



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

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

**DAY: MONDAY**  
**DATE: NOVEMBER 6, 2023**  
**CALENDAR: 10:30 A.M. CHAPTER 7 CASES**

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Unless otherwise ordered, all matters before Chief Judge Fredrick E. Clement shall be heard simultaneously: (1) **IN PERSON** in Courtroom 28, (2) via **ZOOMGOV VIDEO**, (3) via **ZOOMGOV TELEPHONE**, and (4) via **COURTCALL**.

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## PRE-HEARING DISPOSITION INSTRUCTIONS

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### RULINGS

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

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

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

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

### CHANGES TO PREVIOUSLY PUBLISHED RULINGS

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

### ERRORS IN RULINGS

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

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1. [23-23206](#)-A-7     **IN RE: DENAE BENNETT**  
[TBG-2](#)

MOTION TO CONVERT CASE FROM CHAPTER 7 TO CHAPTER 13  
10-5-2023    [\[20\]](#)

STEPHAN BROWN/ATTY. FOR DBT.

### **Final Ruling**

**Motion:** Convert Case from Chapter 7 to Chapter 13

**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).

The debtor seeks an order authorizing the conversion of this Chapter 7 case to Chapter 13.

### **CONVERSION UNDER § 706(a)**

Section 706 of the Bankruptcy Code gives chapter 7 debtors a qualified conversion right. See 11 U.S.C. § 706(a), (d). A debtor's right to convert a case from Chapter 7 to Chapter 11, 12, or 13 is conditioned on (i) the debtor's eligibility for relief under the chapter to which the case will be converted and (ii) the case not having been previously converted under §§ 1112, 1208, or 1307. 11 U.S.C. § 706(a), (d); see also *Marrama v. Citizens Bank of Mass.*, 549 U.S. 365, 372-74 (2007) (affirming denial of debtor's conversion from Chapter 7 to Chapter 13 based on bad faith conduct sufficient to establish cause under § 1307(c)).

The secured and unsecured debt amounts shown in the debtor's schedules are below the debt limits provided in § 109(e). See 11 U.S.C. § 109(e). The case has not been previously converted under § 1112, 1208, or 1307 of the Bankruptcy Code. See *id.* § 706(a). No party in interest has questioned the debtor's eligibility for relief under Chapter 13. Debtor's Schedules I and J show that the debtor is able to make monthly plan payments, ECF No. 17.

### **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 debtor's motion to convert this case from chapter 7 to chapter 13 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 converts this case from chapter 7 to chapter 13.

2. [22-21736](#)-A-7     **IN RE: ELIFAZ/LINDA MARTINEZ**  
[PGM-6](#)

MOTION TO REDEEM  
9-26-2023    [\[96\]](#)

PETER MACALUSO/ATTY. FOR DBT.  
DEBTORS DISCHARGED: 09/18/2023

### **Final Ruling**

**Motion:** Authorize Redemption of Tangible Personal Property

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

**Disposition:** Granted

**Order:** Prepared by moving party

**Subject:** Lawn Mower

**Redemption Price:** \$500.00

The debtor seeks an order authorizing the redemption of personal property. The subject property consists of a lawn mower. This item is collateral for a loan held by creditor Mariner Finance, LLC.

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).

### **REDEMPTION**

Pursuant to § 722, an individual debtor in Chapter 7 may redeem tangible personal property from a lien on such property by paying the lienholder the amount of the allowed secured claim. 11 U.S.C. § 722. The tangible personal property must be "intended primarily for personal, family, or household use." *Id.*

Additionally, the property must have been exempted under § 522 or abandoned under § 554. *Id.* And the lien on the property must "secur[e] a "dischargeable consumer debt." *Id.*

The redemption price is the amount of the allowed secured claim, which amount is "determined based on the replacement value of such

property as of the date of the filing of the petition without deduction for costs of sale or marketing.” *Id.* § 506(a)(2).

The debtor requests authority to redeem tangible personal property, described in the motion, from the lien on such property. See Fed. R. Bankr. P. 6008. The property has been claimed exempt (or abandoned). The court values the property at the amount set forth in the motion (the redemption price). No party in interest has disputed whether the debt is dischargeable. The court will grant the motion and authorize the proposed redemption.

3. [23-20547](#)-A-7     **IN RE: MARTIN BERKEY**  
[PJK-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY  
9-19-2023    [\[38\]](#)

MARK BRIDEN/ATTY. FOR DBT.  
PATRICK KANE/ATTY. FOR MV.  
M&T BANK VS.; TRUSTEE NON-OPPOSITION

### **Final Ruling**

**Motion:** Stay Relief

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

**Disposition:** Granted

**Order:** Civil minute order

**Subject:** 2022 Springdale M-298 Travel Trailer

**Cause:** delinquent installment payments - 7 months post-petition/\$2,461.80

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.

M&T Bank seeks an order for relief from the automatic stay of 11 U.S.C. § 362(a). The Chapter 7 trustee filed a non-opposition to the motion on September 27, 2023. The debtor proposes to surrender the subject property in his Statement of Intention, ECF No. 1.

### **DEFAULT OF RESPONDENT**

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

## **STAY RELIEF**

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

Subsection (d)(1) of § 362 of Title 11 provides for relief from stay for "cause, including the lack of adequate protection of an interest in property of such party." 11 U.S.C. § 362(d)(1). The debtor bears the burden of proof. 11 U.S.C. § 362(g)(2). Adequate protection may consist of a lump sum cash payment or periodic cash payments to the entity entitled to adequate protection "to the extent that the stay . . . results in a decrease in the value of such entity's interest in property." 11 U.S.C. § 361(1). "An undersecured creditor is entitled to adequate protection only for the decline in the [collateral's] value after the bankruptcy filing." See Kathleen P. March, Hon. Alan M. Ahart & Janet A. Shapiro, *California Practice Guide: Bankruptcy* ¶ 8:1065.1 (rev. 2019) (citing *United Sav. Ass'n v. Timbers of Inwood Forest Assocs., Ltd.*, 484 U.S. 365, 370-73 (1988)); see also *In re Weinstein*, 227 BR 284, 296 (9th Cir. BAP 1998) ("Adequate protection is provided to safeguard the creditor against depreciation in the value of its collateral during the reorganization process"); *In re Deico Electronics, Inc.*, 139 BR 945, 947 (9th Cir. BAP 1992) ("Adequate protection payments compensate undersecured creditors for the delay bankruptcy imposes upon the exercise of their state law remedies").

The debtor is obligated to make debt payments to the moving party pursuant to a loan contract that is secured by a security interest in the debtor's vehicle described above. The debtor has defaulted on such loan with the moving party, and postpetition payments are past due. Vehicles depreciate over time and with usage. 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.

## **VIOLATION OF LBR 9014-1(d)(4)**

Except as provided herein, each of the documents described in subpart (d)(1) hereof shall be filed as a separate document. A motion or other request for

relief and a memorandum of points and authorities thereto may be filed together as a single document when not exceeding six (6) pages in length, including the caption page.

LBR 9014-1(d)(4).

The documents filed the following documents in support of this motion: 1) Notice of Motion; 2) Motion; 3) Declaration; 4) Exhibits; and 5) Relief From Stay Information Sheet, ECF No. 38. However, the documents do not comply with LBR 9014-1(d)(4) which requires that each document be filed with the court as a separate document. Failure to comply with LBR 9014-1 in the future may result in a denial of relief or sanctions. LBR 1001-1(g).

**VIOLATION OF LBR 9014-1(e)(2)**

A proof of service, in the form of a certificate of service, shall be filed with the Clerk concurrently with the pleadings or documents served, or not more than three (3) days after they are filed.

LBR 9014-1(e)(2).

The certificate of service filed in this matter was filed on September 19, 2023. Certificate of Service, ECF No. 39. However, the documents were served on the respondents on September 11, 2023. *Id.*, Section 4. This violates LBR 9014-1(e)(2) which requires the certificate of service to be filed concurrently with the moving papers or not more than 3 days after the moving papers are filed. Failure to comply with LBR 9014-1 in the future may result in a denial of relief or sanctions. LBR 1001-1(g).

**CIVIL MINUTE ORDER**

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

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

M&T Bank's motion for relief from the automatic stay has been presented to the court. Having entered the default of respondent for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the motion,

IT IS ORDERED that the motion is granted. The automatic stay is vacated with respect to the property described in the motion, commonly known as a 2022 Springdale M-298 Travel Trailer, 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.

4. [22-22048](#)-A-7     **IN RE: CAMILE DURIA**  
[KJH-2](#)

MOTION FOR COMPENSATION FOR GABRIELSON & COMPANY,  
ACCOUNTANT(S)  
10-6-2023     [\[58\]](#)

MARK SHMORGON/ATTY. FOR DBT.  
DEBTOR DISCHARGED: 02/22/2023; TRUSTEE NON-OPPOSITION

### **Final Ruling**

**Application:** Allowance of First & Final Compensation and Expense Reimbursement

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

**Disposition:** Approved

**Order:** Civil minute order

**Compensation:**     \$3,910.00

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 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, accountant for the trustee, has applied for an allowance of final compensation and reimbursement of expenses. The applicant requests that the court allow compensation in the amount of \$3,910.00 and reimbursement of expenses in the amount of \$0.

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 \$3,910.00 and reimbursement of expenses in the amount of \$0.

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.

5. [22-22048](#)-A-7     **IN RE: CAMILE DURIA**  
[MS-1](#)

MOTION TO APPROVE LOAN MODIFICATION  
9-25-2023     [\[53\]](#)

MARK SHMORGON/ATTY. FOR DBT.  
DEBTOR DISCHARGED: 02/22/2023

### **Final Ruling**

**Motion:** Approve Loan Modification

**Notice:** LBR 9014-1(f)(1)

**Disposition:** Continued to December 18, 2023, at 10:30 a.m.

**Order:** Civil minute order

The debtor seeks an order allowing her to enter into a loan modification. The subject property, 6043 Jansen Drive Sacramento, California, is property of the bankruptcy estate and has not been abandoned by the trustee. The Chapter 7 trustee has filed the Chapter 7 Trustee's Notice of Assets.

The court will continue this motion to allow the debtor to file and serve a motion to compel the trustee's abandonment of the subject real property. 11 U.S.C. § 554, Fed. R. Bankr. P. 6007.

## CIVIL MINUTE ORDER

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

IT IS ORDERED that the motion is continued to December 18, 2023, at 10:30 a.m.

6. [23-20280](#)-A-7      **IN RE: BRANDON DALTON**  
[DNL-5](#)

MOTION TO APPROVE STIPULATION REGARDING EXEMPTIONS  
10-6-2023    [\[45\]](#)

ARETE KOSTOPOULOS/ATTY. FOR DBT.  
J. CUNNINGHAM/ATTY. FOR MV.  
DEBTORS DISCHARGED: 05/15/2023

### No Ruling

7. [22-23086](#)-A-7      **IN RE: JEBRIEL MARASIGAN**  
[BLF-4](#)

MOTION FOR COMPENSATION FOR LORIS L. BAKKEN, TRUSTEES  
ATTORNEY(S)  
9-25-2023    [\[44\]](#)

CHAD JOHNSON/ATTY. FOR DBT.  
DEBTOR DISCHARGED: 03/16/2023

### 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

**Compensation:** \$6,320.00

**Reimbursement of Expenses:** \$55.29

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, Loris L. Bakken, attorney for the trustee, has applied for an allowance of final compensation and reimbursement of expenses. The applicant requests that the court allow compensation in the reduced amount of \$6,320.00 and reimbursement of expenses in the amount of \$55.29.

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.

Loris L. Bakken'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 \$6,320.00 and reimbursement of expenses in the amount of \$55.29.

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.

8. [23-23588](#)-A-7      IN RE: EDGARDO/MAY QUIAMBAO

ORDER TO APPEAR AND SHOW CAUSE WHY A PATIENT CARE OMBUDSMAN  
SHOULD NOT BE APPOINTED  
10-13-2023    [\[10\]](#)

NIKKI FARRIS/ATTY. FOR DBT.

**No Ruling**

9. [19-20389](#)-A-7     **IN RE: CAROLYN ANGUIANO**  
[BHS-3](#)

MOTION TO ABANDON  
9-13-2023    [\[94\]](#)

NICHOLAS WAJDA/ATTY. FOR DBT.  
BARRY SPITZER/ATTY. FOR MV.  
DEBTORS DISCHARGED: 04/29/2019

### **Final Ruling**

**Motion:** Authorize Trustee's Abandonment of Property of the Estate

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

**Disposition:** Granted only as to the assets described in the motion

**Order:** Prepared by moving party pursuant to the instructions below

**Description:** Remainder (40%) of Fire Victims Trust Fund Settlement

**Value:** \$45,724.29

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).

### **FACTS**

Geoffrey Richards, the chapter 7 trustee moves for an order authorizing his abandonment of the bankruptcy estate's interest in the asset described in the motion, ECF No. 94.

The court approved the compromise of a controversy with the Fire Victims Trust Fund related to liability of PG&E. As a result, the estate received \$68,586.85. This represents 60% of the total award of \$114,311.14. The trustee anticipates an \$8,000.00 surplus after payment of administrative expenses and allowed unsecured claims in full. The trustee seeks to abandon the remaining 40% of the Fire Victims Trust Fund award as it is of inconsequential value to the estate. Declaration of Geoffrey Richards, ECF No. 96.

### **ABANDONMENT**

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).

#### **11 U.S.C. § 554(a)**

"After notice and a hearing, the trustee may abandon any property of the estate that is burdensome to the estate or that is of inconsequential value and benefit to the estate." 11 U.S.C. § 554(a).

The assets described above are either burdensome to the estate or of inconsequential value to the estate. An order authorizing the trustee's abandonment of such assets is warranted. The order will authorize abandonment of only the assets that are described in the motion.

10. [23-20793](#)-A-7     **IN RE: DOUGLAS RODRIGUEZ**  
[DNL-3](#)

MOTION TO SELL  
10-16-2023    [\[57\]](#)

PETER MACALUSO/ATTY. FOR DBT.  
J. CUNNINGHAM/ATTY. FOR MV.  
DEBTOR DISCHARGED: 08/15/2023

#### **Tentative Ruling**

**Motion:** Sell Property

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

**Disposition:** Granted

**Order:** Prepared by moving party

**Property:** 2009 Harley Davidson Touring Street Glide

**Buyer:** Debtor

**Sale Price:** \$10,000

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

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).

J. Michael Hopper, Chapter 7 trustee, seeks an order authorizing the sale of the subject property, a 2009 Harley Davidson Touring Street Glide Motorcycle to the debtor for the sum of \$10,000.

## **SALE OF ESTATE ASSETS**

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.