



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

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

DAY: MONDAY
DATE: DECEMBER 2, 2024
CALENDAR: 10:30 A.M. CHAPTER 7 CASES

Unless otherwise ordered, all matters before Chief Judge Fredrick E. Clement shall be simultaneously: (1) **IN PERSON** at Sacramento Courtroom No. 28, (2) via **ZOOMGOV VIDEO**, (3) via **ZOOMGOV TELEPHONE**, and (4) via **COURTCALL**.

You may choose any of these options unless otherwise ordered or stated below.

All parties who wish to appear at a hearing remotely must sign up by 4:00 p.m. **one business** day prior to the hearing.

Information regarding how to sign up can be found on the **Remote Appearances** page of our website at:

<https://www.caeb.uscourts.gov/Calendar/RemoteAppearances>.

Each party who has signed up will receive a Zoom link or phone number, meeting I.D., and password via e-mail.

If the deadline to sign up has passed, parties who wish to appear remotely must contact the Courtroom Deputy for the Department holding the hearing.

Please also note the following:

- Parties in interest may connect to the video or audio feed free of charge and should select which method they will use to appear when signing up.
- Members of the public and the press appearing by **ZoomGov** may only listen in to the hearing using the zoom telephone number. Video appearances are not permitted.
- Members of the public and the press may not listen in to the trials or evidentiary hearings, though they may appear in person in most instances.

To appear remotely for law and motion or status conference proceedings, you must comply with the following guidelines and procedures:

- Review the [Pre-Hearing Dispositions](#) prior to appearing at the hearing.
- Review the court's [Zoom Procedures and Guidelines](#) for these, and additional instructions.
- Parties appearing via CourtCall are encouraged to review the [CourtCall Appearance Information](#).

If you are appearing by ZoomGov phone or video, please join at least 10 minutes prior to the start of the calendar and wait with your microphone muted until the matter is called.

Unauthorized Recording is Prohibited: Any recording of a court proceeding held by video or teleconference, including screen shots or other audio or visual copying of a hearing is prohibited. Violation may result in sanctions, including removal of court-issued media credentials, denial of entry to future hearings, or any other sanctions deemed necessary by the court. For more information on photographing, recording, or broadcasting Judicial Proceedings, please refer to Local Rule 173(a) of the United States District Court for the Eastern District of California.

PRE-HEARING DISPOSITION INSTRUCTIONS

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.

1. [24-22702](#)-A-7 **IN RE: DANIEL/GLORIA JOHANSEN**
[KLG-1](#)

MOTION TO DISMISS CASE
10-14-2024 [\[19\]](#)

ARETE KOSTOPOULOS/ATTY. FOR DBT.
TRUSTEE NON-OPPOSITION

Final Ruling

The hearing on this motion will be continued to January 6, 2025, at 10:30 a.m. The motion to dismiss is not supported by any evidence as required. LBR 9014-1(d)(3)(D). The hearing will be continued to allow the debtors to file and serve a declaration, and additional admissible evidence in support of the motion, on all interested parties.

IT IS ORDERED that no later than December 16, 2024, the debtors shall file and serve admissible evidence in support of the motion, on all interested parties.

2. [24-23916](#)-A-7 **IN RE: CHRISTINE OLSON**
[PLG-1](#)

MOTION TO CONVERT CASE FROM CHAPTER 7 TO CHAPTER 13
11-5-2024 [\[18\]](#)

RABIN POURNAZARIAN/ATTY. FOR DBT.

Final Ruling

Motion: Motion for Relief from the Automatic Stay

Disposition: Denied without prejudice

Order: Civil minute order

NOTICE

"The due process requirements for notice are relatively minimal; they merely require notice 'reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections.'" *In re 701 Mariposa Project, LLC*, 514 B.R. 10, 15 (B.A.P. 9th Cir. 2014) (citing *Mullane v. Cent. Hanover Bank & Trust Co.*, 339 U.S. 306, 314, 70 S.Ct. 652, 94 L.Ed. 865 (1950)).

B) Notice.

- (i) The notice of hearing shall advise potential respondents whether and when written opposition must be filed, the deadline for filing and serving it, and the names and addresses of the persons who must be served with any opposition.

- (ii) If written opposition is required, the notice of hearing shall advise potential respondents that the failure to file timely written opposition may result in the motion being resolved without oral argument and the striking of untimely written opposition.
- (iii) The notice of hearing shall advise respondents that they can determine whether the matter has been resolved without oral argument or whether the court has issued a tentative ruling, and can view [any] pre-hearing dispositions by checking 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.
- (iv) When notice of a motion is served without the motion or supporting papers, the notice of hearing shall also succinctly and sufficiently describe the nature of the relief being requested and set forth the essential facts necessary for a party to determine whether to oppose the motion. However, the motion and supporting papers shall be served on those parties who have requested special notice and those who are directly affected by the requested relief.

LBR 9014-1(B).

The notice of motion in this case fails to comply with LBR 9014-1(B)(i), (iii). The notice states that the motion is brought pursuant to LBR 9014-1(f)(1), which requires written opposition by the respondent(s). However, the notice also states that no written opposition to the motion is required. Notice of Motion, ECF No. 19. The court will not presume the conclusion reached by any respondent regarding the need to file written opposition as required by LBR 9014-1(f)(1) and the conflicting language contained in the notice. Accordingly, the motion will be denied without prejudice.

CIVIL MINUTE ORDER

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

The debtors' motion has been presented to the court. Given the procedural deficiencies discussed by the court in its ruling,

IT IS ORDERED that the motion is denied without prejudice.

3. [24-24124](#)-A-7 **IN RE: JOSEPH PRACH**
[NF-1](#)

TRUSTEE'S MOTION TO DISMISS FOR FAILURE TO APPEAR AT SEC.
341(A) MEETING OF CREDITORS
10-29-2024 [\[15\]](#)

STEPHEN REYNOLDS/ATTY. FOR DBT.
RESPONSIVE PLEADING

Tentative Ruling

Motion: Dismiss Case and Extend Trustee's Deadlines

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

Disposition: Conditionally denied in part, granted in part

Order: Civil minute order

DISMISSAL

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

The debtor's health precluded his attendance at the originally scheduled meeting of creditors. By mutual agreement the trustee and debtor's counsel continued the meeting of creditors until October 29, 2024, at 8:00 a.m. Declaration of Stephen Reynolds, ECF No. 20. Mr. Reynolds also states that he was late to the continued meeting and as such, the trustee was unable to conduct the meeting. *Id.*

The trustee has continued the meeting until December 4, 2024, at 8:00 a.m. via Zoom.

In this case, the debtor has failed to appear at two scheduled meetings of creditors required by 11 U.S.C. § 341. The court will not dismiss the case on condition that the debtor attend the next creditors' meeting. But if the debtor does not appear at the continued meeting of creditors on December 4, 2024, at 8:00 a.m. the case will be dismissed on trustee's declaration without further notice or hearing.

EXTENSION OF DEADLINES

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

CIVIL MINUTE ORDER

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

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

IT IS ORDERED that the Motion to Dismiss is denied on the condition that the debtor attend the next continued § 341(a) meeting of creditors scheduled for December 4, 2024, at 8:00 a.m. But if the debtor does not appear at this continued meeting, the case will be dismissed on trustee's declaration without further notice or hearing.

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

4. [22-22563](#)-A-7 **IN RE: ZELDA TROUTMAN** [GMR-5](#)

AMENDED MOTION FOR COMPENSATION FOR GEOFFREY RICHARDS,
CHAPTER 7 TRUSTEE(S)
10-28-2024 [[181](#)]

MARK SHMORGON/ATTY. FOR DBT.
LORIS BAKKEN/ATTY. FOR MV.
DEBTOR DISCHARGED: 03/15/23

Final Ruling

Application: Allowance of Compensation and Expense Reimbursement

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

Disposition: Approved

Order: Civil minute order

Compensation: \$20,626.50

Reimbursement of expenses: \$1,101.99

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

Chapter 7 trustee Geoffrey Richards seeks an order approving final compensation and reimbursement of expenses in this case. The motion seeks approval of compensation in the amount of \$20,626.50 and reimbursement of expenses in the amount of \$1,101.99.

COMPENSATION AND EXPENSES

A trustee's compensation is considered in accordance with §§ 326(a) and 330(a). In 2005, "Congress removed Chapter 7 trustees from the list of professionals subject to the Section 330(a)(3) factors. . . . [and] introduced a new provision to Section 330 requiring courts to treat the reasonable compensation awarded to trustees as a 'commission, based on Section 326.'" *Matter of JFK Capital Holdings, L.L.C.*, 880 F.3d 747, 752 (5th Cir. 2018) (quoting 11 U.S.C. § 330(a)(7)). "[A] trustee's request for compensation should be presumed reasonable as long as the amount requested does not exceed the statutory maximum calculated pursuant to § 326. [A]bsent extraordinary circumstances, bankruptcy courts should approve chapter 7, 12 and 13 trustee fees without any significant additional review. If the court has found that extraordinary circumstances are present, only then does it become appropriate to conduct a further inquiry to determine whether there exists a rational relationship between the compensation requested and the services rendered." *In re Ruiz*, 541 B.R. 892, 896 (B.A.P. 9th Cir. 2015) (second alteration in original) (citations omitted) (internal quotation marks omitted).

In short, § 330(a)(7) "treats the commission as a fixed percentage, using Section 326 not only as a maximum but as a baseline presumption for reasonableness in each case." *Matter of JFK Capital Holdings*, 880 F.3d at 755. This provision "is best understood as a directive to simply apply the formula of § 362 in every case." *Id.* at 753-54. The "reduction or denial of compensation . . . should be a rare event" occurring only when truly exceptional circumstances are present. *Id.* at 756.

In this Chapter 7 case, the trustee has applied for an allowance of compensation and reimbursement of expenses. The court finds (1) that the compensation requested by the trustee is consistent with 11 U.S.C. § 326(a); (2) that no extraordinary circumstances are present in this case, see *In re Salgado-Nava*, 473 B.R. 911 (B.A.P. 9th Cir. 2012); and (3) that expenses for which reimbursement is sought are actual and necessary.

CIVIL MINUTE ORDER

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

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

The chapter 7 trustee's application for allowance of 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 to the trustee compensation in the amount of \$20,626.50 and reimbursement of expenses in the amount of \$1,101.99.

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. [24-25028](#)-A-7 **IN RE: TROY FINLEY AND TIFFANY MCINTYRE**
[JMC-2](#)

MOTION TO CONFIRM TERMINATION OR ABSENCE OF STAY O.S.T.
11-25-2024 [\[23\]](#)

JOSEPH CANNING/ATTY. FOR MV.

Tentative Ruling

Motion: Confirm Absence of Automatic Stay

Notice: LBR 9014-1(f)(3); Order shortening time, no written opposition required

Disposition: Granted

Order: Civil minute order

Petition filed: November 5, 2024

Subject: 2122 Napa Street, Vallejo, California

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).

FACTS

Creditor Courtney Beck seeks an order under 11 U.S.C. § 362(c)(4)(A)(ii). The movant is the owner of the subject property, and the debtors currently occupy the property. The movant has filed an unlawful detainer proceeding in the Superior Court of California, Solano County. The legal proceeding has been continued to December 4, 2024, pending the results of the hearing on this motion.

Prior Bankruptcy Filings/Dismissals

The instant case was filed by debtors Troy Lamont Finley, Sr., and Tiffany Angelique McIntyre on November 5, 2024.

The debtors have each filed multiple bankruptcy cases during the past 12 months.

Troy Lamont Finley, Sr. has filed 5 bankruptcy cases in the Eastern District, which have been dismissed, within the last 12 months. The

most recently filed cases are as follows: (1) Case No. 24-22375, filed May 30, 2024, and dismissed June 17, 2024; and (2) Case No. 24-22720, filed June 24, 2024, and dismissed July 12, 2024.

Similarly, Tiffany Angelique McIntyre has filed 2 bankruptcy cases in the Eastern District, which have been dismissed, within the last 12 months as follows: (1) Case No. 24-20904, filed March 6, 2024, and dismissed May 29, 2024; and (2) Case No. 24-24751, filed October 22, 2024, and dismissed November 12, 2024.

The serial bankruptcy filings have prevented the movant from recovering possession of the subject property.

CONFIRMATION OF THE STAY'S TERMINATION

If a debtor who files a petition has had two prior bankruptcy cases pending within the preceding one-year period that were dismissed, then the automatic stay does not go into effect upon the filing of the later case. 11 U.S.C. § 362(c)(4)(A)(i). And a party in interest may request an order confirming that no stay is in effect. *Id.* § 362(c)(4)(A)(ii). In this case, the debtors have each had 2 cases pending within the preceding 1-year period that were dismissed. The automatic stay never went into effect upon the filing of the current case.

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.

Courtney Beck's motion to confirm the termination of the stay 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 automatic stay is no longer in effect with respect to the debtors in this case.