

UNITED STATES BANKRUPTCY COURT
Eastern District of California
Honorable Jennifer E. Niemann
Hearing Date: Thursday, December 17, 2020
Place: Department A - Courtroom #11
Fresno, California

ALL APPEARANCES MUST BE TELEPHONIC
(Please see the court's website for instructions.)

Pursuant to District Court General Order 618, no persons are permitted to appear in court unless authorized by order of the court until further notice. All appearances of parties and attorneys shall be telephonic through CourtCall. The contact information for CourtCall to arrange for a phone appearance is: (866) 582-6878.

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. 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.

1. [20-10497](#)-A-13 **IN RE: JOHN/LISA BEVINGTON**

MOTION FOR RELIEF FROM AUTOMATIC STAY, AND/OR
MOTION/APPLICATION FOR ADEQUATE PROTECTION
11-30-2020 [\[57\]](#)

KEYPOINT CREDIT UNION/MV
JEFFREY ROWE/ATTY. FOR DBT.
REILLY WILKINSON/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 hearing.

This motion was filed and served 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.

The movant, Keypoint Credit Union ("Movant"), seeks relief from the automatic stay under 11 U.S.C. § 362(d)(1) and (d)(2) with respect to a 2018 Salem 201BH, VIN No. 4X4TSMV26JE022107 ("RV"). Doc. #57. John Douglas Bevington and Lisa Gaye Bevington (together, "Debtors"), the Chapter 13 debtors in this case, had their Chapter 13 plan confirmed on September 21, 2020 (the "Plan"). Doc. #51. Movant is a Class 3 creditor under the Plan. Plan, Doc. #28.

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).

Paragraph 3.11 of the Plan states that "[u]pon confirmation of the plan, the automatic stay of 11 U.S.C. § 362(a) and the co-debtor stay of 11 U.S.C. § 1301(1) are [] terminated to allow the holder of a Class 3 secured claim to exercise its rights against its collateral." Plan ¶ 3.11, Doc. 28. Therefore, the automatic stay was terminated with respect to the RV upon confirmation of the Plan on September 21, 2020.

To the extent that any interest in the RV remains subject to the automatic stay, after review of the included evidence, the court finds that "cause" exists to lift the stay because Debtors have failed to make at least five complete post-petition payments. Movant has produced evidence that Debtors are delinquent by at least \$1,626.43. Doc. #60. Debtors also have stipulated to the termination of the automatic stay as it pertains to the RV, though the stipulation has not been approved by the court. Doc. #55.

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 debtors have failed to make at least five pre-petition payments to Movant and the RV is a depreciating asset.

11:00 AM

1. [18-14207](#)-A-7 **IN RE: ELMER/KATHLEEN FALK**
[20-1057](#)

CONTINUED STATUS CONFERENCE RE: COMPLAINT
9-14-2020 [[1](#)]

SALVEN V. MOORE ET AL
PETER SAUER/ATTY. FOR PL.

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

DISPOSITION: Continued to March 11, 2021, at 11:00 a.m.

ORDER: The court will issue an order.

On December 10, 2020, the court continued the status conference to March 11, 2021 at 11:00 a.m.

The parties shall comply with the Order to Confer on Initial Disclosures and Setting Deadlines prior to the continued status conference if an answer is filed.

2. [19-12511](#)-A-7 **IN RE: FAULKNER TRUCKING, INC.**
[19-1142](#)

CONTINUED PRE-TRIAL CONFERENCE RE: AMENDED COMPLAINT
3-24-2020 [[17](#)]

FEAR V. KLX, LLC
KELSEY SEIB/ATTY. FOR PL.
RESPONSIVE PLEADING

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

DISPOSITION: Dropped as moot.

NO ORDER REQUIRED.

This adversary proceeding was dismissed on December 8, 2020. Doc. #40.

3. [19-11628](#)-A-12 **IN RE: MIKAL JONES**
[19-1081](#)

RESCHEDULED STATUS CONFERENCE RE: COMPLAINT
6-28-2019 [[1](#)]

DILDAY ET AL V. JONES
RILEY WALTER/ATTY. FOR PL.
RESPONSIVE PLEADING

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

DISPOSITION: Continued to April 22, 2021, at 11:00 a.m.

ORDER: The court will issue an order.

Pursuant to the joint status conference statement (Doc. #35), the status conference will be continued to April 22, 2021, at 11:00 a.m.

The parties shall file a joint or unilateral status conference statement(s) not later than April 15, 2021.

4. [18-14546](#)-A-7 **IN RE: LANE ANDERSON**
[19-1024](#)

RESCHEDULED STATUS CONFERENCE RE: COMPLAINT
2-15-2019 [[1](#)]

MURILLO V. ANDERSON ET AL
RICK MORIN/ATTY. FOR PL.
RESPONSIVE PLEADING

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

DISPOSITION: Continued to March 18, 2021, at 11:00 a.m.

ORDER: The court will issue an order.

Pursuant to the joint status report (Doc. #68), the status conference will be continued to March 18, 2021, at 11:00 a.m.

The parties shall file a joint or unilateral status conference statement(s) not later than March 11, 2021.

5. [19-10952](#)-A-7 **IN RE: DAVID MUSE**
[19-1050](#)

RESCHEDULED STATUS CONFERENCE RE: COMPLAINT
5-21-2019 [[1](#)]

MURILLO V. MUSE
RICK MORIN/ATTY. FOR PL.

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

DISPOSITION: Continued to March 18, 2021, at 11:00 a.m.

ORDER: The court will issue an order.

Pursuant to the joint status report (Doc. #68 in Consolidated Adversary Proceeding #19-1024), the status conference will be continued to March 18, 2021, at 11:00 a.m.

The parties shall file a joint or unilateral status conference statement(s) not later than March 11, 2021.

6. [17-13859](#)-A-7 **IN RE: KYLE PENNINGTON**
[17-1091](#)

CONTINUED STATUS CONFERENCE RE: COMPLAINT
12-16-2017 [[1](#)]

MARTINEZ V. PENNINGTON
KEVIN LITTLE/ATTY. FOR PL.
RESPONSIVE PLEADING

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

DISPOSITION: Continued to August 26, 2021, at 11:00 a.m.

ORDER: The court will issue an order.

Pursuant to the joint status conference statement (Doc. #80), the status conference will be continued to August 26, 2021, at 11:00 a.m.

The parties shall file a joint or unilateral status conference statement(s) not later than August 19, 2021.

7. [19-12763](#)-A-7 **IN RE: ANTONIO/JUANA VELASQUEZ**
[19-1124](#)

CONTINUED STATUS CONFERENCE RE: COMPLAINT
11-4-2019 [[1](#)]

FORD MOTOR CREDIT COMPANY V. VELASQUEZ ET AL
AUSTIN NAGEL/ATTY. FOR PL.

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

DISPOSITION: Continued to January 6, 2021, at 2:00 p.m.

ORDER: The court will issue an order.

The status conference will be continued to be heard at the same time as the motion for entry of default judgment. Doc. #48.

8. [17-12781](#)-A-7 **IN RE: DALIP NIJJAR**
[17-1066](#)

CONTINUED STATUS CONFERENCE RE: SECOND AMENDED COMPLAINT
1-31-2018 [[151](#)]

SALVEN V. NIJJAR ET AL
PETER SAUER/ATTY. FOR PL.
RESPONSIVE PLEADING

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

DISPOSITION: Continued to February 11, 2021, at 11:00 a.m.

ORDER: The court will issue an order.

Pursuant to the joint status conference statement (Doc. #452), the status conference will be continued to February 11, 2021, at 11:00 a.m.

The parties shall file a joint or unilateral status conference statement(s) not later than February 4, 2021.

9. [17-12389](#)-A-7 **IN RE: DON ROSE OIL CO., INC.**
[17-1086](#)

RESCHEDULED PRE-TRIAL CONFERENCE RE: AMENDED COMPLAINT
9-5-2018 [[131](#)]

KODIAK MINING & MINERALS II LLC ET AL V. DON ROSE OIL CO., INC.
VONN CHRISTENSON/ATTY. FOR PL.
CONTINUED TO 1/28/21, ORDER DOC #498

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

DISPOSITION: Continued to January 28, 2021, at 11:00 a.m.

NO ORDER REQUIRED.

On November 23, 2020, the court issued an order setting the pre-trial conference on January 28, 2021 at 11:00 a.m. Doc. #499.