compromise has been presented to the court. Having entered the default of respondent for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the motion,

IT IS ORDERED that the motion is granted. The court hereby approves the compromise that is reflected in the settlement agreement attached to the motion as Exhibit A and filed at docket no. 195.

8. [24-23294](#)-A-7 **IN RE: JANELLE SPENCER**
[SKI-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
9-13-2024 [\[32\]](#)

SHERYL ITH/ATTY. FOR MV.
MECHANICS BANK VS.

Final Ruling

Motion: Stay Relief

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

Disposition: Granted

Order: Civil minute order

Subject: 2013 Honda Odyssey EX

Cause: delinquent installment payments 2 months/\$824.06

These minutes constitute the court's findings of fact and conclusions of law required by Fed. R. Civ. P. 52(a), *incorporated* by Fed. R. Bankr. P. 7052, 9014(c). The findings of fact are as set forth above; the conclusions of law are as set forth below.

Mechanics Bank seeks an order for relief from the automatic stay of 11 U.S.C. § 362(a).

DEFAULT OF RESPONDENT

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).

STAY RELIEF

"[A]fter notice and a hearing," the court may terminate, annul, modify or condition the stay: (1) "for cause, including the lack of adequate protection"; or (2) "with respect to a stay of an act against property [of the estate]" if the debtor lacks "equity" in that property and if that "property is not necessary for an effective reorganization." 11 U.S.C. § 362(d); *see also* Fed. R. Bankr. P. 4001(a)(1). The party seeking stay relief bears the burden of proof as to "the debtor's equity in the property" and on the validity and perfection of its security interest, as well as the amount of its debt. 11 U.S.C. § 362(g)(1); *In re Dahlquist*, 34 B.R. 476, 481 (Bankr. S.D. 1983). The party opposing stay relief, e.g., the debtor or Chapter 7 trustee, bears the burden of proof on all other issues. 11 U.S.C. § 362(g)(2).

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). The debtor bears the burden of proof. 11 U.S.C. § 362(g)(2). 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). "An undersecured creditor is entitled to adequate protection only for the decline in the [collateral's] value after the bankruptcy filing." See Kathleen P. March, Hon. Alan M. Ahart & Janet A. Shapiro, *California Practice Guide: Bankruptcy* ¶ 8:1065.1 (rev. 2019) (citing *United Sav. Ass'n v. Timbers of Inwood Forest Assocs., Ltd.*, 484 U.S. 365, 370-73 (1988)); see also *In re Weinstein*, 227 BR 284, 296 (9th Cir. BAP 1998) ("Adequate protection is provided to safeguard the creditor against depreciation in the value of its collateral during the reorganization process"); *In re Deico Electronics, Inc.*, 139 BR 945, 947 (9th Cir. BAP 1992) ("Adequate protection payments compensate undersecured creditors for the delay bankruptcy imposes upon the exercise of their state law remedies").

The debtor is obligated to make debt payments to the moving party pursuant to a loan contract that is secured by a security interest in the debtor's vehicle described above. The debtor has defaulted on such loan with the moving party, and postpetition payments are past due. Vehicles depreciate over time and with usage. Consequently, the moving party's interest in the vehicle is not being adequately protected due to the debtor's ongoing postpetition default.

Cause exists to grant relief 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.

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

Mechanics Bank's motion for relief from the automatic stay has been presented to the court. Having entered the default of respondent for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the motion,

IT IS ORDERED that the motion is granted. The automatic stay is vacated with respect to the property described in the motion, commonly known as a 2013 Honda Odyssey EX, as to all parties in interest. The 14-day stay of the order under Federal Rule of Bankruptcy Procedure 4001(a)(3) is waived. Any party with standing may pursue its rights against the property pursuant to applicable non-bankruptcy law.

IT IS FURTHER ORDERED that no other relief is awarded. To the extent that the motion includes any request for attorney's fees or other costs for bringing this motion, the request is denied.