

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

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

DAY: MONDAY
DATE: NOVEMBER 1, 2021
CALENDAR: 9:00 A.M. CHAPTER 7 CASES

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. 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. [12-32009](#)-A-7 **IN RE: DANIEL FELIPE AND STEPHANIE ROBELLO**
[RWH-2](#)

MOTION TO AVOID LIEN OF DISCOVER BANK
9-28-2021 [\[28\]](#)

RONALD HOLLAND/ATTY. FOR DBT.
DEBTORS DISCHARGED: 10/15/2012

Final Ruling

Motion: Avoid Lien that Impairs Exemption

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

Disposition: Granted

Order: Prepared by moving party

Subject Property: 2007 Ladera Drive, Lincoln, CA

Judicial Lien Avoided: \$17,422.37 - Discover Bank

All Other Liens:

- First Deed of Trust - Chase \$825,466.00
- Second Deed of Trust - Chase \$293,805.00
- Home Owners Association - Verdera \$2,700.00

Exemption: \$1.00

Value of Property: \$540,500.00

The debtor seeks an order avoiding the judicial lien of Discover Bank under 11 U.S.C. § 522(f).

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

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

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

2. [21-22918](#)-A-7 **IN RE: WALEED KHALID**
[AP-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
9-23-2021 [\[21\]](#)

GEORGE BURKE/ATTY. FOR DBT.
WENDY LOCKE/ATTY. FOR MV.
JPMORGAN CHASE BANK, N.A. VS.
TRUSTEE NON-OPPOSITION

Final Ruling

Motion: Stay Relief

Notice: LBR 9014-1(f)(1); non opposition by chapter 7 trustee

Disposition: Granted

Order: Civil minute order

Subject: 2018 Dodge Durango

Cause: delinquent installment payments 3 months/\$1,859.40

Movant, JP Morgan Chase Bank, N.A. seeks relief from the automatic stay under 11 U.S.C. § 362(d)(1), (d)(2), and for an order waiving the 14 day stay of Fed. R. Bankr. P. 4001(a)(3). The subject property is a 2018 Dodge Durango. The debtor has failed to file any opposition to the motion. The chapter 7 trustee has filed non opposition to the motion.

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.

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). 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. As a consequence, 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.

JP Morgan Chase Bank, N.A.'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 2018 Dodge Truck Durango, 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.

3. [10-22720](#)-A-7 **IN RE: JUSTIN/JUDITH DECKER**
[DNL-3](#)

MOTION TO COMPROMISE CONTROVERSY/APPROVE SETTLEMENT
AGREEMENT WITH PELVIC REPAIR PRODUCT CLAIM
10-11-2021 [\[89\]](#)

ELAINE CERVENO/ATTY. FOR DBT.
J. CUNNINGHAM/ATTY. FOR MV.
DEBTORS DISCHARGED: 07/15/2010

Tentative Ruling

Motion: Approve Compromise or Settlement of Controversy
Notice: LBR 9014-1(f)(2); no written opposition required
Disposition: Granted
Order: Civil minute order

Parties to Compromise: Michael Hopper, Trustee;
Dispute Compromised: Pelvic Repair Product Settlement
Summary of Material Terms: As set forth in Exhibits, ECF No. 92

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).

The chapter 7 trustee moves for an order approving a pelvic repair product settlement. The settlement claim is the subject of a multi-district litigation settlement. The funding of the claim was established by the United States District Court for the Southern District of West Virginia. The proposed settlement is described in the Exhibits propounded in ECF. No. 92, wherein the proceeds are allocated and summarized as follows:

Description	Payee	Amount
Gross Award		\$104,166.67

Court Ordered Assessment Fee		(5,208.33)
Contingent Fee	Johnson Law Group	(33,645.83)
Contingent Fee	Burnett Law Firm	(5,937.50)
Case Expenses		(2,029.49)
Net Allocation		\$57,345.51

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. 1982). More than mere good faith negotiation of a compromise is required. The court must also find that the compromise is fair and equitable. *Id.* "Fair and equitable" involves a consideration of four factors: (i) the probability of success in the litigation; (ii) the difficulties to be encountered in collection; (iii) the complexity of the litigation, and expense, delay and inconvenience necessarily attendant to litigation; and (iv) the paramount interest of creditors and a proper deference to the creditors' expressed wishes, if any. *Id.* The party proposing the compromise bears the burden of persuading the court that the compromise is fair and equitable and should be approved. *Id.*

The movant requests approval of a compromise that settles the dispute described above. The compromise is reflected in the settlement ledger 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 chapter 7 trustee's motion to approve a compromise has been presented to the court. Having considered the motion, oppositions, responses and replies, if any, and having heard oral argument presented at the hearing,

IT IS ORDERED that the motion is granted. The court hereby approves the compromise that is reflected in the settlement ledger attached to the motion as an exhibit and filed at docket no. 92.

4. [10-22720](#)-A-7 **IN RE: JUSTIN/JUDITH DECKER**
[DNL-4](#)

MOTION TO EMPLOY DANA LIZIK AND KAREN H. BEYEA-SCHROEDER AS
SPECIAL COUNSEL
10-11-2021 [\[94\]](#)

ELAINE CERVENO/ATTY. FOR DBT.
J. CUNNINGHAM/ATTY. FOR MV.
DEBTORS DISCHARGED: 07/15/2010

Tentative Ruling

Application: Retroactive Employment of Special Counsel

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

Disposition: Approved

Order: Prepared by the applicant pursuant to the instructions below

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

BACKGROUND

The chapter 7 trustee moves for an order under 11 U.S.C. § 327, retroactively approving his employment of special counsel, (specifically the Johnson Law Group and Burnett Law Firm) with respect to a pelvic repair product claim.

The debtors filed this case on February 10, 2010, as a chapter 13 petition. The case was converted to a chapter 7 on April 6, 2021. The pelvic repair product claim was not listed as an asset in the debtors' schedules. The case was closed without administration of assets on August 17, 2010.

On October 12, 2015, debtor Judith Decker entered into an employment contract with the law firms of Tracey & Fox and Danziger & de Llano to prosecute the pelvic repair product claim (the claim) pursuant to a contingent fee agreement. The agreement called for a 40% contingent fee divided as follows: 20% to Tracey & Fox and 20% to Danziger & de Llano. Johnson Law Group and Burnett Law Firm succeeded Tracey & Fox and Danziger & de Llano as the debtor's primary and settlement counsel with respect to the claim.

The claim is the subject of a multi-district litigation settlement. The funding of the claim was established by the United States District Court for the Southern District of West Virginia. Archer Systems LLC (Archer) is a complex litigation service provider appointed administrator by the district court to facilitate the settlement of certain tort claims including the claim in this case.

On October 9, 2018, the debtor accepted a proposed \$104,166.67 offer to settle the claim and acknowledged a fee splitting agreement between unnamed primary counsel and settlement counsel. On October

11, 2019, Archer first advised the chapter 7 trustee that the debtor had received the offer to settle the claim and that clearance was needed in the bankruptcy case. Thus, the trustee first learned of the claim in 2019 after the debtor had already attempted to settle the claim. The case was reopened on November 19, 2019, by motion of the United States trustee after being notified of the asset by the chapter 7 trustee.

On May 15, 2020, general counsel for the trustee requested that Archer provide the following information: attorney-client fee agreement; names of all firms which worked on the claim and would seek compensation; a summary of work performed by each firm; and the name of the responsible attorney at each firm who would attest to the absence of conflicts and work performed.

It was not until April 27, 2021, that Archer provided the information to the trustee along with a Settlement Ledger which allocated the settlement proceeds. The ledger allocated the proceeds as follows:

Description	Payee	Amount
Gross Award		\$104,166.67
Court Ordered Assessment Fee		(5,208.33)
Contingent Fee	Johnson Law Group	(33,645.83)
Contingent Fee	Burnett Law Firm	(5,937.50)
Case Expenses		(2,029.49)
Net Allocation		\$57,345.51

On May 3, 2020, the bankruptcy court granted a motion to approve a stipulation between the chapter 7 trustee and the debtors. The stipulation resolved a controversy regarding the exemption in the claim proceeds asserted by the debtors. The court ordered the net allocation claim proceeds to be divided as follows: \$24,312.75 to the debtors as an exemption; \$18,574.47 to the chapter 7 trustee for the benefit of unsecured creditors and the balance, if any, to the debtors as an additional exemption. See ECF Nos. 82, 85, and 86.

On August 4, 2021, Archer identified Dana Lizik as the responsible attorney of the Johnson Law Group. On August 6, 2021, Archer identified Karen H. Beyea-Schroeder as the responsible attorney of the Burnett Law Firm. On September 21, 2021, Archer provided the trustee with the revised summary of work provided by both law firms.

The chapter 7 trustee has stated his belief that the delays in communications were due to administrative errors on the part of Archer and not special counsel, ECF No. 98, 4:1-2.

RETROACTIVE APPROVAL OF EMPLOYMENT

The Supreme Court has held that while federal courts may issue *nunc pro tunc* orders, those orders must be limited to reflect the reality of what has occurred. *Roman Cath. Archdiocese of San Juan, Puerto Rico v. Acevedo Feliciano*, 140 S.Ct. 696 (2020). Thus, "Acevedo effectively ends federal courts use of *nunc pro tunc* orders to the

extent such orders rewrite history to retroactively make the record reflect something that never occurred in the first instance." *In re Miller*, 620 B.R. 637, 640 (Bankr. E.D. Cal. 2020).

Because the compensation requested in this case, is awarded on a contingent fee basis, the compensation, which is a percentage of the award, is unchanged, whether counsels' employment is approved prospectively or retroactively. The compensation would be the same regardless of when counsel's employment was approved.

In a previous case, this court has set forth the standards for retroactive approval of special counsel under § 327(e) of the Bankruptcy Code and Ninth Circuit decisional law:

"The bankruptcy courts in this circuit possess the equitable power to approve retroactively a professional's valuable but unauthorized services." *Atkins v. Wain, Samuel & Co. (In re Atkins)*, 69 F.3d 970, 973 (9th Cir.1995) (citing *Halperin v. Occidental Fin. Grp. (In re Occidental Fin. Grp.)*, 40 F.3d 1059, 1062 (9th Cir.1994)). *Nunc pro tunc* approval of an attorney's unauthorized services under § 327(e) requires two distinct showings. First, a showing must be made that the applicant "does not represent or hold any interest adverse to the debtor or to the estate with respect to the matter on which such attorney is to be employed," and that the employment is "in the best interest of the estate." 11 U.S.C. § 327(e); *see also Mehdi pour v. Marcus & Millichap (In re Mehdi pour)*, 202 B.R. 474, 479 (9th Cir. BAP 1996) ("Applying for *nunc pro tunc* approval does not alleviate the professional from meeting the requirements of § 327...."). The attorney must continually qualify under the statutory conflict-of-interest standards throughout the entire period of representation. *See* 11 U.S.C. §§ 327(e), 328(c); *see also Rome v. Braunstein*, 19 F.3d 54, 57-58, 60 (1st Cir.1994) (holding that compensation may be disallowed if at any time a disqualifying conflict arises and recognizing the need for counsel to avoid such conflicts throughout their tenure).

Second, the applicant must show "exceptional circumstances" that justify *nunc pro tunc* approval. *Atkins*, 69 F.3d at 974; *Mehdi pour*, 202 B.R. at 479. "To establish the presence of exceptional circumstances, professionals seeking retroactive approval must ... (1) satisfactorily explain their failure to receive prior judicial approval; and (2) demonstrate that their services benefitted the bankrupt estate in a significant manner." *Atkins*, 69 F.3d at 975-76; *accord Occidental Fin. Grp.*, 40 F.3d at 1062; *In re Gutterman*, 239 B.R. 828, 830 (Bankr.N.D.Cal.1999).

In re Grant, 507 B.R. 306, 309-10 (Bankr. E.D. Cal. 2014).

The court is persuaded that the applicants have satisfied both prongs of the *Atkins* test. The law firms have shown that they do not possess any interests adverse to the debtors or the bankruptcy estate. They have performed a valuable service on behalf of the estate, as through their services \$18,574.47 has been generated for distribution to unsecured creditors. This is a significant sum to be distributed in a case where there was previously no distribution. Without the services of special counsel there would have been no

distribution to the estate or the debtors. This type of litigation is complex and requires specialized knowledge to obtain an award. Additionally, the applicants all appear to have moved for approval as soon as possible after receiving appropriate information from Archer, the administrator appointed in the multi district litigation.

For the reasons discussed in the application, the court will approve the employment of special counsel. Special counsel satisfies the standards of § 327(e). Further, special counsel has shown exceptional circumstances that justify retroactive employment.

5. [10-22720](#)-A-7 **IN RE: JUSTIN/JUDITH DECKER**
[DNL-5](#)

MOTION FOR COMPENSATION BY THE LAW OFFICE OF JOHNSON LAW
GROUP AND BURNETT LAW GROUP FOR DANA LIZIK AND KAREN H.
BEYEA-SCHROEDER, SPECIAL COUNSEL(S)
10-11-2021 [[101](#)]

ELAINE CERVENO/ATTY. FOR DBT.
J. CUNNINGHAM/ATTY. FOR MV.
DEBTORS DISCHARGED: 07/15/2010

Tentative Ruling

Application: Allowance of Final Compensation and Expense
Reimbursement

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

Disposition: Approved

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). 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).

COMPENSATION AND EXPENSES

In this Chapter 7 case, Johnson Law Group and Burnett Law Firm, special counsel for the trustee, have applied for an allowance of first and final compensation. The compensation and expenses requested are based on a contingent fee approved pursuant to § 328(a) of the Bankruptcy Code. The applicants request that the court allow compensation and reimbursement of expenses in the total amount of \$39,583.33 as follows: fees in the amount of \$33,645.83 to the Johnson Law Group for services as primary counsel; fees in the amount of \$5,937.50 to the Burnett Law Firm as settlement counsel; and reimbursement of \$2,029.49 in expenses.

The applicant further requests that the allowed compensation be paid directly by the administrator of the settlement which is the subject of DNL-3, a related motion. Distribution of the proceeds from the

settlement described in that motion are allocated and summarized as follows:

Description	Payee	Amount
Gross Award		\$104,166.67
Court Ordered Assessment Fee		(5,208.33)
Contingent Fee	Johnson Law Group	(33,645.83)
Contingent Fee	Burnett Law Firm	(5,937.50)
Case Expenses		(2,029.49)
Net Allocation		\$57,345.51

"Section 328(a) permits a professional to have the terms and conditions of its employment pre-approved by the bankruptcy court, such that the bankruptcy court may alter the agreed-upon compensation only 'if such terms and conditions prove to have been improvident in light of developments not capable of being anticipated at the time of the fixing of such terms and conditions.' In the absence of preapproval under § 328, fees are reviewed at the conclusion of the bankruptcy proceeding under a reasonableness standard pursuant to 11 U.S.C. § 330(a)(1)." *In re Circle K Corp.*, 279 F.3d 669, 671 (9th Cir. 2002) (footnote omitted) (quoting 11 U.S.C. § 328(a)). "Under section 328, where the bankruptcy court has previously approved the terms for compensation of a professional, when the professional ultimately applies for payment, the court cannot alter those terms unless it finds the original terms to have been improvident in light of developments not capable of being anticipated at the time of the fixing of such terms and conditions." *Pitrat v. Reimers (In re Reimers)*, 972 F.2d 1127, 1128 (9th Cir. 1992) (internal quotation marks omitted).

The court finds that the compensation and expenses sought are reasonable, and the court will approve the application on a final basis.

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.

Johnson Law Group and Burnett Law Firms' application for allowance of final compensation and reimbursement of expenses 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 application,

IT IS ORDERED that the application is approved on a final basis. The court allows final compensation and reimbursement of expenses as follows: fees in the amount of \$33,645.83 to the Johnson Law Group for services as primary counsel; fees in the amount of \$5,937.50 to

the Burnett Law Firm as settlement counsel; and reimbursement of \$2,029.49 in expenses.

IT IS FURTHER ORDERED that the allowed compensation and expenses shall be paid directly by the administrator of the settlement which is the subject of DNL-3, a related motion.

6. [10-22720](#)-A-7 **IN RE: JUSTIN/JUDITH DECKER**
[DNL-6](#)

MOTION FOR COMPENSATION BY THE LAW OFFICE OF DESMOND, NOLAN,
LIVAICH & CUNNINGHAM FOR J. RUSSELL CUNNINGHAM, TRUSTEES
ATTORNEY(S)
10-11-2021 [\[107\]](#)

ELAINE CERVENO/ATTY. FOR DBT.
DEBTORS DISCHARGED: 07/15/2010
RESPONSIVE PLEADING

Tentative Ruling

Application: Allowance of First and Final Compensation and Expense Reimbursement

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

Disposition: Approved

Order: Civil minute order

COMPENSATION AND EXPENSES

In this Chapter 7 case, Desmond, Nolan, Livaich & Cunningham, attorney for the trustee, has applied for an allowance of first and final compensation and reimbursement of expenses. The applicant requests that the court allow compensation in the amount of \$11,277.50 and reimbursement of expenses in the amount of \$49.15.

On October 10, 2021, the debtor, Judith Decker filed a letter, ECF No. 113, with the court which the court construes as opposition to this motion. In the first paragraph the debtor states that she is opposed to the payment to counsel of compensation and reimbursement of expenses, in the amounts requested. No legal basis is given for the objection to the allowance requested.

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

The court finds that the compensation and expenses sought are reasonable, and the court will approve the application on a final basis.

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.

Desmond, Nolan, Livaich & Cunningham's application for allowance of final compensation and reimbursement of expenses has been presented to the court. Having considered the application, oppositions, and replies, if any, and having heard oral argument presented at the hearing,

IT IS ORDERED that the application is approved on a final basis. The court allows final compensation in the amount of \$11,277.50 and reimbursement of expenses in the amount of \$49.15.

IT IS FURTHER ORDERED that the trustee is authorized without further order of this court to pay from the estate the aggregate amount allowed by this order in accordance with the Bankruptcy Code and the distribution priorities of § 726.

7. [12-36350](#)-A-7 **IN RE: MICHELLE COLIAS**
[DNL-9](#)

MOTION TO RECONSIDER ALLOWED CLAIMS
10-6-2021 [\[118\]](#)

DAVID RITZINGER/ATTY. FOR DBT.
J. CUNNINGHAM/ATTY. FOR MV.
DEBTORS DISCHARGED: 01/07/2013

Tentative Ruling

Motion: Trustee's Motion to Reconsider Allowed Claims

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).

The chapter 7 trustee moves for an order reconsidering allowed claims for which distributions have been made. The motion is brought under 11 U.S.C. § 502(j) and Fed. R. Bank. P. 3008.

BACKGROUND

This case was filed on September 8, 2012. It was later closed without administration of assets on January 11, 2013. The case was

re-opened on June 15, 2018, to administer a personal injury claim. The case was closed after distribution of proceeds to creditors by trustee Alan Fukushima on January 25, 2021. The final decree closing the bankruptcy case was entered January 25, 2021.

On September 2, 2021, Trustee Fukushima discovered an error in the distributions made such that special counsel employed to settle the personal injury claim had not been paid the \$14,708.97 which had been allowed by the court. The United States trustee subsequently moved to reopen the bankruptcy case and the court granted the motion to reopen the case on September 10, 2021. Trustee Susan Smith was appointed on September 13, 2021.

Trustee Smith has analyzed the distributions made and contends that to pay the \$14,708.97 compensation allowed to special counsel, monies will need to be retrieved from the debtor and the five creditors which filed claims in the case. The amounts disbursed to creditors, the claim amounts, corrected amounts and refunds due are as follows:

Claim No.	Claimant	Claimed Amt. Plus Interest	Amount Received	Correct Amount Due	Amount to be Retrieved
1-1	Calvary	\$2,766.56 + 37.92	\$2,804.48	\$701.31	\$2,103.17
2-1	Dell	\$3,709.81 + \$50.85	\$3,760.66	\$940.42	\$2,820.24
3-1	Midland	\$2,268.15 + \$31.09	\$2,299.24	\$574.97	\$1,724.27
4-1	Capital One	\$960.27+\$13.16	\$973.42	\$243.43	\$730.00
5-1	Atlas	\$1,612.17 + \$22.10	\$1,634.27	\$408.68	\$1,225.59
	Total	\$11,472.08	\$11,472.08	\$2,868.81	\$8,603.27

In addition to disbursements made to creditors, the debtor erroneously received \$13,001.21 instead of \$6,895.56. The trustee will need to retrieve an overpayment of \$6,105.70 from the debtor.

Trustee Smith contends that the correct distribution should be as follows:

Settlement Amount	\$30,000.00
MDL Assessment	(\$1,500.00)
Special Counsel	(\$14,708.97)
Net Recovery	\$13,791.03
Debtor Exemption (50%)	(\$6,895.51)
Net to Estate	\$6,895.52
Trustee	(\$1,500.00)
DNLC	(\$2,500.00)
Sub-Total	\$2,895.52
Bank Fees	(\$26.71)
General Unsecured Dividend	\$2,868.81

RECONSIDERATION OF CLAIMS

(j) A claim that has been allowed or disallowed may be reconsidered for cause. A reconsidered claim may be allowed or disallowed according to the equities of the case. Reconsideration of a claim under this subsection does not affect the validity of any payment or transfer from the estate made to a holder of an allowed claim on account of such allowed claim that is not reconsidered, but if a reconsidered claim is allowed and is of the same class as such holder's claim, such holder may not receive any additional payment or transfer from the estate on account of such holder's allowed claim until the holder of such reconsidered and allowed claim receives payment on account of such claim proportionate in value to that already received by such other holder. *This subsection does not alter or modify the trustee's right to recover from a creditor any excess payment or transfer made to such creditor.*

11 U.S.C. § 502(j) (emphasis added).

A party in interest may move for reconsideration of an order allowing or disallowing a claim against the estate. The court after a hearing on notice shall enter an appropriate order. Fed. R. Bankr. P. 3008

The Bankruptcy Code and rules allow the chapter 7 trustee to move for the orders which she has requested.

"There is no time limit for bringing a Rule 3008 motion. We have held that where the motion is filed after ten days following the entry of the order, it is properly treated as a motion to vacate pursuant to Fed.R.Civ.P. 60(b), made applicable by Fed.R.Bankr.P. 9024." *In re Levoy*, 182 B.R. 827, 832 (B.A.P. 9th Cir. 1995) citing *In re Cleanmaster Indus., Inc.*, 106 B.R. 628, 630 (9th Cir. BAP 1989).

A closed case may be reopened to reconsider the allowance or disallowance of a claim. See *In re International Yacht & Tennis, Inc.* 922 F.2d 659, 662, fn. 5 (11th Cir. 1991).

The code requires that the court decide whether to grant this motion based upon the equities of the case. The court finds that the motion was timely brought as it was filed in approximately 8 months from the date the final decree was entered after the erroneous distribution. The distribution in this case was only possible due to the efforts of special counsel whose appointment was ordered and whose fees were allowed by the court. See ECF Nos. 61 and 62.

On September 28, 2020, an order was entered approving the settlement regarding the underlying litigation and approving the division of net proceeds between the debtor and the bankruptcy estate. See ECF Nos. 79 and 91. The bankruptcy estate received the settlement award after payment of the MDL assessment of \$1,500.00. The estate was to

pay special counsel its 40% contingency fees and costs as ordered. The debtor agreed to divide the remaining proceeds after payment to special counsel with the bankruptcy estate. The debtor was to receive 50% and the estate 50% for distribution to unsecured creditors. See ECF 79, 3:3-13. For the debtor and the unsecured creditors to receive far more than they had anticipated at the expense of special counsel, who was responsible for the recovery of the award, is inequitable. Absent opposition, the court will grant the motion.

8. [21-23250](#)-A-7 **IN RE: FELIPE HERNANDEZ MACIAS**
[JHW-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
9-24-2021 [\[9\]](#)

KATHLEEN CRIST/ATTY. FOR DBT.
JENNIFER WANG/ATTY. FOR MV.
TD AUTO FINANCE LLC VS.
TRUSTEE NON-OPPOSITION

Final Ruling

Motion: Stay Relief

Notice: LBR 9014-1(f)(1); non-opposition by chapter 7 trustee

Disposition: Granted

Order: Civil minute order

Subject: 2019 Dodge Journey

Cause: delinquent installment payments 3 months/\$1,198.32

Movant, TD Auto Finance, LLC seeks relief from the automatic stay under 11 U.S.C. § 362(d)(1), (d)(2) and for an order waiving the 14-day stay of Fed. R. Bankr. P. 4001(a)(3). The subject property is a 2019 Dodge Journey. The debtor has failed to file opposition to the motion. The court notes that the debtor's Statement of Intentions, ECF. No. 1, indicates that the debtor intends to surrender the vehicle. The chapter 7 trustee has filed non-opposition to the motion.

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.

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). 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. As a consequence, 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.

TD Auto Finance, LLC'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 2019 Dodge Journey, 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. [19-23452](#)-A-7 **IN RE: CIAO RESTAURANTS, LLC**
[KJH-3](#)

MOTION FOR COMPENSATION FOR MICHAEL R. GABRIELSON,
ACCOUNTANT(S)
9-27-2021 [\[157\]](#)

GABRIEL LIBERMAN/ATTY. FOR DBT.

Final Ruling

Application: Allowance of First and Final Compensation and Expense Reimbursement

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

Disposition: Approved

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 application was required not less than 14 days before the hearing on the application. 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).

COMPENSATION AND EXPENSES

In this Chapter 7 case, Gabrielson & Company, accountants for the chapter 7 trustee, has applied for an allowance of its first and final compensation and reimbursement of expenses. The applicant

requests that the court allow compensation in the amount of \$5,455.50 and reimbursement of expenses in the amount of \$123.15.

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

The court finds that the compensation and expenses sought are reasonable, and the court will approve the application on a final basis.

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.

Gabrielson & Company's application for allowance of final compensation and reimbursement of expenses 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 application,

IT IS ORDERED that the application is approved on a final basis. The court allows final compensation in the amount of \$5,455.50 and reimbursement of expenses in the amount of \$123.15.

IT IS FURTHER ORDERED that the trustee is authorized without further order of this court to pay from the estate the aggregate amount allowed by this order in accordance with the Bankruptcy Code and the distribution priorities of § 726.

10. [21-22759](#)-A-7 **IN RE: NADIA ZHIRY**
[MS-1](#)

CONTINUED MOTION TO AVOID LIEN OF LVNV FUNDING, LLC
8-3-2021 [\[17\]](#)

MARK SHMORGON/ATTY. FOR DBT.

Final Ruling

Motion: Avoid Lien that Impairs Exemption

Notice: Continued from September 13, 2021

Disposition: Granted

Order: Prepared by moving party

Property: 1049 Claire Avenue, Sacramento, CA

Judicial Lien Avoided: \$10,059.86 - LVNV Funding, LLC

All Other Liens:

-Deed of Trust - JP Morgan Chase Bank, N.A. \$175,836.05

-Deed of Trust - JP Morgan Chase Bank, N.A. \$86,610.84

-Utility Lien - City of Sacramento - \$531.87

Exemption: \$400,000.00

Value of Property: \$516,619.00

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).

The debtor seeks an order avoiding the judicial lien of LVNV Fundig, LLC under 11 U.S.C. 522(f). This motion was continued to allow the debtor to provide information regarding a possible third deed of trust. The debtor has provided this information.

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

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

11. [21-23167](#)-A-7 **IN RE: MICHAEL DOUGHERTY**
[MEB-1](#)

MOTION TO DISMISS CASE
9-24-2021 [[10](#)]

MARK BRENNER/ATTY. FOR DBT.

No Ruling

12. [20-23487](#)-A-7 **IN RE: MARCIE OKPAKPOR**
[RLC-2](#)

MOTION TO COMPEL ABANDONMENT
10-11-2021 [[48](#)]

STEPHEN REYNOLDS/ATTY. FOR DBT.
TRUSTEE NON-OPPOSITION

Tentative Ruling

Motion: Compel Abandonment of Property of the Estate

Notice: LBR 9014-1(f)(2); non-opposition filed by chapter 7 trustee

Disposition: Granted

Order: Prepared by moving party

Subject: 6512 Pearson Lane, North Highlands, CA

Value: \$360,000.00

1st Trust Deed: \$203,764.59

Exemption: \$175,000.00

Non-Exempt Equity: \$0

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).

The debtor seeks a motion compelling the abandonment of her real property by the bankruptcy estate under 11 U.S.C § 554(b). The trustee has filed non opposition to the motion.

The movant bears the burden of proof. *In re Pilz Compact Disc., Inc.*, 229 B.R. 630 (Bankr. E.D. Pa. 1999) (Chapter 7 trustee). "[B]urdensome to the estate" means "consumes the resources and drains the income of the estate." *In re Smith-Douglass, Inc.*, 856 F.2d 12, 16 (4th Cir. 1988). "[O]f inconsequential value and

benefit to the estate" refers to assets not likely to be liquidated for the benefit of creditors. 11 U.S.C. § 704(a)(1); *Matter of Taxman Clothing Co.*, 49 F3d 310, 315 (7th Cir. 1995) (Chapter 7 trustee has no duty to liquidate assets where costs of doing so likely to exceed asset's value). Of inconsequential value and benefit to the estate includes assets that (1) have no equity (including post-petition appreciation), *In re Viet Vu*, 245 B.R. 644 (9th Cir. BAP 2000); and (2) assets with equity, which has been wholly and properly exempted by the debtor. *In re Montanaro*, 307 B.R. 194 (Bankr. E.D. Cal. 2004).

Property of the estate may be abandoned under § 554 of the Bankruptcy Code if property of the estate is "burdensome to the estate or of inconsequential value and benefit to the estate." See 11 U.S.C. § 554(a)-(b). Upon request of a party in interest, the court may issue an order that the trustee abandon property of the estate if the statutory standards for abandonment are fulfilled.

The real property described above is either burdensome to the estate or of inconsequential value to the estate. An order compelling abandonment is warranted.

13. [20-24691](#)-A-7 **IN RE: FREEDOM 123 LLC**
[GRF-1](#)

MOTION FOR COMPENSATION FOR RYAN, CHRISTIE, QUINN & HORN,
LLP, ACCOUNTANT(S)
10-7-2021 [[315](#)]

HOWARD NEVINS/ATTY. FOR MV.

Tentative Ruling

Application: Allowance of First and Final Compensation and Expense Reimbursement

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

Disposition: Approved

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). 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).

COMPENSATION AND EXPENSES

In this chapter 7 case, Ryan, Christie, Quinn & Horn, LLP, accountants for the trustee, has applied for an allowance of its first and final compensation and reimbursement of expenses. The applicant requests that the court allow compensation in the amount of \$5,025.00 and reimbursement of expenses in the amount of \$41.00.

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

The court finds that the compensation and expenses sought are reasonable, and the court will approve the application on a final basis.

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.

Ryan, Christie, Quinn & Horn, LLP's application for allowance of final compensation and reimbursement of expenses 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 application,

IT IS ORDERED that the application is approved on a final basis. The court allows final compensation in the amount of \$5,025.00 and reimbursement of expenses in the amount of \$41.00.

IT IS FURTHER ORDERED that the trustee is authorized without further order of this court to pay from the estate the aggregate amount allowed by this order in accordance with the Bankruptcy Code and the distribution priorities of § 726.

14. [20-24691](#)-A-7 **IN RE: FREEDOM 123 LLC**
[GRF-2](#)

MOTION FOR ADMINISTRATIVE EXPENSES
10-7-2021 [[321](#)]

HOWARD NEVINS/ATTY. FOR MV.

Tentative Ruling

Motion: Allow Administrative Expense [Estate Taxes]

Notice: LBR 9014-1(f)(2); no 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).

The chapter 7 trustee applies for an order allowing and authorizing payment of \$4,200.00 to the Franchise Tax Board as administrative expenses under 11 U.S.C. § 503(b)(1)(B). The trustee was appointed on March 5, 2021, and has filed tax returns on behalf of the debtor for the following tax years: 2019; 2020; and 2021. As a result, California Limited Liability Company Taxes are owed as follows:

Tax Year	Description	Amount
2019	FTB, CA LLC Tax & Fee	\$1,700.00
2020	FTB, CA LLC Tax & Fee	\$1,700.00
2021	FTB, CA LLC Tax & Fee	\$800.00
TOTAL		\$4,200.00

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 Clooback*, 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. The court allows and authorizes payment to the Franchise Tax Board for California Limited

Liability Taxes and Fees in the amount of \$4,200.00 as an administrative expense under 11 U.S.C. § 503(b) (1) (B) .

15. [21-23297](#)-A-7 **IN RE: KELSEY GROOVER**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES
10-4-2021 [[12](#)]

10/4/2021 FILING FEE PAID \$338

Final Ruling

The filing fee having been paid in full, the order to show cause is discharged. The case will remain pending.