UNITED STATES BANKRUPTCY COURT
Eastern District of California
Honorable Jennifer E. Niemann
Hearing Date: Wednesday, November 17, 2021
Place: Department A – Courtroom #11
Fresno, California

Beginning the week of June 28, 2021, and in accordance with District Court General Order No. 631, the court resumed in-person courtroom proceedings in Fresno. Parties to a case may still appear by telephone, provided they comply with the court's telephonic appearance procedures, which can be found on the court's website.

INSTRUCTIONS FOR PRE-HEARING DISPOSITIONS

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

No Ruling: All parties will need to appear at the hearing unless otherwise ordered.

Tentative Ruling: If a matter has been designated as a tentative ruling it will be called, and all parties will need to appear at the hearing unless otherwise ordered. The court may continue the hearing on the matter, set a briefing schedule or enter other orders appropriate for efficient and proper resolution of the matter. The original moving or objecting party shall give notice of the continued hearing date and the deadlines. The minutes of the hearing will be the court's findings and conclusions.

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

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

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

9:30 AM

1. 20-10010-A-11 **IN RE: EDUARDO/AMALIA GARCIA**
MKK-3

MOTION FOR COMPENSATION FOR M. KATHLEEN KLEIN, ACCOUNTANT(S)
10-19-2021 [770]

M. KLEIN/MV
LEONARD WELSH/ATTY. FOR DBT.

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

DISPOSITION: Granted.

ORDER: The Moving Party shall submit a proposed order in conformance with the ruling below.

This motion was set for hearing on at least 28 days' notice pursuant to Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of creditors, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument. Upon default, factual allegations will be taken as true (except those relating to amount of damages). Televideo Sys., Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires a moving party make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

M. Kathleen Klein CPA ("Movant"), accountant for Eduardo Zavala Garcia and Amalia Perez Garcia ("DIP"), requests allowance of interim compensation for services rendered from June 21, 2021 through September 18, 2021. Doc. #770. Movant provided accounting services valued at $2,054.00 and requests compensation for that amount. Doc. #770.

Section 330(a)(1) of the Bankruptcy Code authorizes "reasonable compensation for actual, necessary services rendered" and "reimbursement for actual, necessary expenses" to a professional person. 11 U.S.C. § 330(a)(1). According to the order authorizing employment of Movant, Movant may submit monthly applications for interim compensation pursuant to 11 U.S.C. § 331. Order, Doc. #57. In determining the amount of reasonable compensation to be awarded to a professional person, the court shall consider the nature, extent, and value of such services, taking into account all relevant factors. 11 U.S.C. § 330(a)(3).

Movant's services included, without limitation: (1) preparing three monthly operating reports; (2) updating a capital gains analysis; and (3) preparing the fee application. Doc. #770. The court finds the compensation and reimbursement sought by Movant to be reasonable, actual, and necessary.

This motion is GRANTED. The court allows interim compensation in the amount of $2,054.00. Movant is allowed interim fees and costs pursuant to 11 U.S.C. § 331, subject to final review and allowance pursuant to 11 U.S.C. § 330. Such allowed amounts shall be perfected, and may be adjusted, by a final application

for allowance of compensation and reimbursement of expenses, which shall be filed prior to case closure. Movant may draw on any retainer held. DIP is authorized to pay the fees allowed by this order from available funds only if the estate is administratively solvent and such payment will be consistent with the priorities of the Bankruptcy Code.

2. 21-10445-A-11 **IN RE: HARDEEP KAUR**
DMS-1

MOTION FOR COMPENSATION FOR DAVID M SOUSA, CHAPTER 11 TRUSTEE(S)
10-26-2021 [162]

DAVID SOUSA/MV
LEONARD WELSH/ATTY. FOR DBT.
DAVID SOUSA/ATTY. FOR MV.

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

DISPOSITION: Denied without prejudice.

ORDER: The court will issue an order.

This matter is DENIED WITHOUT PREJUDICE for improper notice.

Notice by mail of this motion was sent October 26, 2021, with a hearing date set for November 17, 2021. The motion was set for hearing on less than 28 days' notice and is governed by Local Rule of Practice ("LBR") 9014-1(f)(2). Pursuant to LBR 9014-1(f)(2), written opposition was not required, and any opposition may be raised at the hearing. However, the Notice of Hearing filed with the motion stated that opposition must be filed and served no later than fourteen days before the hearing and that failure to file written response may result in the court granting the motion prior to the hearing. The Notice of Hearing does not comply with LBR 9014-1(f)(2).

3. 21-10445-A-11 **IN RE: HARDEEP KAUR**
RPM-1

MOTION FOR RELIEF FROM AUTOMATIC STAY
10-12-2021 [155]

SANTANDER CONSUMER USA INC./MV
LEONARD WELSH/ATTY. FOR DBT.
RANDALL MROCZYNSKI/ATTY. FOR MV.
STIPULATION

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

DISPOSITION: Resolved by stipulation.

NO ORDER REQUIRED.

The motion was resolved by stipulation and order entered on November 4, 2021. Doc. #172.

4. 21-10853-A-12 **IN RE: MIKE WEBER**

CONTINUED STATUS CONFERENCE RE: CHAPTER 12 VOLUNTARY PETITION
4-6-2021 [1]

PETER FEAR/ATTY. FOR DBT.

NO RULING.

5. 21-10853-A-12 **IN RE: MIKE WEBER**
FW-8

MOTION TO BORROW
10-27-2021 [174]

MIKE WEBER/MV
PETER FEAR/ATTY. FOR DBT.

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Granted.

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

This motion was filed and served on at least 14 days' notice prior to the hearing date pursuant to Local Rule of Practice ("LBR") 9014-1(f)(2) and will proceed as scheduled. Unless opposition is presented at the hearing, the court intends to enter the respondents' defaults and grant the motion. If opposition is presented at the hearing, the court will consider the opposition and whether further hearing is proper pursuant to LBR 9014-1(f)(2). The court will issue an order if a further hearing is necessary.

Mike Henry Weber ("Debtor") the chapter 12 debtor and debtor in possession, moves the court for authorization to borrow $1,250,000 and to grant a senior lien on property of the estate that is subject to liens. Doc. #174.

Debtor is in the process of splitting the parcel of real property that secures the proposed loans into two parcels, Parcel A and Parcel B. The parcel split is taking longer than Debtor contemplated. Weber Decl. ¶ 7, Doc. #176. Prior to this motion, the court authorized the sale of Parcel A to Sharon Vulich ("Vulich") for the price of $850,000. Weber Decl., Doc. #176; Order, Doc. #147. Also prior to this motion, the court authorized Debtor to borrow up to $400,000 from Francile Watkins, as Trustee of the Francile Watkins Separate Property Trust dated July 15, 2015 ("Watkins") using Parcel B as collateral for the debt. Weber Decl., Doc. #176; Order, Doc. #167. Under Debtor's chapter 12 plan, the proceeds from the sale of Parcel A to Vulich and refinance of Parcel B with Watkins would be paid to the chapter 12 trustee, who in turn would use the funds to pay secured creditors. See Plan, Ex. A, Doc. #163. Debtor's § 364(d) motion seeks to borrow $850,000 from Vulich and $400,000 from Watkins to pay the chapter 12 trustee in the same manner without waiting for the parcel split to be approved by the county. Weber Decl. ¶¶ 13-14, Doc. #176. Both Vulich and Watkins have deposited the funds into escrow. Id. at ¶¶ 3-4. Vulich will hold the first deed of trust until Parcel A is transferred to Vulich; Watkins will

have a second deed of trust junior only to Vulich, and a first position deed of trust in Parcel B once Parcel A is transferred to Vulich. Id. at ¶¶ 8-9.

Section 364(d) of the Bankruptcy Code permits the court to authorize the incurring of debt secured by a senior or equal lien on property of the estate that is subject to a lien only if:

(A) the chapter 12 debtor in possession is unable to obtain such credit otherwise; and

(B) there is adequate protection of the interest of the holder of the lien on the property of the estate on which such senior lien is proposed to be granted.

11 U.S.C. § 364(d)(1). The debtor bears the burden of proof on the issue of adequate protection. 11 U.S.C. § 364(d)(2). "The determination of adequate protection is a fact-specific inquiry." In re Mosello, 195 B.R. 277, 289 (Bankr. S.D.N.Y. 1996). The purpose of § 364(d) is to "facilitate a plan that will inure to the benefit of all creditors and the estate." In re Stoney Creek Techs., LLC, 364 B.R. 882, 895 (Bankr. E.D. Pa. 2007).

Debtor has demonstrated that he would be unable to obtain the financing by any other means and that creditors with claims secured in the property will be adequately protected.

Debtor states that he is unable to obtain sufficient credit to pay secured creditors without the proposed borrowing, and Debtor is unable to obtain an unsecured loan for the amount requested by the motion. Decl. of Mike Weber ¶¶ 11, 15, Doc. #176. As adequate protection, existing lienholders will be granted a security interest in the proceeds of the Vulich and Watkins loans and will maintain their security interests in that property until paid in full. Additionally, granting this motion and authorizing the loans is consistent with the spirit of Debtor's chapter 12 plan and will benefit creditors and the estate.

The court finds that Debtor has met his burden under § 364(d). Debtor has proposed adequate protection and is unable to obtain financing by other means.

Accordingly, this motion will be GRANTED.

6. 21-10853-A-12 **IN RE: MIKE WEBER**
FW-9

MOTION TO EXTEND DEADLINES
10-27-2021 [180]

MIKE WEBER/MV
PETER FEAR/ATTY. FOR DBT.

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Granted subject to the Moving Party supplementing the record

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

This motion was filed and served on at least 21 days' notice prior to the hearing date pursuant to Federal Rule of Bankruptcy Procedure 2002 and Local Rule of Practice ("LBR") 9014-1(f)(2) and will proceed as scheduled. Unless opposition is presented at the hearing, the court intends to enter the respondents' defaults and grant the motion. If opposition is presented at the hearing, the court will consider the opposition and whether further hearing is proper pursuant to LBR 9014-1(f)(2). The court will issue an order if a further hearing is necessary.

Mike Henry Weber ("Debtor") seeks to have the court extend deadlines to make payments to creditors under the terms of Debtor's confirmed chapter 12 plan pursuant to Federal Rule of Bankruptcy Procedure ("Bankruptcy Rule") 9006(b)(1). Doc. #180. However, Bankruptcy Rule 9006(b)(1) does not allow for such a request.

Bankruptcy Rule 9006(b)(1) provides in relevant part that "when an act is required or allowed to be done at or within a specified period by these rules or by a notice given thereunder or by order of court, the court for cause shown may . . . order the period enlarged if the request therefor is made before the expiration of the period originally prescribed." Fed. R. Bankr. P. 9006(b)(1). "Federal Rule of Bankruptcy Procedure 9006, which is substantially identical to Civil Rule 6, governs the calculation, enlargement and reduction of the time periods contained in the Bankruptcy Rules, the Federal Rules of Civil Procedure that are incorporated in the Bankruptcy Rules, in local rules or court orders and in any applicable statute that does not specify a method of computing time." 10 COLLIER ON BANKRUPTCY ¶ 9006.01 (Allan N. Resnick & Henry J. Sommer eds., 16th ed.). It does not govern deadlines for payments to creditors contained in a confirmed plan.

Instead, 11 U.S.C. § 1229(a) allows a chapter 12 debtor, "[a]t any time after confirmation of the plan but before the completion of payments under such plan," to modify the plan to "extend or reduce the time for" payments on claims provided for by the plan. 11 U.S.C. § 1229(a)(2). Modification of a chapter 12 plan is the appropriate method to extend the deadline for plan payments. In re Larson, 122 B.R. 417, 418-20 (Bankr. D. Idaho 1991) (reasoning § 1229(a) specified the types of chapter 12 plan modifications permitted).

The Bankruptcy Code specifically identifies modification as the means by which a chapter 12 debtor may seek to extend the time for payments required by a confirmed chapter 12 plan. Further, § 1229(b) states that §§ 1222(a), 1222(b), 1223(c), and 1225(a) of the Bankruptcy Code apply to any modification. 11 U.S.C. § 1229(b)(1). Debtor offers nothing demonstrating these requirements are met.

Notwithstanding the error, the court is inclined to treat the motion as a motion to modify the chapter 12 plan to extend the time for payments. The motion may be treated as a motion to modify the chapter 12 plan because the notice of hearing adequately alerted all necessary parties in interest of the nature of the relief sought. The notice of hearing was sent to all creditors and stated that Debtor "has moved for an order extending the time to make payments to secured creditors pursuant to the order confirming Debtor's Chapter 12 Plan by approximately one month so that the payments will be due on December 15, 2021." Doc. #181. The notice of hearing went into further detail, and the language provided sufficient notice of the relief Debtor sought. Further, the hearing on this motion was set on 21 days' notice as required by Bankruptcy Rule 2002(a)(5) and opposition may be presented at the hearing.

The statutory guidelines of the Bankruptcy Code "are sufficiently flexible to allow the Court considerable discretion in passing on the propriety of proposed

changes to a [chapter 12] plan. . . . [B]ecause of the presence of these statutory standards, there is simply no need to attempt to articulate other supplemental equitable prerequisites to modification." Larson, 122 B.R. at 420. While there may not be any "supplemental equitable prerequisites" to modification, the statutory requirements must still be satisfied.

At the hearing, Debtor shall be prepared to clarify on the record whether the statutory standards applicable to modification under § 1229 are satisfied. Upon so doing and subject to any opposition raised at the hearing, the court is inclined to GRANT this motion.

7. 20-10010-A-11 **IN RE: EDUARDO/AMALIA GARCIA**
GAG-5

CONTINUED STATUS CONFERENCE RE: OBJECTION TO CLAIM OF NINO GLOBAL, LLC, CLAIM NUMBER 13, OBJECTION TO CLAIM OF NINO GLOBAL, LLC, CLAIM NUMBER 14, OBJECTION TO CLAIM OF PLATINUM FARMS SERVICES, LLC, CLAIM NUMBER 16, OBJECTION TO CLAIM OF NINO GLOBAL, LLC, CLAIM NUMBER 17
5-24-2021 [593]

AMALIA GARCIA/MV
LEONARD WELSH/ATTY. FOR DBT.
RESPONSIVE PLEADING

NO RULING.

8. 20-10010-A-11 **IN RE: EDUARDO/AMALIA GARCIA**
LKW-28

MOTION TO SELL FREE AND CLEAR OF LIENS
11-3-2021 [788]

AMALIA GARCIA/MV
LEONARD WELSH/ATTY. FOR DBT.
OST 11/5/21

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Granted.

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

On November 4, 2021, the court granted the oral application for an Order Shortening Time to hear the debtors' Motion for Authority to Sell Real Property Free and Clear of Liens. Doc. #810. This motion was set for hearing on November 17, 2021 at 9:30 a.m. pursuant to Local Rule of Practice ("LBR") 9014-1(f)(3). Unless opposition is presented at the hearing, the court intends to enter the respondents' defaults and grant the motion. If opposition is presented at the hearing, the court will consider the opposition and whether further hearing is proper pursuant to LBR 9014-1(f)(2). The court will issue an order if a further hearing is necessary.

Eduardo Zavala Garcia and Amalia Perez Garcia ("DIP"), the debtors and debtors in possession in this chapter 11 case, move the court pursuant to 11 U.S.C. § 363 for an order authorizing the sale of 478.18 acres of real property located in Kern County, California referred to as the Hacienda 1 Ranch and the Hacienda West Ranch (collectively, the "Ranches") to KSB LP ("KSB") for the purchase price of $6,750,000. Doc. #788. DIP seeks to sell the Ranches free and clear of any interests in the Ranches pursuant to 11 U.S.C. § 363(f). Doc. #788.

Pursuant to 11 U.S.C. § 363(b)(1), the debtor in possession, after notice and a hearing, may "use, sell, or lease, other than in the ordinary course of business, property of the estate." Proposed sales under § 363(b) are reviewed to determine whether they are: (1) in the best interests of the estate resulting from a fair and reasonable price; (2) supported by a valid business judgment; and (3) proposed in good faith. 240 N. Brand Partners, Ltd. v. Colony GFP Partners, L.P. (In re 240 N. Brand Partners, Ltd.), 200 B.R. 653, 659 (B.A.P. 9th Cir. 1996). In the context of sales of estate property under § 363, a bankruptcy court "should determine only whether the [debtor in possession's] judgment [is] reasonable and whether a sound business justification exists supporting the sale and its terms." 3 COLLIER ON BANKRUPTCY ¶ 363.02[4] (Richard Levin & Henry J. Sommer eds., 16th ed.).

DIP received and accepted an offer to purchase the Ranches from KSB for $6,750,000 cash with an escrow closing soon after authorization by this bankruptcy court. Decl. of Eduardo Zavala Garcia, Doc. #792. DIP believes that approval of the sale on the terms set forth in the motion is in the best interests of creditors and will not harm nor prejudice anyone. Garcia Decl., Doc. #792. Michael Anchordoquy ("Realtor"), a principal at ASU Commercial, the real estate broker employed by DIP for the sale of the Ranches, believes that KSB is a strong and credible buyer. Anchordoguy Decl., Doc. #791. Realtor contends that the sale of the Ranches to KSB for $6,750,000 cash, with escrow to close as soon as two days after the court approves the sale, is reasonable and in the best interests of all parties concerned. Realtor Decl., Doc. #791.

Proceeds received from the sale of the Ranches will be distributed as follows:

Creditor or Administrative Expense	**Lien or Expense Description**	**Estimated Claim Amount as of 11/1/2021**	**Distribution of Sale Proceeds**
Kern County Treasurer-Tax Collector	Tax Lien	$ 378,406.22	$ 378,406.22
Keevmo, LLC	Deed of Trust	6,821,378.79	6,028,465.78
Helena Chemical Company	Abstract of Judgment	199,828.45	0.00
Real Estate Commission	4% Commission	-	270,000.00
DIP's Attorney Fees	Fees and costs authorized for payment by this court	-	50,000.00
DIP's Accountant Fees	Fees and costs authorized for payment by this court	-	5,000.00
DIP's Costs of Sale	Escrow fees, closing costs, and title insurance	-	18,128.00
		$ 7,399,613.46	**$ 6,750,000.00**

Doc. #792; Mot., Doc. #788 (showing accountant fees of $5,000). These payments represent payment in full of the claims held by the Kern County Treasurer-Tax Collector, payment of approximately 88% of Keevmo LLC's ("Keevmo") claim secured by a deed of trust against the Ranches and other real property owned by DIP, and payment of $55,000 in administrative expenses incurred by DIP. Doc. #788.

Keevmo's collateral includes 948.63 acres of real property located in Kern County, including the Ranches. Doc. #788. Keevmo's claim remaining after the sale of the Ranches will continue to be secured by a first deed of trust against the remaining 470.45 acres of farmland owned by DIP. Doc. #788. Helena Chemical Company ("Helena") will receive no payment from the sale of the Ranches because Keevmo's claim secured by a senior deed of trust against Ranches exceeds the $6.75 million purchase price. Doc. #788. Helena will retain its judicial lien against all of DIP's other real property located in Kern County. Doc. #788. It appears that the sale of the Ranches is in the best interests of the creditors, the Ranches will be sold for a fair and reasonable price, and the sale is supported by a valid business judgment and proposed in good faith.

Further, DIP may sell property under § 363(b) free and clear of any interest of an entity other than the estate only if: (1) applicable nonbankruptcy law permits the sale; (2) such entity consents; (3) the interest is a lien and the price at which the property is to be sold is greater than the aggregate value of all liens on the property; (4) the interest is in bona fide dispute; or (5) the entity could be compelled to accept a money satisfaction of the interest. 11 U.S.C. § 363(f). A creditor's consent may be implied when the creditor fails to make a timely objection after receiving proper notice of the sale. In re Elliot, 94 B.R. 343, 345 (Bankr. E.D. Pa. 1988). In this case, the creditors with an interest in the Ranches have not affirmatively consented but can raise opposition at the hearing.

Accordingly, subject to any opposition raised at the hearing, the court is inclined to GRANT DIP's motion and authorize the sale of the Ranches pursuant to 11 U.S.C. § 363(b)(1) and (f).

11:00 AM

1. 21-12021-A-7 **IN RE: SUSAN GARCIA**

PRO SE REAFFIRMATION AGREEMENT WITH TOYOTA MOTOR CREDIT CORPORATION
10-19-2021 [20]

NO RULING.

2. 21-12143-A-7 **IN RE: LOUIS ANDRADE**

PRO SE REAFFIRMATION AGREEMENT WITH FIRST TECH FEDERAL CREDIT UNION
10-20-2021 [12]

TIMOTHY SPRINGER/ATTY. FOR DBT.

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

DISPOSITION: Dropped.

ORDER: The court will issue an order.

The debtor's counsel will inform the debtor that no appearance is necessary.

The court is not approving or denying approval of the reaffirmation agreement. The debtor was represented by counsel when he entered into the reaffirmation agreement. Pursuant to 11 U.S.C. §524(c)(3), if the debtor is represented by counsel, the agreement must be accompanied by an affidavit of the debtor's attorney attesting to the referenced items before the agreement will have legal effect. In re Minardi, 399 B.R. 841, 846 (Bankr. N.D. Okla. 2009). The reaffirmation agreement, in the absence of a declaration by debtor(s)' counsel, does not meet the requirements of 11 U.S.C. §524(c) and is not enforceable. The debtor shall have 14 days to refile the reaffirmation agreement properly signed and endorsed by the attorney.

3. 21-12249-A-7 **IN RE: J MENDOZA AND ANA RAMIREZ**

REAFFIRMATION AGREEMENT WITH WELLS FARGO BANK, N.A.
10-28-2021 [15]

MONICA ROBLES/ATTY. FOR DBT.

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

DISPOSITION: Dropped.

ORDER: The court will issue an order.

The debtors' counsel will inform the debtor that no appearance is necessary.

The court is not approving or denying approval of the reaffirmation agreement. The debtors were represented by counsel when they entered into the

reaffirmation agreement. Pursuant to 11 U.S.C. §524(c)(3), if the debtor is represented by counsel, the agreement must be accompanied by an affidavit of the debtor's attorney attesting to the referenced items before the agreement will have legal effect. In re Minardi, 399 B.R. 841, 846 (Bankr. N.D. Okla. 2009). The reaffirmation agreement, in the absence of a declaration by debtor(s)' counsel, does not meet the requirements of 11 U.S.C. §524(c) and is not enforceable. The debtors shall have 14 days to refile the reaffirmation agreement properly signed and endorsed by the attorney.

1:30 PM

1. 19-11901-A-7 **IN RE: ARMANDO CRUZ**
19-1095

CONTINUED STATUS CONFERENCE RE: COMPLAINT
8-12-2019 [1]

STRATEGIC FUNDING SOURCE, INC. V. CRUZ
JARRETT OSBORNE-REVIS/ATTY. FOR PL.
RESPONSIVE PLEADING

NO RULING.

2. 21-22604-A-7 **IN RE: KODY SLY**
MMJ-1

MOTION FOR RELIEF FROM AUTOMATIC STAY
10-14-2021 [13]

CAPITAL ONE AUTO FINANCE/MV
SUSAN SALEHI/ATTY. FOR DBT.
MARJORIE JOHNSON/ATTY. FOR MV.

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

DISPOSITION: Granted in part and denied in part.

ORDER: The Moving Party shall submit a proposed order in conformance with the ruling below.

This motion was set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of creditors, the debtor, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument. Upon default, factual allegations will be taken as true (except those relating to amount of damages). Televideo Sys., Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires a movant make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

As a procedural matter, the Notice of Hearing filed in connection with this motion does not comply with LBR 9014-1(d)(3)(B)(i), which requires the notice include the names and addresses of persons who must be served with any opposition. Doc. #15. The court encourages counsel to review the local rules to ensure compliance in future matters or those matters may be denied without prejudice for failure to comply with the local rules.

The motion will be GRANTED IN PART as to the trustee's interest and DENIED AS MOOT IN PART as to the debtor's interest pursuant to 11 U.S.C. § 362(c)(2)(C). The debtor's discharge was entered on November 16, 2021. Doc. #19. The motion will be GRANTED IN PART for cause shown as to the chapter 7 trustee.

The movant, Capital One Auto Finance ("Movant"), seeks relief from the automatic stay under 11 U.S.C. § 362(d)(1) and (d)(2) with respect to a 2019 Hyundai Sonata SEL Sedan 4D ("Vehicle"). Doc. #13.

11 U.S.C. § 362(d)(1) allows the court to grant relief from the stay for cause, including the lack of adequate protection. "Because there is no clear definition of what constitutes 'cause,' discretionary relief from the stay must be determined on a case by case basis." In re Mac Donald, 755 F.2d 715, 717 (9th Cir. 1985).

11 U.S.C. § 362(d)(2) allows the court to grant relief from the stay if the debtor does not have any equity in such property and such property is not necessary to an effective reorganization.

After review of the included evidence, the court finds that "cause" exists to lift the stay because the debtor has failed to make at least three complete post-petition payments. Movant has produced evidence that the debtor is delinquent by at least $2,005.26. Doc. #14.

The court also finds that the debtor does not have any equity in the Vehicle and the Vehicle is not necessary to an effective reorganization because the debtor is in chapter 7. The Vehicle is valued at $22,344.00 and the debtor owes $25,556.45. Doc. #14.

Accordingly, the motion will be granted pursuant to 11 U.S.C. § 362(d)(1) and (d)(2) to permit Movant to dispose of its collateral pursuant to applicable law and to use the proceeds from its disposition to satisfy its claim. No other relief is awarded.

The 14-day stay of Fed. R. Bankr. P. 4001(a)(3) will be ordered waived because the debtor has failed to make at least three post-petition payments to Movant and the Vehicle is a depreciating asset.

3. 18-14207-A-7 **IN RE: ELMER/KATHLEEN FALK**
JHW-1

MOTION FOR RELIEF FROM AUTOMATIC STAY
10-18-2021 [128]

TD AUTO FINANCE LLC/MV
JERRY LOWE/ATTY. FOR DBT.
JENNIFER WANG/ATTY. FOR MV.
DISCHARGED 03/03/2020

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

DISPOSITION: Granted in part and denied as moot in part.

ORDER: The Moving Party shall submit a proposed order in conformance with the ruling below.

This motion was set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of creditors, the debtor, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument. Upon default, factual allegations will be taken as true (except those relating to amount of damages). Televideo Sys., Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires a movant make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

The motion will be GRANTED IN PART as to the trustee's interest and DENIED AS MOOT IN PART as to the debtor's interest pursuant to 11 U.S.C. § 362(c)(2)(C). The debtors's discharge was entered on March 3, 2020. Doc. #104. The motion will be GRANTED IN PART for cause shown as to the chapter 7 trustee.

The movant, TD Auto Finance LLC ("Movant"), seeks relief from the automatic stay under 11 U.S.C. § 362(d)(1) with respect to a 2016 Ford Fiesta ("Vehicle"). Doc. #128

11 U.S.C. § 362(d)(1) allows the court to grant relief from the stay for cause, including the lack of adequate protection. "Because there is no clear definition of what constitutes 'cause,' discretionary relief from the stay must be determined on a case by case basis." In re Mac Donald, 755 F.2d 715, 717 (9th Cir. 1985).

After review of the included evidence, the court finds that "cause" exists to lift the stay because the debtor has failed to make at least two complete post-petition payments. Movant has produced evidence that the debtor is delinquent by at least $405.48. Doc. #131.

Accordingly, the motion will be granted pursuant to 11 U.S.C. § 362(d)(1) to permit Movant to dispose of its collateral pursuant to applicable law and to use the proceeds from its disposition to satisfy its claim. No other relief is awarded.

The 14-day stay of Fed. R. Bankr. P. 4001(a)(3) will be ordered waived because the debtor has failed to make at least two post-petition payments to Movant and the Vehicle is a depreciating asset.

4. 20-12310-A-7 **IN RE: JOYCE FEASTER**
JES-1

CONTINUED MOTION TO COMPEL
7-16-2021 [35]

JAMES SALVEN/MV
CLOSED: 10/21/2021

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

DISPOSITION: Dropped from calendar.

NO ORDER REQUIRED.

Movant withdrew the motion on October 20, 2021. Doc. #48.

5. 21-12019-A-7 **IN RE: JEANINE CUNNINGHAM**
JHW-1

MOTION FOR RELIEF FROM AUTOMATIC STAY
10-6-2021 [18]

FORD MOTOR CREDIT COMPANY LLC/MV
JENNIFER WANG/ATTY. FOR MV.

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

DISPOSITION: Granted.

ORDER: The Moving Party shall submit a proposed order in conformance with the ruling below.

This motion was set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of creditors, the debtor, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument. Upon default, factual allegations will be taken as true (except those relating to amount of damages). Televideo Sys., Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires a movant make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

The movant, Ford Motor Credit Company LLC ("Movant"), seeks relief from the automatic stay under 11 U.S.C. § 362(d)(1) and (d)(2) with respect to a 2016 Ford Focus ("Vehicle"). Doc. #18.

11 U.S.C. § 362(d)(1) allows the court to grant relief from the stay for cause, including the lack of adequate protection. "Because there is no clear definition of what constitutes 'cause,' discretionary relief from the stay must be determined on a case by case basis." In re Mac Donald, 755 F.2d 715, 717 (9th Cir. 1985).

11 U.S.C. § 362(d)(2) allows the court to grant relief from the stay if the debtor does not have any equity in such property and such property is not necessary to an effective reorganization.

After review of the included evidence, the court finds that "cause" exists to lift the stay because the debtor has failed to make at least two complete pre- and post-petition payments. Movant has produced evidence that the debtor is delinquent by at least $636.59. Doc. #21.

The court also finds that the debtor does not have any equity in the Vehicle and the Vehicle is not necessary to an effective reorganization because the debtor is in chapter 7. The Vehicle is valued at $4,532.00 and the debtor owes $4,658.36. Doc. #21.

Accordingly, the motion will be granted pursuant to 11 U.S.C. § 362(d)(1) and (d)(2) to permit Movant to dispose of its collateral pursuant to applicable law and to use the proceeds from its disposition to satisfy its claim. No other relief is awarded. According to the debtor's Statement of Intention, the Vehicle will be surrendered. Doc. #1.

The 14-day stay of Fed. R. Bankr. P. 4001(a)(3) will be ordered waived because the debtor has failed to make at least two pre- and post-petition payments to Movant and the Vehicle is a depreciating asset.

6. 18-14920-A-7 BMJ-22 **IN RE: SOUTH LAKES DAIRY FARM, A CALIFORNIA GENERAL PARTNERSHIP**

MOTION FOR COMPENSATION FOR SOUSA AND COMPANY, LLP, ACCOUNTANT(S)
10-11-2021 [391]

JACOB EATON/ATTY. FOR DBT.

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Continued to permit the moving party to supplement the record.

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

This motion was set for hearing on at least 28 days' notice pursuant to Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of creditors, the debtor, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Therefore, the defaults of the above-mentioned parties in interest are entered. Upon default, factual allegations will be taken as true (except those relating to amount of damages). Televideo Sys., Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires a moving party make a *prima facie* showing that they are entitled to the relief sought, and this matter will proceed as scheduled so that the moving party may supplement the record.

As a procedural matter, the Notice of Hearing filed in connection with this motion does not comply with LBR 9014-1(d)(3)(B)(i), which requires the notice include the names and addresses of persons who must be served with any opposition. The court encourages counsel to review the local rules to ensure compliance in future matters or those matters may be denied without prejudice for failure to comply with the local rules.

Sousa and Company LLP ("Movant"), accountant for chapter 7 trustee David M. Sousa ("Trustee"), requests allowance of interim compensation and reimbursement for expenses for services rendered from June 17, 2020 through August 17, 2021. Doc. #391. Movant provided accounting services valued at $62,042.95 and

requests compensation for that amount. Doc. #391. Movant requests reimbursement for expenses in the amount of $1.81. Doc. #391.

Section 330(a)(1) of the Bankruptcy Code authorizes "reasonable compensation for actual, necessary services rendered" and "reimbursement for actual, necessary expenses" to a "professional person." 11 U.S.C. § 330(a)(1). In determining the amount of reasonable compensation to be awarded to a professional person, the court shall consider the nature, extent, and value of such services, taking into account all relevant factors. 11 U.S.C. § 330(a)(3).

Movant's services included, without limitation: (1) converting Movant's books and records from an accrual basis to a cash basis of accounting; (2) making detailed review and adjustments to adequately convert the accounting method; (3) assisting with tax preparations and filings; and (4) communicating and consulting with Trustee and Movant. Ex. A, Doc. #394; Doc. #391.

To support the motion, Movant submitted a billing worksheet as Exhibit 1. Doc. #394. The billing worksheet is the only evidence submitted that specifically details the work Movant performed. The court reviewed the entries and will require Movant to supplement the record as to some hours billed. In particular, on August 12, 2021, Alberto Nolasco billed 27.42 hours. See Time & Expense Journal, Ex. 1, Doc. #394. There are no comments that describe the work performed by Mr. Nolasco on that day or how Mr. Nolasco could bill 27.42 hours on a single day. In addition, Alberto Nolasco is responsible for 250.33 of the total 262.72 hours billed by Movant; however, Mr. Nolasco provides descriptions of the tasks performed for only approximately 75 hours of work performed. The remaining approximately 175 hours of billable time contains no explanation of the tasks performed by Mr. Nolasco on behalf of the estate. Consequently, it is impossible for the court to determine whether the amount requested is reasonable compensation on the record currently before the court.

Before the court can find that the compensation sought is reasonable, actual, and necessary, Movant must supplement the billing records and explain how Mr. Nolasco could bill more than 24 hours in a single day. At the hearing, Movant should be prepared to propose a schedule to supplement the record and a date for a continued hearing on this motion.

7. 20-10224-A-7 **IN RE: SCNRG, LLC**
DMG-2

MOTION TO DISMISS CASE
10-20-2021 [33]

JEFFREY VETTER/MV
PATRICK KAVANAGH/ATTY. FOR DBT.
D. GARDNER/ATTY. FOR MV.
RESPONSIVE PLEADING

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Denied.

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

This motion was set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1). The debtor timely filed written opposition on November 3, 2021. Doc. #38. The failure of creditors, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Therefore, the defaults of the non-responding parties in interest are entered.

Jeffrey Vetter ("Trustee"), the chapter 7 trustee, moves pursuant to 11 U.S.C. § 707(a) for the dismissal of the chapter 7 bankruptcy case of SCNRG LLC ("Debtor") for cause. Doc. #33. Debtor opposes. Doc. #38.

Debtor filed a voluntary petition under chapter 7 of the Bankruptcy Code on January 22, 2020. Doc. #1. Trustee contends that, prior to the petition date, Caleco LLC sued Debtor for breach of contract, foreclosure, and fraud arising out of an oil and gas lease located in Kern County. Trustee Decl., Doc. #35. After that lawsuit was filed, another entity foreclosed on the 40 acres that was subject to the oil and gas lease, "which dispatched from the Debtor its only asset." Id. ¶ 5, Doc. #35. Trustee believes that the foreclosing creditor and Debtor share common ownership and a common attorney that facilitated the foreclosure while representing both Debtor and the foreclosing creditor. Id. Trustee believes that there may be a claim for relief under 11 U.S.C. § 548. Doc. #35. However, Trustee states that (a) there are no funds in the estate to prosecute the action, (b) Trustee has been unable to locate a disinterested attorney willing to take on the case on a contingency basis, and (c) there has not yet been a discharge in the case (although the debtor is not an individual and is not eligible for a discharge under § 727(a)(1)). Doc. #35. Trustee believes this case is essentially a two-party dispute. Id. Trustee has not offered any evidence indicating a relationship between Debtor and the pre-petition foreclosing creditor.

In opposition to Trustee's motion, Debtor contends there is no cause to dismiss, and Trustee has failed to show cause. Doc. #38. Debtor argues that Trustee's failure to obtain disinterested counsel willing to prosecute an avoidance action under 11 U.S.C. § 548 "reflects a feature not a bug of the bankruptcy system: a case that no disinterested counsel is willing to prosecute is likely a case better not prosecuted." Response ¶ 13, Doc. #38. Debtor also highlights that this case was filed almost two years ago and there are four creditors with filed claims.

Section 707(a) of the Bankruptcy Code allows the court to dismiss a chapter 7 case for cause. 11 U.S.C. § 707(a). Though the statute provides three examples of cause, the list is illustrative. Deglin v. Keobapha (In re Keobapha), 279 B.R. 49, 51 (Bankr. D. Conn. 2002). Dismissal under § 707(a) allows the bankruptcy court to "consider all of the facts and circumstances surrounding the debtor's filing of the bankruptcy petition, including the reality of the debtor's financial condition." Perlin v. Hitachi Cap. Am. Corp. (In re Perlin), 497 F.3d 364, 375 (3d Cir. 2007). However, dismissal under § 707(a) "should be utilized only in 'egregious cases that entail concealed or misrepresented assets and/or sources of income, lavish lifestyles, and intention to avoid a large single debt based upon conduct akin to fraud, misconduct or gross negligence.'" Id. at 374 (quoting In re Zick, 931 F.2d 1124, 1129 (6th Cir. 1991)).

The Ninth Circuit has adopted a two-part inquiry for dismissal under § 707(a). Sherman v. SEC (In re Sherman), 491 F.3d 948, 970 (9th Cir. 2007). First, the court considers "whether the circumstances asserted to constitute 'cause' are contemplated by any specific Code provision applicable to Chapter 7 petitions."

Id. (citations and quotations omitted). "If the asserted 'cause' is contemplated by a specific Code provision, then it does not constitute 'cause' under § 707(a)[,]" and dismissal is inappropriate. Id. However, if "the asserted 'cause' is not contemplated by a specific Code provision, then [the bankruptcy court] must further consider whether the circumstances asserted otherwise meet the criteria for 'cause'" to dismiss under § 707(a). Id.

Here, the circumstances that Trustee asserts constitute "cause" to dismiss Debtor's chapter 7 bankruptcy case under § 707(a) are contemplated by 11 U.S.C. § 548. Section 548 gives the chapter 7 trustee the power to avoid certain pre-petition transfers. 11 U.S.C. § 548(a). If Debtor did in fact engage in the type of conduct alleged by Trustee to support dismissal of Debtor's bankruptcy case, the appropriate vehicle for dealing with such misconduct, as Trustee acknowledges, is § 548. Trustee seeks dismissal instead of prosecuting a § 548 claim because Debtor's bankruptcy estate does not have enough money to fund prosecution of a § 548 claim and Trustee cannot find anyone to prosecute the § 548 claim on a contingency fee basis.

Because a specific section of the Bankruptcy Code provides an appropriate vehicle for dealing with the conduct asserted by Trustee to support dismissal, there is no "cause" to dismiss Debtor's bankruptcy petition under the Ninth Circuit authority of Sherman. As the Ninth Circuit stated in Sherman, "[t]o respect the complex statutory scheme that Congress has created to deal with malfeasance associated with bankruptcy petitions, we are loath to hold that a factor constitutes 'cause' unless the Bankruptcy Code regime is incapable of righting wrongs of the kind alleged." Sherman, 491 F.3d at 974.

Accordingly, this motion will be DENIED.

8. 21-11624-A-7 **IN RE: ROBERTO FLORES**
JES-1

MOTION TO SELL
10-6-2021 [22]

JAMES SALVEN/MV
DAVID JENKINS/ATTY. FOR DBT.

TENTATIVE RULING: This matter will proceed as scheduled for higher and better offers.

DISPOSITION: Granted.

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

This motion was set for hearing on at least 28 days' notice pursuant to Local Rule of Practice ("LBR") 9014-1(f)(1) and will proceed as scheduled for higher and better offers. The failure of creditors, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Therefore, the defaults of the above-mentioned parties in interest are entered. Upon default, factual allegations will be taken as true (except those relating to amount of damages). Televideo Sys., Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process

requires a moving party make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

James Salven ("Trustee"), the chapter 7 trustee of the bankruptcy estate of Roberto Flores ("Debtor"), moves the court pursuant to 11 U.S.C. § 363 for an order authorizing the sale of the bankruptcy estate's interest in a 2016 Chevrolet Colorado VIN 1GCHSCE35G1137117 (the "Vehicle") to Debtor for a net to the estate of $2,000, subject to all liens and encumbrances on the Vehicle and subject to higher and better bids at the hearing. Doc. #22. Pursuant to 11 U.S.C. § 363(b)(1), the trustee, after notice and a hearing, may "use, sell, or lease, other than in the ordinary course of business, property of the estate." Proposed sales under § 363(b) are reviewed to determine whether they are: (1) in the best interests of the estate resulting from a fair and reasonable price; (2) supported by a valid business judgment; and (3) proposed in good faith. In re Alaska Fishing Adventure, LLC, 594 B.R. 883, 887 (Bankr. D. Alaska 2018) (citing 240 N. Brand Partners, Ltd. v. Colony GFP Partners, L.P. (In re 240 N. Brand Partners, Ltd.), 200 B.R. 653, 659 (B.A.P. 9th Cir. 1996)). "In the context of sales of estate property under § 363, a bankruptcy court 'should determine only whether the trustee's judgment [is] reasonable and whether a sound business justification exists supporting the sale and its terms.'" Alaska Fishing Adventure, 594 B.R. at 889 (quoting 3 COLLIER ON BANKRUPTCY ¶ 363.02[4] (Richard Levin & Henry J. Sommer eds., 16th ed.)). "[T]he trustee's business judgment is to be given great judicial deference." Id. at 889-90 (quoting In re Psychometric Sys., Inc., 367 B.R. 670, 674 (Bankr. D. Colo. 2007)).

Trustee believes that approval of the sale on the terms set forth in the motion is in the best interests of creditors and the estate resulting from a fair and reasonable price. Decl. of Tr., Doc. #24. Trustee's proposed sale to Debtor is made in consideration of the full and fair market value of the Vehicle. Doc. #24. The Vehicle is subject to a lien by Capital One Auto Finance for $11,388.73, and the proposed sale is subject to all liens and encumbrances on the Vehicle. Id. Trustee values the Vehicle at approximately $13,388.73, and, after deducting the lien of Capital One Auto Finance, the purchase price of $2,000 is reasonable. Id. The sale is subject to overbid at the hearing. Doc. #24. The court recognizes that no commission will need to be paid because the sale is to Debtor.

It appears that the sale of the estate's interest in the Vehicle is in the best interests of the estate, the Vehicle will be sold for a fair and reasonable price, and the sale is supported by a valid business judgment and proposed in good faith.

Accordingly, subject to overbid offers made at the hearing, the court is inclined to GRANT Trustee's motion and authorize the sale of the estate's interest in the Vehicle to Debtor on the terms set forth in the motion.

9. 18-14546-A-7 **IN RE: LANE ANDERSON**
RJM-1

OBJECTION TO CLAIM OF PABLO MERCADO & ASSOCIATES, LLC, CLAIM NUMBER 13
9-15-2021 [106]

FRANCES MURILLO/MV
SCOTT LYONS/ATTY. FOR DBT.
RICK MORIN/ATTY. FOR MV.
ORDER, DOC. #111

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

DISPOSITION: Resolved by stipulation.

NO ORDER REQUIRED.

The motion was resolved by stipulation and order entered on October 25, 2021. Doc. #111.

10. 21-11047-A-7 **IN RE: KARMJIT SINGH AND RUPINDERPAL KAUR**
PBB-2

MOTION TO COMPEL ABANDONMENT
10-25-2021 [38]

RUPINDERPAL KAUR/MV
PETER BUNTING/ATTY. FOR DBT.

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Granted.

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

This motion was filed and served on at least 14 days' notice prior to the hearing date pursuant to Local Rule of Practice ("LBR") 9014-1(f)(2) and will proceed as scheduled. Unless opposition is presented at the hearing, the court intends to enter the respondents' defaults and grant the motion. If opposition is presented at the hearing, the court will consider the opposition and whether further hearing is proper pursuant to LBR 9014-1(f)(2). The court will issue an order if a further hearing is necessary.

Karmjit Singh and Rupinderpal Kaur (together, "Debtors"), the chapter 7 debtors in this case, move the court to order the chapter 7 trustee to abandon property of the estate known as the residential real property located at 7313 West Roberts Avenue, Fresno, California 93723 (the "Property"). Doc. #38. Debtors assert that they have no non-exempt equity in the Property and the Property therefore has no value to the bankruptcy estate. Doc. #38.

11 U.S.C. § 554(b) permits the court, on request of a party in interest and after notice and a hearing, to order the trustee to abandon property that is burdensome to the estate or of inconsequential value and benefit to the estate. Vu v. Kendall (In re Vu), 245 B.R. 644, 647 (B.A.P. 9th Cir. 2000). To grant a motion to abandon property, the bankruptcy court must find either that the property is (1) burdensome to the estate or (2) of inconsequential value and inconsequential benefit to the estate. Id. (citing In re K.C. Machine & Tool Co., 816 F.2d 238, 245 (6th Cir. 1987). However, "an order compelling abandonment [under § 554(b)] is the exception, not the rule. Abandonment should only be compelled in order to help the creditors by assuring some benefit in the administration of each asset. . . . Absent an attempt by the trustee to churn property worthless to the estate just to increase fees, abandonment should rarely be ordered." Id. (quoting K.C. Machine & Tool Co., 816 F.2d at 246).

Debtors must establish that the Property is of inconsequential value and benefit to the estate. 11 U.S.C. § 554(b); Vu, 245 B.R. at 647. Debtors scheduled the Property with a value of $544,000 and assert it is now worth $600,000. Decl. of Karmjit Singh, Doc. #40. The Property is encumbered by a first deed of trust held by Wells Fargo Home Mortgage totaling $300,924. Am. Schedule D, Doc. #8; Singh Decl., Doc. #40. Under California Civil Procedure Code § 704.730, Debtors claimed a $300,000.00 exemption in the Property and no objections to that claim of exemption have been made. Schedule C, Doc. #1; Decl., Doc. #40. The court finds that Debtors have met their burden of establishing by a preponderance of the evidence that the Property is of inconsequential value and benefit to the estate.
Accordingly, this motion is GRANTED. The order shall specifically identify the property abandoned.

11. 21-11448-A-7 **IN RE: ATLAS WORLD FOOD & AG, INC.**
BLF-3

MOTION TO SELL
10-18-2021 [41]

IRMA EDMONDS/MV
RILEY WALTER/ATTY. FOR DBT.
LORIS BAKKEN/ATTY. FOR MV.

TENTATIVE RULING: This matter will proceed as scheduled for higher and better offers.

DISPOSITION: Granted.

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

This motion was set for hearing on at least 28 days' notice pursuant to Local Rule of Practice ("LBR") 9014-1(f)(1) and will proceed as scheduled for higher and better offers. The failure of creditors, the debtor, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Therefore, the defaults of the above-mentioned parties in interest are entered. Upon default, factual allegations will be taken as true (except those relating to amount of damages). Televideo Sys., Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987).

Irma C. Edmonds ("Trustee"), the chapter 7 trustee of the bankruptcy estate of Atlas World Food & Ag Inc. ("Debtor"), moves the court pursuant to 11 U.S.C. § 363 for an order authorizing the sale of the bankruptcy estate's interest in a lawsuit ("Lawsuit") against King Golden State Orchards LLC ("KGSO") to Ben King ("King") for the purchase price of $50,000, subject to higher and better bids at the hearing. Doc. #41.

Pursuant to 11 U.S.C. § 363(b)(1), the trustee, after notice and a hearing, may "use, sell, or lease, other than in the ordinary course of business, property of the estate." Proposed sales under § 363(b) are reviewed to determine whether they are: (1) in the best interests of the estate resulting from a fair and reasonable price; (2) supported by a valid business judgment; and (3) proposed in good faith. In re Alaska Fishing Adventure, LLC, 594 B.R. 883, 887 (Bankr.

D. Alaska 2018) (citing 240 N. Brand Partners, Ltd. v. Colony GFP Partners, L.P. (In re 240 N. Brand Partners, Ltd.), 200 B.R. 653, 659 (B.A.P. 9th Cir. 1996)). "In the context of sales of estate property under § 363, a bankruptcy court 'should determine only whether the trustee's judgment [is] reasonable and whether a sound business justification exists supporting the sale and its terms.'" Alaska Fishing Adventure, 594 B.R. at 889 (quoting 3 COLLIER ON BANKRUPTCY ¶ 363.02[4] (Richard Levin & Henry J. Sommer eds., 16th ed.)). "[T]he trustee's business judgment is to be given great judicial deference." Id. at 889-90 (quoting In re Psychometric Sys., Inc., 367 B.R. 670, 674 (Bankr. D. Colo. 2007)).

Trustee believes that approval of the sale on the terms set forth in the motion is in the best interests of creditors and the estate resulting from a fair and reasonable price. Decl. of Tr., Doc. #44. Trustee investigated the Lawsuit against KGSO and discussed with Debtor's counsel in the Lawsuit as well as a disinterested counsel to determine the viability of the claims in the Lawsuit as well as their potential value for the bankruptcy estate. Tr. Decl., Doc. #44. King is the principal of KGSO and creditor Pacific Gold Agriculture LLC. Doc. #41. Trustee's investigation into the value of the Lawsuit drove Trustee to the conclusion that King's offer to purchase the estate's interest in the Lawsuit for $50,000 is reasonable. Doc. #44. The sale will enable Trustee to collect $50,000 for the estate without the expense, uncertainty, or delay of litigating the Lawsuit. Doc. #44. Trustee contacted a number of possible investors regarding a possible sale of the estate's interest in the Lawsuit but received no other offers. Doc. #44. The sale is subject to overbid at the hearing. Doc. #41. Trustee requests the first overbid to be at least $55,000 with successive bids no less than $1,000. Doc. #41.

It appears that the sale of the estate's interest in the Lawsuit is in the best interests of the estate, the Lawsuit will be sold for a fair and reasonable price, and the sale is supported by a valid business judgment and proposed in good faith.

"[W]hen a sale amounts to an acquisition of a causes of action by a defendant, it must also be analyzed as a compromise." Fitzgerald v. Ninn Worsx SR, Inc. (In re Fitzgerald), 428 B.R. 872, 884 (B.A.P. 9th Cir. 2010). Approval of a compromise must be based upon considerations of fairness and equity. Martin v. Kane (In re A & C Props.), 784 F.2d 1377, 1381 (9th Cir. 1986). The court must consider and balance four factors: (1) the probability of success in the litigation; (2) the difficulties, if any, to be encountered in the matter of collection; (3) the complexity of the litigation involved, and the expense, inconvenience, and delay necessarily attending it; and (4) the paramount interest of the creditors with a proper deference to their reasonable views. Woodson v. Fireman's Fund Ins. Co. (In re Woodson), 839 F.2d 610, 620 (9th Cir. 1988). Trustee's supplemental brief, filed on November 16, 2021, sets forth the analysis under A & C Properties and Woodson. Doc. #47.

It appears from the supplemental briefing that Trustee has considered the standards of A & C Properties and Woodson. Doc. #47. Selling the Lawsuit to King allows Trustee to collect $50,000 for the estate without the expense, uncertainty, or delay of litigating the Lawsuit to completion. There is no certainty that Trustee would prevail in the Lawsuit because the Lawsuit was commenced after the passage of the statute of limitations. Doc. #47. Were the Lawsuit successfully prosecuted, the costs associated with litigation would likely result in a recovery of less than $50,000 for the estate. Id. Trustee believes in her business judgment that the settlement is fair, reasonable, and obtains an economically advantageous result for the estate. Doc. #44. The court concludes that the Woodson factors balance in favor of approving the

compromise, and the compromise is in the best interests of the creditors and the estate.

Accordingly, it appears that the compromise pursuant to Federal Rule of Bankruptcy Procedure 9019 is a reasonable exercise of Trustee's business judgment. The court may give weight to the opinions of the trustee, the parties, and their attorneys. In re Blair, 538 F.2d 849, 851 (9th Cir. 1976). No opposition has been filed. Furthermore, the law favors compromise and not litigation for its own sake. Id.

Accordingly, subject to overbid offers made at the hearing, the court is inclined to GRANT Trustee's motion and authorize the sale of the estate's interest in the Lawsuit to King on the terms set forth in the motion.

12. 21-11860-A-7 **IN RE: KATHERINE MAKOWSKI**
MMJ-1

MOTION FOR RELIEF FROM AUTOMATIC STAY
9-16-2021 [18]

CAPITAL ONE AUTO FINANCE/MV
MARK ZIMMERMAN/ATTY. FOR DBT.
MARJORIE JOHNSON/ATTY. FOR MV.
ORDER, DOC. #30, DISCHARGED 11/8/21

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

DISPOSITION: Dropped from calendar.

NO ORDER REQUIRED.

On September 16, 2021, the movant filed a motion for relief from the automatic stay using docket control number MMJ-1. Doc. #18. On October 13, 2021, the court entered an order denying the motion for relief from automatic stay without prejudice for a noticing deficiency. Doc. #30. On October 14, 2021, the movant filed an amended notice of hearing using the same docket control number as the previously filed motion. Doc. #31. The pleading does not comply with LBR 9014-1(c). Therefore, the notice of hearing will be dropped from calendar.

Because the previous motion for relief from the automatic stay was finally resolved, the movant should have filed a new motion using a new, unique docket control number compliant with LBR 9014-1(d)(1) which states every application, motion, contested matter, or other request for an order shall be comprised of a motion (or other request for relief), notice, evidence, and certificate of service.

Since the motion for relief from the automatic stay was filed, a discharge order has been entered in the case, so there is no automatic stay as to the debtor's interest pursuant to 11 U.S.C. § 362(c)(2)(C). Doc. #39. If another motion for relief from the automatic stay is filed by the movant, that motion should have a new, unique docket control number.

The court urges counsel to review the local rules in order to be compliant in future matters. The rules can be accessed on the court's website at http://www.caeb.uscourts.gov/LocalRules.aspx.

13. 20-11367-A-7 **IN RE: TEMBLOR PETROLEUM COMPANY, LLC**
DMG-4

MOTION TO EXTEND TIME
10-25-2021 [370]

JEFFREY VETTER/MV
LEONARD WELSH/ATTY. FOR DBT.
D. GARDNER/ATTY. FOR MV.

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Granted.

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

This motion was filed and served on at least 14 days' notice prior to the hearing date pursuant to Local Rule of Practice ("LBR") 9014-1(f)(2) and will proceed as scheduled. Unless opposition is presented at the hearing, the court intends to enter the respondents' defaults and grant the motion. If opposition is presented at the hearing, the court will consider the opposition and whether further hearing is proper pursuant to LBR 9014-1(f)(2). The court will issue an order if a further hearing is necessary.

Jeffrey M. Vetter ("Trustee"), the chapter 7 trustee of the bankruptcy estate of Temblor Petroleum Company, LLC ("Debtor"), moves to extend by 90 days from the hearing date of November 17, 2021 the time to assume or reject non-operator interests in various oil and gas leases identified as the "Witter Field" ("Working Interests"). Doc. #370. Ninety days from the hearing date on the motion, November 17, 2021, is February 15, 2022.

Under 11 U.S.C. § 365(d)(1), in a chapter 7 bankruptcy case, an executory contract is deemed rejected if not assumed or rejected within 60 days from the order for relief unless the court, for cause, extends the time to assume or reject within that 60-day period. Debtor's bankruptcy case was converted to chapter 7 on May 5, 2021. Doc. #328. Ninety days from the conversion date was July 4, 2021. However, a prior request to extend the deadline to assume executory contracts and leases was granted on August 13, 2021, which set October 26, 2021 as the date by which Trustee could assume or reject executory contracts and leases. Order, Doc. #369. Trustee timely filed this motion on October 25, 2021. Fed. R. Bankr. P. 9006(a)(1); Southwest Aircraft Servs., Inc. v. City of Long Beach (In re Southwest Aircraft Servs., Inc.), 831 F.2d 848, 853 (9th Cir. 1987); Carrico v. Tompkins (In re Tompkins), 95 B.R. 722, 724 (B.A.P. 9th Cir. 1989).

The Working Interests are among the assets of Debtor's estate. After interviewing representatives of Debtor and representatives from the entity employed in the chapter 11 case to market the Working Interests, Trustee has determined that Trustee should attempt to sell the Working Interests.

Doc. #372. Trustee has not yet determined the value or ability to sell the Working Interests and seeks to preserve the rights of the chapter 7 estate in the Working Interests by extending the time to assume or reject the Working Interests for 90 days from the date of the hearing on the motion. Id.

The court finds that cause exists to extend the period to assume or reject the Working Interests. Trustee needs additional time to evaluate the Working Interests. The deadline for Trustee to assume or reject the Working Interests will be extended to February 15, 2022.

14. 20-13970-A-7 **IN RE: IDA GLEASON**
THA-2

MOTION TO COMPROMISE CONTROVERSY/APPROVE SETTLEMENT AGREEMENT
WITH MICHAEL IRVIN SMITH AND DENISE CHRISTINE ISAAK
10-20-2021 [29]

PETER FEAR/MV
SUSAN HEMB/ATTY. FOR DBT.
THOMAS ARMSTRONG/ATTY. FOR MV.

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

DISPOSITION: Granted.

ORDER: The Moving Party shall submit a proposed order in conformance with the ruling below.

This motion was set for hearing on at least 28 days' notice pursuant to Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of creditors, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument. Upon default, factual allegations will be taken as true (except those relating to amount of damages). Televideo Sys., Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires a moving party make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

Peter L. Fear ("Trustee"), the chapter 7 trustee of the bankruptcy estate of Ida Gleason ("Debtor"), moves the court for an order pursuant to Federal Rule of Bankruptcy Procedure 9019, approving the compromise of all claims and disputes arising in adversary proceeding numbers 2021-1033 and 2021-1034 against Michael Irvin Smith ("Smith") and Denise Christine Isaak ("Isaak"), respectively. Doc. #29.

Trustee commenced the adversary proceedings against Smith and Isaak seeking to recover certain interests in real properties transferred by Debtor to Smith and Isaak. Lis pendens were recorded against the real properties and Smith and Isaak timely filed their answers. Trustee, Isaak, and Smith have crafted a settlement of the adversary proceedings. The settlement agreement provides that Smith and Isaak will provide a total of $17,500 to Trustee for the benefit of the bankruptcy estate in exchange for dismissal of the adversary proceedings,

withdrawal of the recorded lis pendens, mutual releases, and waivers of unknown claims in accordance with California Civil Code § 1542. Doc. #31. Trustee is in receipt of the $17,500. Doc. #31.

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

It appears from the moving papers that Trustee has considered the standards of A & C Properties and Woodson. Doc. #31. While Trustee believes he could prevail in the adversary proceedings, any litigation would have some uncertainty and Isaak and Smith full-heartedly assert defenses that would prevent any recovery by Trustee. Doc. #31. The timely filed claims in the bankruptcy case total $14,625 and attorney fees and costs at this time are minimal, so Trustee does not believe that continued litigation is justified. Id. Trustee believes settlement outweighs any potential gain in continuing with the adversary proceedings. Id. Trustee believes in his business judgment that the settlement is fair, reasonable, and obtains an economically advantageous result for the estate. Doc. #31. The court concludes that the Woodson factors balance in favor of approving the compromise, and the compromise is in the best interests of the creditors and the estate.

Accordingly, it appears that the compromise pursuant to Federal Rule of Bankruptcy Procedure 9019 is a reasonable exercise of Trustee's business judgment. The court may give weight to the opinions of the trustee, the parties, and their attorneys. In re Blair, 538 F.2d 849, 851 (9th Cir. 1976). No opposition has been filed. Furthermore, the law favors compromise and not litigation for its own sake. Id.

Accordingly, the motion is GRANTED, and the settlement between Trustee, Smith, and Issak is approved.

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

15. 21-12282-A-7 **IN RE: TINA LOVE**
JHW-1

MOTION FOR RELIEF FROM AUTOMATIC STAY
10-13-2021 [12]

DAIMLER TRUST/MV
LAYNE HAYDEN/ATTY. FOR DBT.
JENNIFER WANG/ATTY. FOR MV.

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

DISPOSITION: Granted.

ORDER: The Moving Party shall submit a proposed order in conformance with the ruling below.

This motion was set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of creditors, the debtor, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument. Upon default, factual allegations will be taken as true (except those relating to amount of damages). Televideo Sys., Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires a movant make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

The movant, Daimler Trust ("Movant"), seeks relief from the automatic stay under 11 U.S.C. § 362(d)(1) with respect to a 2019 Mercedes-Benz GLC300W4("Vehicle"). Doc. #12.

11 U.S.C. § 362(d)(1) allows the court to grant relief from the stay for cause, including the lack of adequate protection. "Because there is no clear definition of what constitutes 'cause,' discretionary relief from the stay must be determined on a case by case basis." In re Mac Donald, 755 F.2d 715, 717 (9th Cir. 1985).

After review of the included evidence, the court finds that "cause" exists to lift the stay because the debtor has failed to make at least two complete pre- and post-petition payments. Movant has produced evidence that the debtor is delinquent by at least $1,110.83 including late fees of $27.09. Doc. #15. The debtor's possession of the Vehicle stems from a lease agreement with Movant that matures on December 5, 2023, according to which the debtor does not own the Vehicle. Doc. #16.

Accordingly, the motion will be granted pursuant to 11 U.S.C. § 362(d)(1) to permit Movant to gain immediate possession of the Vehicle pursuant to applicable law. No other relief is awarded. According to the debtor's Statement of Intention, the Vehicle will be surrendered. Doc. #1

The 14-day stay of Fed. R. Bankr. P. 4001(a)(3) will be ordered waived because the debtor has failed to make at least two pre- and post-petition payments to Movant in accordance with the lease agreement.

16. 21-11483-A-7 **IN RE: CARLOS/KIMBERLY JACQUES**
PSC-1

MOTION TO AVOID LIEN OF CITIBANK N.A.
9-20-2021 [19]

KIMBERLY JACQUES/MV
PATRICIA CARRILLO/ATTY. FOR DBT.

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

DISPOSITION: Denied without prejudice.

ORDER: The court will issue an order.

This motion will be DENIED WITHOUT PREJUDICE.

There are a number of errors to be addressed before the court can grant the relief requested in the motion. To start, the motion does not comply with Local Rule of Practice ("LBR") 9004-2(d), which requires motions, declarations, and exhibits to be filed as separate documents. This motion was filed as a single 5-page document that included the motion, the declaration of the debtor, and a single unauthenticated exhibit. Doc. #19. Additionally, the Notice of Hearing filed in connection with this motion does not comply with LBR 9014-1(d)(3)(B)(iii), which requires the notice to advise respondents that they can determine whether the matter has been resolved without oral argument or whether the court has issued a tentative ruling by viewing the court's website at www.caeb.uscourts.gov after 4:00 p.m. the day before the hearing, and that parties appearing telephonically must view the pre-hearing dispositions prior to the hearing. Separate motions also require separate Docket Control Numbers. LBR 9014-1(c). The court encourages counsel to review the local rules that can be found at http://www.caeb.uscourts.gov/LocalRules.aspx.

Further, service of this motion does not comply with the Federal Rules of Bankruptcy Procedure ("Rule"). The abstract of judgment indicates that the judgment was entered in favor of Citibank N.A., yet the certificate of service shows that service was addressed to "Agent for Service of Process" for Citibank Global Investment Technology Inc. at a New York address. Doc. #22. It is not clear to the court that Citibank N.A. is the same entity as Citibank Global Investment Technology Inc. If the actual lienholder is Citibank N.A., Rule 7004(h) requires service on an insured depository institution to be made by certified mail addressed to an officer of the institution unless the institution has appeared in this bankruptcy case by its attorney. There is no indication that Citibank N.A. has appeared in this bankruptcy case by an attorney, and the motion was not served by certified mail. If the actual entity is Citibank Global Investment Technology Inc., service does not comply with Rule 7004(b)(3). Rule 7004(b)(3) requires service on a domestic or foreign corporation to be made by first class mail postage prepaid to an officer, a managing or general agent, or to any other authorized agent. Here, service was mailed to the mailing address for Citibank Global Investment Technology Inc. but not addressed to an officer or authorized agent. To the extent service was sought to be made on the agent for service of process for Citibank Global Investment Technology Inc., the address listed in the proof of service is the address for Citibank Global Investment Technology Inc., and not the address for the agent for service of process. Doc. #22.

Finally, this motion was filed with a second motion to avoid a judicial lien. When seeking to avoid multiple judicial liens, the liens are to be avoided in reverse order of priority. Although the motion itself states that the abstract was recorded in Fresno County on January 31, 2021, there is no evidence demonstrating when and where the abstract of judgment was recorded because neither the declaration nor the attached abstract of judgment provide evidence of when and where the abstract of judgement was recorded. A statement made in a motion is not evidence.

For these reasons, this motion is DENIED WITHOUT PREJUDICE.

17. 21-11483-A-7 **IN RE: CARLOS/KIMBERLY JACQUES**
PSC-1

MOTION TO AVOID LIEN OF EQUABLE ASCENT FINANCIAL LLC
9-20-2021 [23]

KIMBERLY JACQUES/MV
PATRICIA CARRILLO/ATTY. FOR DBT.

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

DISPOSITION: Denied without prejudice.

ORDER: The court will issue an order.

This motion will be DENIED WITHOUT PREJUDICE.

There are a number of errors to be addressed before the court can grant the relief requested in the motion. To start, the motion does not comply with Local Rule of Practice ("LBR") 9004-2(d), which requires motions, declarations, and exhibits to be filed as separate documents. This motion was filed as a single 5-page document that included the motion, the declaration of the debtor, and a single unauthenticated exhibit. Doc. #23. Additionally, the Notice of Hearing filed in connection with this motion does not comply with LBR 9014-1(d)(3)(B)(iii), which requires the notice to advise respondents that they can determine whether the matter has been resolved without oral argument or whether the court has issued a tentative ruling by viewing the court's website at www.caeb.uscourts.gov after 4:00 p.m. the day before the hearing, and that parties appearing telephonically must view the pre-hearing dispositions prior to the hearing. Separate motions also require separate Docket Control Numbers. LBR 9014-1(c). The court encourages counsel to review the local rules that can be found at http://www.caeb.uscourts.gov/LocalRules.aspx.

Further, service of this motion does not comply with the Federal Rules of Bankruptcy Procedure ("Rule"). Rule 7004(b)(3) requires service on a domestic or foreign corporation to be made by first class mail postage prepaid to an officer, a managing or general agent, or to any other authorized agent. The abstract of judgment indicates that while the named plaintiff was initially Equable Ascent Financial LLC, the abstract names the judgment creditor as Cavalry SPV I LLC. Doc. #23. The certificate of service shows that service was addressed to "Agent for Service of Process" and mailed to the Illinois address for Equable Ascent Financial LLC. Doc. #26. It is not clear to the court that Equable Ascent Financial LLC is the actual lien holder and the appropriate entity to be served. Even if Equable Ascent Financial LLC were the correct entity, service was mailed to the mailing address for Equable Ascent Financial LLC but not addressed to an officer or authorized agent. To the extent service was sought to be made on the agent for service of process for Equable Ascent Financial LLC, the address listed in the proof of service is the address for Equable Ascent Financial LLC, and not the address for the agent for service of process. Doc. #26.

Finally, the motion was filed with a second motion to avoid a judicial lien. When seeking to avoid multiple judicial liens, the liens are to be avoided in reverse order of priority. Although the motion itself states that the abstract was recorded in Fresno County on December 23, 2020, there is no evidence demonstrating when and where the abstract of judgment was recorded because neither the declaration nor the attached abstract of judgment provide evidence of when and where the abstract of judgement was recorded. A statement made in a motion is not evidence.

For these reasons, this motion is DENIED WITHOUT PREJUDICE.

18. 17-12799-A-7 **IN RE: ANGELA ADAMS**
ELP-1

MOTION FOR RELIEF FROM AUTOMATIC STAY
10-13-2021 [110]

U.S. BANK TRUST NATIONAL ASSOCIATION/MV
ROBERT WILLIAMS/ATTY. FOR DBT.
ERICA LOFTIS/ATTY. FOR MV.

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

DISPOSITION: Granted.

ORDER: The Moving Party shall submit a proposed order in conformance with the ruling below.

This motion was set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of creditors, the debtor, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument. Upon default, factual allegations will be taken as true (except those relating to amount of damages). Televideo Sys., Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires a movant make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

As a procedural matter, the Notice of Hearing filed in connection with this motion does not comply with LBR 9014-1(d)(3)(B)(i), which requires the notice include the names and addresses of persons who must be served with any opposition. Doc. #111. The court encourages counsel for the moving party to review the local rules to ensure compliance in future matters or those matters may be denied without prejudice for failure to comply with the local rules.

The movant, U.S. Bank Trust National Association ("Movant"), seeks relief from the automatic stay under 11 U.S.C. § 362(d)(1) and (d)(2) with respect to real property located at 1752 Oswell Street, Bakersfield, CA ("Property"). Doc. #110.

11 U.S.C. § 362(d)(1) allows the court to grant relief from the stay for cause, including the lack of adequate protection. "Because there is no clear

definition of what constitutes 'cause,' discretionary relief from the stay must be determined on a case by case basis." In re Mac Donald, 755 F.2d 715, 717 (9th Cir. 1985).

11 U.S.C. § 362(d)(2) allows the court to grant relief from the stay if the debtor does not have any equity in such property and such property is not necessary to an effective reorganization.

After review of the included evidence, the court finds that "cause" exists to lift the stay because the debtor has failed to make at least 10 complete post-petition payments. Movant has produced evidence that the debtor is delinquent by at least $11,006.69 and the entire balance of $230,784.97 is due. Doc. #112.

The court also finds that the debtor does not have any equity in the Property and the Property is not necessary to an effective reorganization because the debtor is in chapter 7. The property is valued at $202,240.00 and the debtor owes $230,784.97. Doc. #112.

Accordingly, the motion will be granted pursuant to 11 U.S.C. § 362(d)(1) and (d)(2) to permit Movant to dispose of its collateral pursuant to applicable law and to use the proceeds from its disposition to satisfy its claim. No other relief is awarded.

The order shall also provide that the bankruptcy proceeding has been finalized for purposes of California Civil Code § 2923.5.

The 14-day stay of Fed. R. Bankr. P. 4001(a)(3) will be ordered waived because the debtor has failed to make at least 10 post-petition payments to Movant and the debtor has no equity in the Property.

19. 21-12299-A-7 **IN RE: DANIEL VARGAS**
SLL-1

MOTION TO COMPEL ABANDONMENT
10-4-2021 [12]

DANIEL VARGAS/MV
STEPHEN LABIAK/ATTY. FOR DBT.

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

DISPOSITION: Granted.

ORDER: The Moving Party shall submit a proposed order in conformance with the ruling below.

This motion was set for hearing on at least 28 days' notice pursuant to Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of creditors, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument. Upon default, factual allegations will be taken as true (except those relating to amount of damages).

Televideo Sys., Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires a moving party make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

Daniel Vargas ("Debtor"), the chapter 7 debtor in this case, moves the court to order the chapter 7 trustee to abandon property of the estate identified as one cell phone with a value of $150 and a business checking account with Central Valley Community Bank with a value of $1,000 (collectively, the "Property"). Doc. #12. Debtor asserts that the Property is of inconsequential value and benefit to the estate. Doc. #12. No opposition has been filed in response to this motion.

11 U.S.C. § 554(b) permits the court, on request of a party in interest and after notice and a hearing, to order the trustee to abandon property that is burdensome to the estate or of inconsequential value and benefit to the estate. Vu v. Kendall (In re Vu), 245 B.R. 644, 647 (B.A.P. 9th Cir. 2000). To grant a motion to abandon property, the bankruptcy court must find either that the property is (1) burdensome to the estate or (2) of inconsequential value and inconsequential benefit to the estate. Id. (citing In re K.C. Machine & Tool Co., 816 F.2d 238, 245 (6th Cir. 1987). However, "an order compelling abandonment [under § 554(b)] is the exception, not the rule. Abandonment should only be compelled in order to help the creditors by assuring some benefit in the administration of each asset. . . . Absent an attempt by the trustee to churn property worthless to the estate just to increase fees, abandonment should rarely be ordered." Id. (quoting K.C. Machine & Tool Co., 816 F.2d at 246).

Debtor must establish that the Property is of inconsequential value and benefit to the estate. 11 U.S.C. § 554(b); Vu, 245 B.R. at 647. Debtor scheduled the Property with a total value of $1,500. Schedule A/B, Doc. #1. Under California Civil Procedure Code § 703.140, Debtor fully exempted the Property. Schedule C, Doc. #1. The court finds that Debtor met his burden of establishing by a preponderance of the evidence that the Property is of inconsequential value and benefit to the estate.

Accordingly, this motion is GRANTED. The order shall specifically identify the property abandoned.

20. 21-12062-A-7 **IN RE: LORINDA SANCHEZ**
PFT-1

OPPOSITION RE: TRUSTEE'S MOTION TO DISMISS FOR FAILURE TO APPEAR AT SEC. 341(A) MEETING OF CREDITORS
10-7-2021 [16]

NICHOLAS WAJDA/ATTY. FOR DBT.

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

DISPOSITION: Conditionally denied.

ORDER: The court will issue the order.

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

The debtor shall attend the meeting of creditors rescheduled for November 24, 2021 at 3:00 p.m. If the debtor fails to do so, the chapter 7 trustee may file

a declaration with a proposed order and the case may be dismissed without a further hearing.

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