

UNITED STATES BANKRUPTCY COURT  
Eastern District of California  
Honorable René Lastreto II  
Hearing Date: Tuesday, October 22, 2019  
Place: Department B – Courtroom #13  
Fresno, 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. The court may continue the hearing on the matter, set a briefing schedule or enter other orders appropriate for efficient and proper resolution of the matter. The original moving or objecting party shall give notice of the continued hearing date and the deadlines. The minutes of the hearing will be the court's findings and conclusions.

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

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

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

**9:30 AM**

1. [16-10521](#)-B-7      **IN RE: ALAN ENGLE**  
[FW-12](#)

MOTION TO COMPROMISE CONTROVERSY/APPROVE SETTLEMENT AGREEMENT  
WITH ALAN ENGLE  
9-18-2019    [\[296\]](#)

JAMES SALVEN/MV  
SUSAN HEMB  
GABRIEL WADDELL/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 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of the 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 Systems, Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires that a plaintiff make a prima facie showing that they are entitled to the relief sought, which the movant has done here.

This motion is GRANTED. It appears from the moving papers that the chapter 7 trustee ("Trustee") has considered the standards of In re Woodson, 839 F.2d 610, 620 (9th Cir. 1987) and In re A & C Properties, 784 F.2d 1377, 1381 (9th Cir. 1986):

- a.     the probability of success in the litigation;
- b.     the difficulties, if any, to be encountered in the matter of collection;

- c. the complexity of the litigation involved, and the expense, inconvenience and delay necessarily attending it; and
- d. the paramount interest of the creditors and a proper deference to their reasonable views in the premises.

Accordingly, it appears that the compromise pursuant to Federal Rule of Bankruptcy Procedure 9019 is a reasonable exercise of Trustee's business judgment. The order should be limited to the claims compromised as described in the motion.

Trustee requests approval of a settlement agreement between the estate and the debtor concerning remitted funds ("Funds") through a pre-petition auction. Doc. #299. The auction was performed pre-petition, but the funds were remitted after the bankruptcy case was filed. Id. Trustee made several demands for the funds, but the debtor refused to turn them over. Id. Trustee has decided to settle the matter.

Under the terms of the compromise, debtor has turned over \$2,400.00 of the \$4,800.00 to settle the matter. Id.

On a motion by the trustee and after notice and a hearing, the court may approve a compromise or settlement. Fed. R. Bankr. P. 9019. Approval of a compromise must be based upon considerations of fairness and equity. In re A & C Properties, 784 F.2d 1377, 1381 (9th Cir. 1986). The court must consider and balance four factors: 1) the probability of success in the litigation; 2) the difficulties, if any, to be encountered in the matter of collection; 3) the complexity of the litigation involved, and the expense, inconvenience, and delay necessarily attending it; and 4) the paramount interest of the creditors with a proper deference to their reasonable views. In re Woodson, 839 F.2d 610, 620 (9th Cir. 1988).

The court concludes that the Woodson factors balance in favor of approving the compromise. That is: the probability of success was likely as Trustee believed that the estate was entitled to the Funds; collection was viewed as the biggest hurdle because debtor refused to turn over the property to Trustee and litigating the matter would have incurred costs in excess of the \$4,800.00; the litigation is not incredibly complex, but moving forward would have decreased the net to the estate due to the legal fees; and the creditors will greatly benefit from the net to the estate, that would otherwise not exist; the settlement is equitable and fair.

Therefore, the court concludes the compromise to be in the best interests of the creditors and the estate. The court may give weight to the opinions of the trustee, the parties, and their attorneys. In re Blair, 538 F.2d 849, 851 (9th Cir. 1976). Furthermore, the law favors compromise and not litigation for its own sake. Id. Accordingly, the motion will be granted.

This ruling is not authorizing the payment of any fees or costs associated with the litigation.

2. [19-13425](#)-B-7     **IN RE: JESSE CANALES**  
[GK-3](#)

MOTION TO DISMISS CASE  
9-24-2019    [\[52\]](#)

38SDJV HOLDINGS, LLC/MV  
JOSEPH WEST  
MILES GRANT/ATTY. FOR MV.

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 court will issue the order.

This motion was filed and served pursuant to Local Rule of Practice ("LBR") 9014-1(f)(1) and will proceed as scheduled.

It appears that movant filed a motion to dismiss approximately one week before filing this motion (see GK-2, doc. #35). That motion was set for hearing on October 16, 2019 (doc. #36). Debtor did not timely object to that motion. See doc. #61. But the court continued that motion to October 22, 2019. Doc. #69. This motion was filed and served approximately one week after GK-2 (doc. #58) and set for hearing on the same day, October 22, 2019 (doc. #53). Both motions and their accompanying memorandum of points and authorities appear to be substantially identical. Movant appears to have responded to debtor's objection (doc. #15). There appears to have been some confusion so the court, in its discretion, will not enter the default of debtor in this motion.

Because the motions appear to be identical, the court will rule on this matter and the other matter will be denied as moot.

Creditor 38SDJV Holdings, LLC ("Creditor") requests that the court dismiss this case for debtor's bad faith, history of abuse of the bankruptcy system and this court, and filing this bankruptcy case within 180 days of the dismissal of his June 2019 bankruptcy case. Doc. #52.

Debtor timely responded, arguing that cause did not exist to dismiss the case. Doc. #61. Debtor argues that the multitude of cases that were filed were not done in bad faith and that debtor has had issues with reinstating a loan belonging to Creditor. Doc. #61. Debtor provides no evidence with the opposition. Creditor responded. Doc. #67.

This is debtor's tenth bankruptcy since 2008. Doc. #55. Every one of debtor's previous bankruptcy cases were dismissed for debtor's failure to file schedules and other papers. Id. In debtor's previous four bankruptcy cases, he filed motions to extend time to file, stating he needed time to hire an attorney. The court granted the motions, but debtor neither hired an attorney nor filed the

necessary papers. Id. Debtor was previously found to be "a serial bankruptcy filer who has abused the bankruptcy system" after a court entered judgment in favor of the U.S. Trustee, who brought an adversary proceeding against debtor. Debtor was barred from filing bankruptcy for two years in 2010. Id.

11 U.S.C. § 109(g) states

Notwithstanding any other provision of this section, no individual or family farmer may be a debtor under this title who has been a debtor in a case pending under this title at any time in the preceding 180 days if the case was dismissed by the court for willful failure of the debtor to abide by orders of the court, or to appear before the court in proper prosecution of the case. . .

Debtor filed a chapter 13 petition without counsel on June 3, 2019. See case no. 19-12380. Debtor filed a skeletal petition and was required to file schedules and other forms not later than June 17, 2019. The court granted debtor's motion to extend the deadline to file said documents to July 1, 2019. Creditor opposed that motion. Creditor filed a motion for relief from stay in that case on June 24, 2019. The case was dismissed on July 2, 2019 for failure to timely file documents pursuant to the court's order granting debtor's motion to extend time to file the documents.

Debtor filed this chapter 7 (with counsel) on August 10, 2019. Again, the petition was bare-bones. Debtor eventually did file the necessary schedules, albeit one week after the court's notice prescribed. See doc. #8. The meeting of creditors has been continued at least twice, the last meeting being held on October 15, 2019.

In case no. 19-12380, the court ordered "that the time set forth in the NOID for the Debtor(s) to file the required missing documents shall be extended until 7/1/19." Debtor failed to file the required missing documents by July 1, 2019 and the clerk of the court (under this same order) dismissed the case. So while the case was NOT "dismissed by the court for willful failure of the debtor to abide by orders of the court" since the court did not order debtor to do anything, this court finds that debtor's failure to file the required missing documents constitutes failure "to appear before the court in proper prosecution of the case."

11 U.S.C. § 109(g)(2) is not applicable because the debtor did not request voluntary dismissal in the June 3, 2019 chapter 13 petition. Creditor's "willful failure to file his schedules" does not constitute "voluntary dismissal by another name." See doc. #54.

The court notes however, that in this case debtor has counsel and has appeared at the § 341 meetings of creditors. A five year bar to filing may not be necessary. This motion is granted, the automatic stay is null, and Creditor's motion for relief from stay (including (d)(4) relief) will be valid in potential future filings.

3. [19-13425](#)-B-7     **IN RE: JESSE CANALES**  
[GK-4](#)

CONTINUED MOTION FOR RELIEF FROM AUTOMATIC STAY  
9-24-2019    [\[43\]](#)

38SDJV HOLDINGS, LLC/MV  
JOSEPH WEST  
MILES GRANT/ATTY. FOR MV.

FINAL RULING:     This matter will proceed as scheduled.

DISPOSITION:     Granted.

ORDER:             The Moving Party will submit a proposed order after hearing.

This motion was filed and served pursuant to Local Rule of Practice ("LBR") 9014-1(f)(2). It was continued by court order because debtor opposed at the hearing on October 9, 2019. Doc. #64. The court ordered "that debtor shall file and serve his opposition not later than October 17, 2019." Id. As of October 21, 2019, the court has not seen debtor's opposition. Movant filed a "Notice of No Opposition" on October 18, 2019, stating that they had not received opposition on October 17, 2019. Because debtor has not complied with the court's order, nor requested an extension of time to file and serve an opposition, the court GRANTS the motion.

The court must first note movant's failure to comply with LBR 9004-2(c)(1) and (d).

First, LBR 9004-2(c)(1) requires that declarations, exhibits, *inter alia*, to be filed as separate documents. Here, all three declarations included exhibits, and were combined into one document and not filed separately.

Second, LBR 9004-2(d)(2) requires an index "at the start of the [exhibit] that lists and identifies by exhibit number/letter each exhibit individually and shall state the page number at which it is found within the exhibit document."

There was no exhibit index for any of the exhibits, nor were the exhibits numbered. Failure to comply with these rules in the future will result in the motion being denied without prejudice.

The movant, 38 SDJV Holdings, LLC, seeks relief from the automatic stay under 11 U.S.C. § 362(d)(4) concerning real property located at 4237 E. Clinton Avenue in Fresno, CA 93703.

Under § 362(d)(4), if the court finds that the debtor's filing of the petition was part of a scheme to delay, hinder, or defraud creditors that involved either transfer of all or part ownership of, or other interest in, such real property without the consent of the secured creditor or court approval OR multiple bankruptcy filings affecting such real property, then an order entered under paragraph (4) is binding in any other bankruptcy case purporting to affect

such real property filed not later than two years after the date of entry of the order.

After review of the included evidence, the court finds that the debtor's filing of the petition was part of a scheme to delay, hinder, or defraud creditors that involved the transfer of all or part ownership of the subject real property without the consent of the secured creditor or court approval.

This is debtor's ninth bankruptcy since 2008. Doc. #46. Every one of debtor's previous bankruptcy cases were dismissed for debtor's failure to file schedules and other papers. Id. In debtor's previous four bankruptcy cases, he filed motions to extend time to file, stating he needed time to hire an attorney. The court granted the motions, but debtor neither hired an attorney nor filed the necessary papers. Id. Debtor was previously found to be "a serial bankruptcy filer who has abused the bankruptcy system" after a court entered judgment in favor of the U.S. Trustee, who brought an adversary proceeding against debtor. Debtor was barred from filing bankruptcy for two years. Id.

On July 15, 2019, debtor transferred the subject property to himself and William Jay Cook ("Cook") as joint tenants for no consideration. Id. That same day, Cook filed bankruptcy. Id.

In February 2005, InterBay Funding LLC ("InterBay") loaned debtor \$388,700.00. Doc. #47. The loan was evidenced by a promissory note and secured by a deed of trust on debtor's investment property located at 4237 E. Clinton Avenue in Fresno, CA 93703. Id. The loan was eventually assigned to Creditor in September 2018. Id. Debtor has defaulted on the loan by failing to pay the installments due to Creditor since October 2018. Id. As of September 24, 2019, debtor owes nearly \$400,00.00 in principal and nearly \$45,000.00 in interest and costs. Id.

The Court having rendered findings of fact and conclusions of law pursuant to Federal Rule of Civil Procedure 52, as incorporated by Federal Rule of Bankruptcy Procedure 7052:

IT IS ORDERED that the automatic stay of 11 U.S.C. § 362(a) is vacated concerning real property located at 4237 E. Clinton Ave in Fresno, CA 93703; and

IT IS FURTHER ORDERED, pursuant to 11 U.S.C. § 362(d)(4), that the filing of the petition was part of a scheme to delay, hinder, or defraud creditors that involved either transfer of all or part ownership of, or other interest in, the aforesaid real property without the consent of the secured creditor or court approval; or multiple bankruptcy filing affecting such real property. The order shall be binding in any other case under Title 11 of the United States Code purporting to affect the real property described in the motion not later than two years after the date of entry of the order.

The 14-day stay under Federal Rule of Bankruptcy Procedure 4001(a)(3) is waived.

4. [19-13041](#)-B-7      **IN RE: AURORA MADRIGAL**  
[RPZ-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY  
9-20-2019    [\[41\]](#)

BANK OF AMERICA, N.A./MV  
ROBERT ZAHRADKA/ATTY. FOR MV.  
DISMISSED 10/10/19

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 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of the 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 Systems, Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires that a plaintiff make a prima facie showing that they are entitled to the relief sought, which the movant has done here.

The movant, Bank of America, N.A., seeks relief from the automatic stay under 11 U.S.C. § 362(d)(4) concerning real property located at 30781 Baxman Lane in Fort Bragg, CA 95437. Doc. #41.

Under § 362(d)(4), if the court finds that the debtor's' filing of the petition was part of a scheme to delay, hinder, or defraud creditors that involved either transfer of all or part ownership of, or other interest in, such real property without the consent of the secured creditor or court approval OR multiple bankruptcy filings affecting such real property, then an order entered under paragraph (4) is binding in any other bankruptcy case purporting to affect such real property filed not later than two years after the date of entry of the order.

After review of the included evidence, the court finds that the debtor's filing of the petition was part of a scheme to delay, hinder, or defraud creditors that involved the transfer of all or part ownership of the subject real property without the consent of the secured creditor or court approval.



On or about February 23, 2011, the original borrowers Frederick and Jeanette Bowman ("Borrowers") executed a promissory note in the principal sum of \$339,449.00 ("Note"), made payable to Movant. Movant, directly or through an agent, has possession of the promissory note. See doc. #46. The Note is secured by a deed of trust ("Deed of Trust") encumbering the real property commonly known as 30781 Baxman Lane in Fort Bragg, California 95437 ("Property"), and was recorded in Mendocino County as Instrument No. 2011-02840 on February 23, 2011. See id. The Deed of Trust was assigned to Movant. Id. An Appraisal was conducted on June 13, 2019, that indicates the fair market value of the property is \$410,000.00. Id. On July 16, 2019, an unauthorized grant deed was executed, and subsequently recorded on July 23, 2019, whereby the Borrowers purported to transfer an interest in the Property to Jeanette Bowman and Frederick Bowman, wife and husband; and Aurora Madrigal ("Debtor"), an unmarried woman, all as tenants in common, as a "gift," for no consideration. Id. On or about July 17, 2019, Debtor filed a voluntary petition for protection under Chapter 7 of the United States Bankruptcy Code. Debtor's case was dismissed on October 10, 2019 for failing to appear at the § 341 meeting of creditors. Doc. #54.

Cause exists to vacate the stay under 11 U.S.C. § 362(a) because Borrowers are delinquent at least 56 payments, only two of which are post-petition, for a total of \$124,022.84. Doc. #45-46. Debtor has not opposed this motion.

The Court having rendered findings of fact and conclusions of law pursuant to Federal Rule of Civil Procedure 52, as incorporated by Federal Rule of Bankruptcy Procedure 7052:

IT IS ORDERED that the automatic stay of 11 U.S.C. § 362(a) is vacated concerning real property located at 30781 Baxman Lane in Fort Bragg, CA 95437; and

IT IS FURTHER ORDERED, pursuant to 11 U.S.C. § 362(d)(4), that the filing of the petition was part of a scheme to delay, hinder, or defraud creditors that involved either transfer of all or part ownership of, or other interest in, the aforesaid real property without the consent of the secured creditor or court approval. The order shall be binding in any other case under Title 11 of the United States Code purporting to affect the real property described in the motion not later than two years after the date of entry of the order.

The 14-day stay of Fed. R. Bankr. P. 4001(a)(3) will be ordered waived due to the fact that Borrowers are delinquent over \$100,000.00 in payments to Movant.

5. [19-13043](#)-B-7     **IN RE: SALVADOR MEJIA LOPEZ**  
[PFT-1](#)

OPPOSITION RE: TRUSTEE'S MOTION TO DISMISS FOR FAILURE TO APPEAR  
AT SEC. 341(A) MEETING OF CREDITORS  
8-27-2019    [\[21\]](#)

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

DISPOSITION:        Conditionally denied.

ORDER:                The court will issue the order.

The chapter 7 trustee's motion to dismiss is CONDITIONALLY DENIED.

The debtors shall attend the meeting of creditors rescheduled for October 24, 2019 at 10:00 a.m. If the debtor fails to do so, the chapter 7 trustee may file a declaration with a proposed order and the case may be dismissed without a further hearing.

The time prescribed in Rules 1017(e)(1) and 4004(a) for the chapter 7 trustee and the U.S. Trustee to object to the debtors' discharge or file motions for abuse, other than presumed abuse, under § 707, is extended to 60 days after the conclusion of the meeting of creditors.

6. [19-12754](#)-B-7     **IN RE: SUPER TRUCK LINES INC.**  
[KAS-2](#)

MOTION TO EMPLOY GOULD AUCTION AND APPRAISAL COMPANY AS  
AUCTIONEER, AUTHORIZING SALE OF PROPERTY AT PUBLIC AUCTION AND  
AUTHORIZING PAYMENT OF AUCTIONEER FEES AND EXPENSES  
10-4-2019    [\[196\]](#)

JAMES SALVEN/MV  
THOMAS HOGAN  
KELSEY SEIB/ATTY. FOR MV.

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

DISPOSITION:        Denied without prejudice.

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

This motion is DENIED WITHOUT PREJUDICE. Federal Rule of Bankruptcy Procedure 2002(a)(6) requires 21 day's notice for "a proposed . . . sale . . . of property of the estate other than in the ordinary course of business . . . ."

This motion seeks authorization to sell estate property at an auction, which is outside the ordinary course of business. This motion was served on October 4, 2019. Doc. #200. October 4, 2019 is less than 21 days from this hearing date, October 22, 2019.

Therefore the motion does not comply with the Federal Rules of Bankruptcy Procedure and is DENIED WITHOUT PREJUDICE. The other requests for relief, for employing an auctioneer and authorization to pay said auctioneer, are moot without a sale.

7. [18-10460](#)-B-7     **IN RE: DAVID/YOLANDA TREMBLAY**  
[PBB-2](#)

MOTION TO WAIVE FINANCIAL MANAGEMENT COURSE REQUIREMENT, CONTINUE CASE ADMINISTRATION, SUBSTITUTE PARTY, AS TO JOINT DEBTOR  
9-24-2019    [\[61\]](#)

DAVID TREMBLAY/MV  
PETER BUNTING

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 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of the 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 Systems, Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires that a plaintiff make a prima facie showing that they are entitled to the relief sought, which the movant has done here.

This motion is GRANTED. Debtor's counsel asks the court to excuse debtor Yolanda Tremblay from being required to complete and file a certificate of completion of financial management course and directing the clerk's office to treat this case as it would if the debtor had. Doc. #61. Ms. Tremblay passed away in May 2018 and is therefore unable to complete a financial management course.

Federal Rule of Bankruptcy Procedure 1016 provides:

Death or incompetency of the debtor shall not abate a liquidation case under chapter 7 of the Code. In such event the estate shall be administered and the case concluded in the same manner, so far as possible, as though the death or incompetency had not occurred. If a reorganization, family farmer's debt adjustment, or

individual's debt adjustment case is pending under chapter 11, chapter 12, or chapter 13, the case may be dismissed; or if further administration is possible and in the best interest of the parties, the case may proceed and be concluded in the same manner, so far as possible, as though the death or incompetency had not occurred.

No party has filed opposition to this motion. Therefore, in accordance with Fed. R. Bankr. P. 1016, the debtor is excused from completing and filing a certificate of completion of the financial management course. The clerk's office is to treat this case as it would if the debtor had filed a certificate of completion of the financial management course. David Tremblay, Sr. shall be appointed as the representative of Yolanda Tremblay's estate.

8. [18-13678](#)-B-7      **IN RE: VERSA MARKETING, INC.**  
[CFM-1](#)

MOTION FOR COMPENSATION BY THE LAW OFFICE OF COLEMAN & HOROWITT,  
LLP FOR C. FREDRICK MEINE III, SPECIAL COUNSEL(S)  
10-1-2019    [\[512\]](#)

RILEY WALTER

TENTATIVE RULING:            This matter will proceed as scheduled.

DISPOSITION:                Granted.

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

This motion was filed and served pursuant to Local Rule of Practice ("LBR") 9014-1(f)(2) and Federal Rule of Bankruptcy Procedure 2002(6) and will proceed as scheduled. Unless opposition is presented at the hearing, the court intends to enter the respondents' defaults and grant the motion. If opposition is presented at the hearing, the court will consider the opposition and whether further hearing is proper pursuant to LBR 9014-1(f)(2). The court will issue an order if a further hearing is necessary.

The motion will be GRANTED. Debtor's special counsel, Coleman & Horowitz, LLP, requests fees of \$22,959.50 and costs of \$176.80 for services rendered from March 3, 2019 through September 27, 2019.

11 U.S.C. § 330(a)(1)(A) & (B) permits approval of "reasonable compensation for actual necessary services rendered by . . . [a] professional person" and "reimbursement for actual, necessary expenses." Movant's services included, without limitation: (1) Case administration and litigation financing, (2) Opposing West Liberty Foods' motion to dismiss, and (3) Preparing and filing this fee application. The court finds the services reasonable and necessary and the expenses requested actual and necessary.

Movant shall be awarded \$22,959.50 in fees and \$176.80 in costs.

9. [18-13678](#)-B-7     **IN RE: VERSA MARKETING, INC.**  
[WJH-5](#)

MOTION FOR COMPENSATION BY THE LAW OFFICE OF WANGER JONES HELSLEY  
PC FOR RILEY C. WALTER, DEBTORS ATTORNEY(S)  
9-27-2019    [\[498\]](#)

RILEY WALTER

TENTATIVE RULING:            This matter will proceed as scheduled.

DISPOSITION:                Granted.

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

This motion was filed and served pursuant to Local Rule of Practice ("LBR") 9014-1(f)(2) and Federal Rule of Bankruptcy Procedure 2002(6) and will proceed as scheduled. Unless opposition is presented at the hearing, the court intends to enter the respondents' defaults and grant the motion. If opposition is presented at the hearing, the court will consider the opposition and whether further hearing is proper pursuant to LBR 9014-1(f)(2). The court will issue an order if a further hearing is necessary.

The motion will be GRANTED. Debtor's bankruptcy counsel, Wanger Jones Hensley P.C., requests fees of \$13,275.50 and costs of \$878.35 for a total of \$14,153.85 for services rendered from July 1, 2019 through September 12, 2019.

11 U.S.C. § 330(a)(1)(A) & (B) permits approval of "reasonable compensation for actual necessary services rendered by . . . [a] professional person" and "reimbursement for actual, necessary expenses." Movant's services included, without limitation: (1) Advising debtor's principals relating to the continued use of cash collateral, (2) Working on the monthly operating reports, (3) Opposing West Liberty Foods' motion to dismiss, and (4) Advising the debtor's on an overall go-forward strategy prior to conversion. The court finds the services reasonable and necessary and the expenses requested actual and necessary.

Movant shall be awarded \$13,275.50 in fees and \$878.35 in costs.

10. [18-13678](#)-B-7     **IN RE: VERSA MARKETING, INC.**  
[WJH-6](#)

MOTION FOR COMPENSATION FOR TERENCE J. LONG, CONSULTANT(S)  
9-27-2019    [\[505\]](#)

TERENCE LONG/MV  
RILEY WALTER

TENTATIVE RULING:            This matter will proceed as scheduled.

DISPOSITION:                    Granted.

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

This motion was filed and served pursuant to Local Rule of Practice ("LBR") 9014-1(f)(2) and Federal Rule of Bankruptcy Procedure 2002(6) and will proceed as scheduled. Unless opposition is presented at the hearing, the court intends to enter the respondents' defaults and grant the motion. If opposition is presented at the hearing, the court will consider the opposition and whether further hearing is proper pursuant to LBR 9014-1(f)(2). The court will issue an order if a further hearing is necessary.

The motion will be GRANTED. Debtor's consultant, Terence J. Long, requests fees of \$893.00 for services rendered from July 25, 2019 through September 12, 2019.

11 U.S.C. § 330(a)(1)(A) & (B) permits approval of "reasonable compensation for actual necessary services rendered by . . . [a] professional person" and "reimbursement for actual, necessary expenses." Movant's services included, without limitation: (1) Preparing and reviewing the billing for this fee application, (2) Reviewing correspondence regarding plan matters and case administration, and (3) Reviewing correspondence relating to unpaid UST fees. The court finds the services reasonable and necessary and the expenses requested actual and necessary.

Movant shall be awarded \$893.00 in fees.

11. [19-13980](#)-B-7     **IN RE: OZINVESTING LLC**  
[KAS-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY  
10-4-2019    [\[16\]](#)

ANCHOR ASSETS V, LLC/MV  
KELSEY SEIB/ATTY. FOR MV.

TENTATIVE RULING:            This matter will proceed as scheduled.

DISPOSITION:                Granted unless opposed at the hearing.

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

This motion for relief from stay was noticed pursuant to LBR 9014-1(f)(2) and written opposition was not required. Unless opposition is presented at the hearing, the court intends to enter the debtor's and the trustee's defaults and enter the following ruling granting the motion for relief from stay. If opposition is presented at the hearing, the court will consider the opposition and whether further hearing is proper pursuant to LBR 9014-1(f)(2). The court will issue an order if a further hearing is necessary.

The automatic stay is terminated as it applies to the movant's right to enforce its remedies against the subject property under applicable nonbankruptcy law. The record shows that cause exists to terminate the automatic stay.

The proposed order shall specifically describe the property or action to which the order relates. The collateral is a parcel of real property commonly known as 1491 Alluvial Avenue, Clovis, California 93611 (Doc. #17). The collateral has a value of \$112,000.00, based on debtor's Schedule A/B (Doc. #1), and the amount owed is \$371,628.62 (Doc. #16).

If the motion involves a foreclosure of real property in California, then the order shall also provide that the bankruptcy proceeding has been finalized for purposes of California Civil Code § 2923.5.

A waiver of Federal Rule of Bankruptcy Procedure 4001(a)(3) will not be granted. The movant has shown no exigency.

Unless the court expressly orders otherwise, the proposed order shall not include any other relief. If the proposed order includes extraneous or procedurally incorrect relief that is only available in an adversary proceeding then the order will be rejected. See *In re Van Ness*, 399 B.R. 897 (Bankr. E.D. Cal. 2009).

12. [19-13594](#)-B-7     **IN RE: BRAYAN ESPINOZA BRECEDA AND CYNTHIA BRECEDA**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES  
10-1-2019    [\[31\]](#)

MARK ZIMMERMAN  
\$181.00 FILING FEE PAID 10/10/19

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

DISPOSITION:        The OSC will be vacated.

ORDER:                The court will issue an order.

The record shows that the filing fee due on the Motion to Compel Abandonment was paid on October 10, 2019. Therefore, the Order to Show Cause will be vacated.

13. [19-13594](#)-B-7     **IN RE: BRAYAN ESPINOZA BRECEDA AND CYNTHIA BRECEDA**  
[MAZ-1](#)

MOTION TO COMPEL ABANDONMENT  
9-17-2019    [\[21\]](#)

BRAYAN ESPINOZA BRECEDA/MV  
MARK ZIMMERMAN

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 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of the 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 Systems, Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires that a plaintiff make a prima facie showing that they are entitled to the relief sought, which the movant has done here.



11 U.S.C. § 554(b) provides that "on request of a party in interest and after notice and a hearing, the court may order the trustee to abandon any property of the estate that is burdensome to the estate or that is of inconsequential value and benefit to the estate." In order to grant a motion to abandon property, the bankruptcy court must find either that: (1) the property is burdensome to the estate or (2) of inconsequential value and inconsequential benefit to the estate. In re Vu, 245 B.R. 644, 647 (9th Cir. B.A.P. 2000). As one court noted, "an order compelling abandonment is the exception, not the rule. Abandonment should only be compelled in order to help the creditors by assuring some benefit in the administration of each asset . . . Absent an attempt by the trustee to churn property worthless to the estate just to increase fees, abandonment should rarely be ordered." In re K.C. Mach. & Tool Co., 816 F.2d 238, 246 (6th Cir. 1987). And in evaluating a proposal to abandon property, it is the interests of the estate and the creditors that have primary consideration, not the interests of the debtor. In re Johnson, 49 F.3d 538, 541 (9th Cir. 1995) (noting that the debtor is not mentioned in § 554). In re Galloway, No. AZ-13-1085-PaKiTa, 2014 Bankr. LEXIS 3626, at 16-17 (B.A.P. 9th Cir. 2014).

Debtor asks this court to compel the chapter 7 trustee to abandon the estate's interest in debtor's sole proprietorship business "Golden Pacific Truck Driving School." Doc. #21. The assets include two Bank of America accounts, a 2014 International ProStar, and a 2007 Wabash Duraplate ("Business Assets").

The court finds that the Business Assets are of inconsequential value and benefit to the estate. The Business Assets were accurately scheduled and exempted in their entirety, except for the 2014 International ProStar, which has a lien in the amount of \$14,912.84 (which is the remaining amount after debtor's exemption on the property) in favor of Allstate Finance. Therefore, this motion is GRANTED.

The order shall include a specific list of the property abandoned.

14. [19-13425](#)-B-7     **IN RE: JESSE CANALES**  
[GK-2](#)

CONTINUED MOTION TO DISMISS CASE  
9-17-2019    [\[35\]](#)

38SDJV HOLDINGS, LLC/MV  
JOSEPH WEST  
MILES GRANT/ATTY. FOR MV.

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

DISPOSITION:     Denied as moot.

ORDER:             The court will issue an order.

This motion is DENIED AS MOOT. The court has ruled on GK-3, matter  
#2 above.

1:30 PM

1. [17-14619](#)-B-7     **IN RE: AMANDA/CALVIN HAMM**  
[19-1056](#)

CONTINUED STATUS CONFERENCE RE: COMPLAINT  
6-6-2019    [\[1\]](#)

U.S. TRUSTEE V. HAMM ET AL  
ROBIN TUBESING/ATTY. FOR PL.

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

DISPOSITION:     Vacated.

ORDER:             The court will issue the order.

The court has granted the United States' Trustee's motion for entry of default judgment, UST-1, matter #2 below. Therefore the status conference is vacated.

2. [17-14619](#)-B-7     **IN RE: AMANDA/CALVIN HAMM**  
[19-1056](#)     [UST-1](#)

MOTION FOR ENTRY OF DEFAULT JUDGMENT  
9-19-2019    [\[23\]](#)

U.S. TRUSTEE V. HAMM ET AL  
ROBIN TUBESING/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 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of the 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 Systems, Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires that a plaintiff make a

prima facie showing that they are entitled to the relief sought, which the movant has done here.

This motion is GRANTED. Defendant-debtors ("Defendants") received their discharge on May 30, 2018. Doc. #24. The chapter 7 trustee ("Trustee") filed a motion to compel turnover of assets to the bankruptcy estate in December 2018. Doc. #26. The court granted Trustee's motion, ordering Defendants to compel turnover of the assets within 14 days of the date of the order. Doc. #32. Defendants have not complied with the order.

Plaintiff filed this adversary proceeding to revoke Defendants' discharge for failure to comply with a court order under 11 U.S.C. § 727(d)(3). The complaint was properly served on Defendants, and Defendants did not answer. Defendants' defaults were entered on August 21, 2019. Doc. ##14, 15.

Pursuant to Federal Rule of Bankruptcy Procedure 7055(b)(2), the court enters default judgments in favor of the Plaintiff revoking the discharge of each Defendant.

3. [18-13224](#)-B-7     **IN RE: ANTHONY CORRAL**  
[19-1046](#)

CONTINUED STATUS CONFERENCE RE: AMENDED COMPLAINT  
7-23-2019    [\[19\]](#)

SALVEN V. THE UNITED STATES OF AMERICA DEPARTMENT OF THE TRE  
PETER FEAR/ATTY. FOR PL.

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

DISPOSITION:     Continued to November 13, 2019 at 1:30 p.m.

ORDER:             The court will issue an order.

This matter is continued to November 13, 2019 at 1:30 p.m. Joint or unilateral status reports shall be filed not later than November 6, 2019.

4. [19-12236](#)-B-13     **IN RE: GABRIEL/SANDRA AYALA**  
[19-1076](#)

CONTINUED STATUS CONFERENCE RE: COMPLAINT  
6-21-2019    [\[1\]](#)

AYALA, SR. ET AL V. 3RD GENERATION, INC.  
PETER BUNTING/ATTY. FOR PL.  
RESPONSIVE PLEADING

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

DISPOSITION:     Continued to November 20, 2019 at 1:30 p.m.

ORDER:             The court will issue an order.

At the previous hearing, Defendant stated that the matter was basically settled and that a stipulation for dismissal would be filed within 2 or 3 weeks. As of October 20, 2019, the court has not seen a stipulation for dismissal.

This matter is continued to November 20, 2019 at 1:30 p.m. Joint or unilateral status reports shall be filed not later than November 13, 2019 unless final documents terminating the matter have not been submitted prior to November 13, 2019. If the matter has not been terminated by that date, an order to show cause why the case should not be dismissed will be issued.

5. [18-13678](#)-B-7     **IN RE: VERSA MARKETING, INC.**  
[19-1032](#)

RESCHEDULED STATUS CONFERENCE RE: COMPLAINT  
3-6-2019    [\[1\]](#)

VERSA MARKETING, INC. V. WEST LIBERTY FOODS, LLC  
C. MEINE/ATTY. FOR PL.

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

DISPOSITION:     Continued to November 20, 2019 at 1:30 p.m.

ORDER:             The court will issue an order.

This case has been converted to chapter 7, and the matter is property of the chapter 7 estate and in the chapter 7 trustee's hands. This matter is continued to November 20, 2019 at 1:30 p.m. Joint or unilateral status reports shall be filed not later than November 13, 2019. The court may issue an order to show cause why the case should not be dismissed if there is no prosecution of this matter by the next hearing date.

6. [19-10297](#)-B-7     **IN RE: RICHARD/ANGELA MARINO**  
[19-1054](#)

CONTINUED STATUS CONFERENCE RE: COMPLAINT  
6-3-2019    [\[1\]](#)

STRATEGIC FUNDING SOURCE, INC. V. MARINO  
JARRETT OSBORNE-REVIS/ATTY. FOR PL.

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

DISPOSITION:        Continued to November 20, 2019 at 1:30 p.m.

ORDER:                The court will issue an order.

Pursuant to the parties' stipulation (doc. #23), the status  
conference is continued to November 20, 2019 at 1:30 p.m.