

**UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF CALIFORNIA**

Honorable Fredrick E. Clement  
Fresno Federal Courthouse  
2500 Tulare Street, 5<sup>th</sup> Floor  
Courtroom 11, Department A  
Fresno, California

**PRE-HEARING DISPOSITIONS**

**DAY:** WEDNESDAY  
**DATE:** OCTOBER 23, 2019  
**CALENDAR:** 9:00 A.M. CHAPTER 7 CASES

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.

1. [17-14801](#)-A-7     **IN RE: FRESH FRUIT CUTS, A CALIFORNIA**  
CORPORATION  
[RH-3](#)

MOTION FOR ADMINISTRATIVE EXPENSES  
9-24-2019    [\[55\]](#)

JAMES SALVEN/MV  
HAGOP BEDOYAN  
TRUDI MANFREDO/ATTY. FOR MV.

### **Final Ruling**

**Motion:** Allow Administrative Expense [Estate Taxes]  
**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).

### **ALLOWANCE OF ADMINISTRATIVE EXPENSE**

"Subject to limited exceptions, a trustee must pay the taxes of the estate on or before the date they come due, 28 U.S.C. § 960(b), even if no request for administrative expenses is filed by the tax authorities, 11 U.S.C. § 503(b)(1)(D), and the trustee must insure that 'notice and a hearing' have been provided before doing so, see *id.* § 503(b)(1)(B). The hearing requirement insures that interested parties . . . have an opportunity to contest the amount of tax paid before the estate's funds are diminished, perhaps irretrievably." *In re Cloobek*, 788 F.3d 1243, 1246 (9th Cir. 2015). It is error to approve a trustee's final report without first holding a hearing, see 11 U.S.C. § 102(1), to allow creditors and parties in interest an opportunity to object to the allowance or amount of tax before it is paid. *Id.* 1245 n.1, 1246.

Creditors and parties in interest have had an opportunity to contest the allowance and amount of the estate taxes in this case. No objection has been made. Accordingly, the taxes specified in the motion shall be allowed as an administrative expense under 11 U.S.C. § 503(b)(1)(B).

### **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 chapter 7 trustee's motion for allowance of administrative expense 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 to the extent provided herein, and Trustee may pay taxes to the Franchise Tax Board (estimated to be \$1,733.42) and corporate fees (estimated to be \$850.00), not to exceed an aggregate of \$3,000.00.

2. [19-11714](#)-A-7      **IN RE: ADAM CARTER**  
[GT-1](#)

MOTION BY GRISELDA TORRES TO WITHDRAW AS ATTORNEY  
10-2-2019    [\[33\]](#)

GRISELDA TORRES

### **Tentative Ruling**

**Motion:** Attorney's Withdrawal from Representation of a Client

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

**Disposition:** Granted

**Order:** Prepared by moving party

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). 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).

Under California Rule of Professional Conduct 1.16(c), "[i]f permission for termination of a representation is required by the rules of a tribunal,\* a lawyer shall not terminate a representation before that tribunal\* without its permission."

An attorney's withdrawal from representing a client is governed by LBR 2017-1(e) and the Rules of Professional Conduct of the State Bar of California. LBR 2017-1(e) provides that "an attorney who has appeared may not withdraw leaving the client in propria persona without leave of court upon noticed motion and notice to the client and all other parties who have appeared." This local rule also mandates that the attorney shall provide an affidavit stating the current or last known address or addresses of the client and the efforts made to notify the client of the motion to withdraw.

California Rule of Professional Conduct 1.16(b)(4) provides for permissive withdrawal if "the client by other conduct renders it unreasonably difficult for the lawyer to carry out the representation effectively." The facts asserted in the motion and supporting papers show that continued, effective representation of

the client will be unreasonably difficult for the attorney to undertake.

The court finds that the attorney's withdrawal from the representation is proper. In the order's recitals, the order shall state the client's last known address and, if known, the client's phone number. The order's substantive provisions shall include a provision requiring the attorney to comply with California Rule of Professional Conduct 1.16(e)(1), (2) upon the withdrawal.

3. [18-12320](#)-A-7     **IN RE: JOHN TORICK**  
[JES-2](#)

MOTION TO COMPEL  
9-18-2019    [[49](#)]

JAMES SALVEN/MV  
JOEL WINTER

### **Final Ruling**

**Motion:** Compel Debtor's Turnover of Property of the Estate

**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).

### **TAX REFUNDS**

Section 542(a) of the Bankruptcy Code requires the debtor and third parties to turn over to the chapter 7 trustee property that the trustee may use or sell. See 11 U.S.C. § 542(a). Property that is of inconsequential value or benefit to the estate is not required to be turned over to the trustee. See *id.* Other narrow exceptions and defenses are described in § 542. See *id.* § 542(b)-(d).

The trustee may compel the debtor to turn over property to the trustee by motion rather than by adversary proceeding. Fed. R. Bankr. P. 7001(1). The trustee bears the burden of proof and must demonstrate that the property sought is property of the estate.

Section 541 of Title 11 defines property of the bankruptcy estate. 11 U.S.C. § 541. Property of the estate includes all "legal or equitable interests of the debtor in property" as of the petition date. *Id.* § 541(a)(1). "[T]he right to receive a tax refund constitutes an interest in property. The nature and extent of the

debtor's interest in the tax refund is determined by nonbankruptcy law." *In re Newman*, 487 B.R. 193, 198 (B.A.P. 9th Cir. 2013) (alteration in original) (citation omitted).

The pre-petition portion of a tax refund for a tax year in which a petition was filed is property of the estate. See *In re Orndoff*, 100 B.R. 516, 517 (Bankr. E.D. Cal. 1989). "Tax refunds attributed to income tax payments withheld from the [debtor] prior to the bankruptcy filing and based on pre-petition earnings, are property of the estate." *In re Zingale*, 451 B.R. 412, 415 (B.A.P. 6th Cir. 2011) (citing *Kokoszka v. Belford*, 417 U.S. 642, 647-48 (1974)).

Courts have followed the corollary that portions of tax refunds attributable to post-petition earnings are not property of the estate. See, e.g., *In re Trickett*, 391 B.R. 657, 660-61 (Bankr. D. Mass. 2008), *invalidated on other grounds by Hundley v. Marsh*, 944 N.E.2d 127 (Mass. 2011). "The most generally used method of calculating the proration is to look to the percentage of days before and after the date of filing." *In re Orndoff*, 100 B.R. at 518; *In re Trickett*, 391 B.R. at 661. This method "may not yield a perfect result in every situation, but it is better than any other available approach." *In re Trickett*, 391 B.R. at 661.

In this case, the trustee has made the requisite showing of the estate's interest in the portion of the tax refunds sought by turnover, which portion is attributable to prepetition income based on the percentage of days preceding the petition date in the applicable tax year. The trustee has represented that such amounts have not been claimed exempt by the debtor.

Accordingly, the trustee's motion for turnover of 43.29% of the 2018 federal and state tax refunds will be granted. The court will order turnover of the prorated portion of the tax refunds identified in the motion to the extent received by the debtor.

#### **TAX RECORDS AND RETURNS**

Section 542(e) provides for the court's ordering a person who "holds recorded information, including books, documents, records, and papers, relating to the debtor's property or financial affairs, to turn over or disclose such recorded information to the trustee." See 11 U.S.C. § 542(e). Further, the debtor has a statutory duty to surrender to the trustee "any recorded information, including books, documents, records, and papers, relating to property of the estate." *Id.* § 521(a)(4).

As a result, the debtor must comply with this statutory duty as the tax records and tax returns sought by the trustee relate to property of the estate. The court will order the debtor's turnover to the trustee of (i) all of the 2018 federal and state tax returns that the debtor holds, whether they are complete or incomplete or in paper or electronic form; or (ii) in the alternative case in which no such tax returns exist, then all the 2018 federal and state tax-related records or documents relevant to such tax returns, whether in electronic or paper form, that the debtor holds.

## 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 chapter 7 trustee's motion to compel turnover of the tax refunds, tax records, and tax returns, 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 and that, no later than 7 days after the date of service of this order, the debtor shall turn over to the trustee 43.29% of any 2018 federal and state tax refunds that the debtor has received or that the debtor has in the debtor's possession, custody, or control.

IT IS FURTHER ORDERED that no later than 7 days after the date of service of this order, the debtor shall turn over to the trustee: (i) all 2018 federal and state tax returns that the debtor holds, whether they are complete or incomplete or in paper or electronic form; or (ii) in the alternative case in which no such tax returns exist, then all the 2018 federal and state tax-related records or documents relevant to the debtor's tax returns, whether in electronic or paper form, that the debtor holds.

4. [18-14920](#)-A-7     **IN RE: SOUTH LAKES DAIRY FARM, A CALIFORNIA  
GENERAL PARTNERSHIP**  
[BMJ-10](#)

MOTION TO EMPLOY RITCHIE BROS. AS AUCTIONEER, AUTHORIZING  
SALE OF PROPERTY AT PUBLIC AUCTION AND AUTHORIZING PAYMENT  
OF AUCTIONEER FEES AND EXPENSES  
9-24-2019    [[207](#)]

JACOB EATON

### Final Ruling

**Motion:** Sell Property and Employ and Compensate Auctioneer  
**Notice:** LBR 9014-1(f)(1); written opposition required  
**Disposition:** Denied without prejudice  
**Order:** Civil Minute Order

**Property:** Farm Equipment  
**Sale Type:** Public auction

Applicant filed with his motion to sell property and to employ and compensate auctioneer a Proof of Service that states, "See attached Service List" (ECF #212). There has been no attachment filed.

#### **SECTION 363(b) SALE**

All creditors and parties in interest have not received sufficient notice. Notice of a proposed sale other than in the ordinary course of business must be noticed to all creditors and parties in interest in the debtor's bankruptcy case as required by Federal Rule of Bankruptcy Procedure 2002(a)(2).

#### **SECTION 328(a) EMPLOYMENT AND COMPENSATION**

The U.S. Trustee has not received sufficient notice on this employment application. Federal Rule of Bankruptcy Procedure 9034(d) requires that the U.S. Trustee be served with notice of pleadings, motions, objections, or similar paper related to employment of a professional person.

Further, the applicant did not provide a sufficient period of notice of the hearing to the U.S. Trustee and all creditors on this compensation application. Federal Rule of Bankruptcy Procedure 2002(a)(6) requires not less than 21 days' notice of a hearing on any entity's request for compensation or reimbursement of expenses if the request exceeds \$1,000.00.

The court finds that there has been insufficient service, and will deny applicant's motion without prejudice.

#### **CIVIL MINUTE ORDER**

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

Trustee's motion to employ and compensate an auctioneer and to sell property at a public auction has been presented to the court. Having considered the application together with papers filed in support and opposition, and having heard the arguments of counsel, if any,

IT IS ORDERED that the application is denied.

5. [18-11921](#)-A-7     **IN RE: LUCINDA MOUA**  
[JES-2](#)

MOTION TO SELL  
9-24-2019    [[40](#)]

JAMES SALVEN/MV  
TIMOTHY SPRINGER  
JAMES SALVEN/ATTY. FOR MV.

### **Tentative Ruling**

**Motion:** Sell Real Property and Compensate Real Estate Broker

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

**Disposition:** Granted

**Order:** Prepared by moving party

**Property:** Lot 14, Block H, Unit 4, APN: 101-321-040, Mt. Shasta-McCloud subdivision, McCloud, California

**Buyer:** John and Jennifer Rider

**Sale Price:** \$8000.00

**Sale Type:** Private sale subject to overbid opportunity

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55(c), *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).

### **SALE OF LOT 14**

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

### **PAYMENT OF PROPERTY OWNERS ASSOCIATION DUES AND CLEANUP COSTS**

This court has already approved a settlement between the debtor, trustee, and the Mt. Shasta Forest Property Owners Association. Order, September 5, 2019, ECF # 25. As pertinent here, the Mt. Shasta Forest Property Owners Association holds (1) a secured claim for property owners association dues in the amount of \$485.50; and (2) reasonable and necessary cleanup costs associated with Lot 14 (now liquidated in the amount of \$1,969.80). The court believes that payment of these expenses is consistent with the terms of the settlement previously approved.

The motion will be granted.



6. [19-12927](#)-A-7      **IN RE: CEDAR MILL FARMS, LLC**  
[KAS-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY  
9-24-2019    [[38](#)]

LUCKY GOLD/MV  
JUSTIN HARRIS  
KELSEY SEIB/ATTY. FOR MV.  
RESPONSIVE PLEADING

**No Ruling.**

7. [19-12927](#)-A-7      **IN RE: CEDAR MILL FARMS, LLC**  
[RH-2](#)

MOTION TO PAY  
9-24-2019    [[45](#)]

JAMES SALVEN/MV  
JUSTIN HARRIS  
ROBERT HAWKINS/ATTY. FOR MV.

**Tentative Ruling**

**Motion:** Allowance and Payment of Administrative Expenses

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

**Disposition:** Granted

**Order:** Prepared by moving party

**Description of Expenses:** property hazard insurance

**Statutory Basis for Administrative Priority:** § 503a(b)(1)(A)

("actual and necessary expenses of preserving the estate")

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

"A creditor claiming administrative expense treatment under § 503(b)(1)(A) must show that the claim: [1] arose postpetition; [2] arose from a transaction with the trustee or DIP (as opposed to the preceding [prepetition] entity) or that the claimant gave consideration to the trustee or DIP; and [3] directly and substantially benefited the estate." Kathleen P. March, Hon. Alan M. Ahart & Janet A. Shapiro, *California Practice Guide: Bankruptcy* ¶ 17:507 (rev. 2017) (citing cases).

These expenses, described as administrative insurance claim of Colony Insurance Company (aggregating \$3,344.00), arose postpetition. They arose from transactions involving the estate. It was the estate which incurred the expenses and the chapter 7 trustee who paid them. By incurring these expenses, the estate

received in exchange a direct and substantial benefit. Real properties of the estate have been preserved for administration by the trustee. Thus, the expenses described are actual and necessary costs or expenses of preserving the estate under § 503(b)(1)(A).

These expenses will be allowed as an administrative expense under § 503(b)(1)(A) and may be distributed in accordance with the priorities set forth in § 726(a)(1) and § 507(a) of the Bankruptcy Code.

8. [19-13839](#)-A-7     **IN RE: LETICIA MADRIGAL**  
[JHW-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY  
9-25-2019    [[10](#)]

SANTANDER CONSUMER USA INC./MV  
JENNIFER WANG/ATTY. FOR MV.

### **Final Ruling**

**Motion:** Stay Relief

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

**Disposition:** Granted

**Order:** Civil minute order

**Subject:** 2016 Jeep Grand Cherokee

### **DISCUSSION**

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

The debtor stated she surrendered the property on August 29, 2019 (ECF #13). Trustee has not opposed. The court finds cause under § 362(d)(1) to grant stay relief, and will grant the motion.

### **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.

Santander Consumer USA Inc. DBA Chrysler Capital'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 2016 Jeep Grand Cherokee, 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.

9. [19-13953](#)-A-7      **IN RE: LETICIA CAMARGO**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES  
10-1-2019    [[16](#)]

ORDER ECF #20 GRANTING INSTALLMENTS

**Final Ruling**

Per Order, ECF #20, the debtor was granted a motion to pay the petition filing fee in installments. The Order to Show Cause is discharged as moot.

10. [19-13868](#)-A-7      **IN RE: SHAWN/JENNIFER VEITH**  
[VVF-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY  
10-8-2019    [[10](#)]

AMERICAN HONDA FINANCE  
CORPORATION/MV  
ROBERT WILLIAMS  
VINCENT FROUNJIAN/ATTY. FOR MV.

**Tentative Ruling**

**Motion:** Stay Relief

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

**Disposition:** Granted

**Order:** Civil minute order

**Subject:** 2017 Honda Pilot

**Value of Collateral:** \$29,025.00

**Liens Encumbering Collateral:** \$35,601.99

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**

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

America Honda Finance Corporation'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 2017 Honda Pilot, 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.

11. [19-13079](#)-A-7     **IN RE: SHANEAN GUERRERO**  
[PFT-1](#)

OPPOSITION RE: TRUSTEE'S MOTION TO DISMISS FOR FAILURE TO  
APPEAR AT SEC. 341(A) MEETING OF CREDITORS  
8-27-2019    [\[10\]](#)

TIMOTHY SPRINGER  
NANCY KLEPAC/ATTY. FOR MV.

### **Tentative Ruling**

**Motion:** Dismiss Case and Extend Trustee's Deadlines

**Notice:** LBR 9014-1(f)(1); written opposition required or case  
dismissed without hearing

**Disposition:** Conditionally denied in part, granted in part

**Order:** Civil minute order

### **DISMISSAL**

Chapter 7 debtors shall attend the § 341(a) meeting of creditors.  
11 U.S.C. § 343. A continuing failure to attend this meeting may be  
cause for dismissal of the case. See 11 U.S.C. §§ 105(a), 343,  
707(a); *In re Witkowski*, 523 B.R. 300, 307 n.8 (B.A.P. 1st Cir.  
2014) ("Some courts have ruled that the failure to attend the § 341  
meeting of creditors constitutes 'cause' for dismissal.").

In this case, the debtor has failed to appear at a scheduled meeting  
of creditors required by 11 U.S.C. § 341. Because the debtor's  
failure to attend this meeting has occurred once, the court will not  
dismiss the case on condition that the debtor attend the next  
creditors' meeting. But if the debtor does not appear at the  
continued meeting of creditors, the case will be dismissed on  
trustee's declaration without further notice or hearing.

### **EXTENSION OF DEADLINES**

The court will grant the motion in part to the extent it asks for an  
extension of deadlines. The court extends the following deadlines  
to 60 days after the next continued date of the creditors' meeting:  
(1) the trustee and all creditors' deadline to object to discharge  
under § 727, see Fed. R. Bankr. P. 4004(a); and (2) the trustee and  
all creditors' deadline to bring a motion to dismiss under § 707(b)  
or (c) for abuse, other than presumed abuse, see Fed. R. Bankr. P.  
1017(e). These deadlines are no longer set at 60 days after the  
first creditors' meeting.

### **CIVIL MINUTE ORDER**

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

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

IT IS ORDERED that the Motion to Dismiss is denied on the condition that the debtor attend the next continued § 341(a) meeting of creditors scheduled for October 24, 2019 at 11:00 a.m. But if the debtor does not appear at this continued meeting, the case will be dismissed on trustee's declaration without further notice or hearing.

IT IS ALSO ORDERED that following deadlines shall be extended to 60 days after the next continued date of the creditors' meeting: (1) the trustee and all creditors' deadline to object to discharge under § 727, see Fed. R. Bankr. P. 4004(a); and (2) the trustee and all creditors' deadline to bring a motion to dismiss under § 707(b) or (c) for abuse, other than presumed abuse, see Fed. R. Bankr. P. 1017(e).