

**United States Bankruptcy Court
Central District of California
Northern Division
Judge Peter Carroll, Presiding
Courtroom 201 Calendar**

Tuesday, October 18, 2016

Hearing Room 201

10:00 AM

9:14-12619 Robert J Greenaway

Chapter 13

#1.00 Hearing
RE: [45] Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 303 North M. Street, Lompoc, CA 93436 with proof of service. (Foreman, Brandye)

FR. 9-6-16

Docket 45

Tentative Ruling:

None.

Party Information

Debtor(s):

Robert J Greenaway

Represented By
William L Redell
Michael B Clayton

Trustee(s):

Elizabeth (ND) F Rojas (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Northern Division
Judge Peter Carroll, Presiding
Courtroom 201 Calendar**

Tuesday, October 18, 2016

Hearing Room 201

10:00 AM

9:14-12693 Teddy Scarbrough

Chapter 13

#2.00 HearingRE: [41] Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2008 TOYOTA 4RUNNER With Proof of Service. (Loftis, Erica)

Docket 41

Tentative Ruling:

None.

Final Ruling. This motion for relief from the automatic stay has been set for hearing on the notice required by LBR 4001(c)(1) and LBR 9013-1(d) (2). The failure of the debtor, the trustee, and parties in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9013-1(f) is considered as consent to the granting of the motion. LBR 9013-1(h). *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court is granting the relief requested by the moving party and for which a *prima facie* case has been established, an actual hearing is not necessary. *See Boone v. Burk (In re Eliapo)*, 468 F.3d 592, 602 (9th Cir. 2006). Their defaults are entered and the matter will be resolved without oral argument. LBR 9013-1(j) (3). **No appearance is necessary.**

The motion is granted pursuant to 11 U.S.C. § 362 (d)(1) to permit movant, its successors, transferees and assigns, to enforce its remedies to repossess or otherwise obtain possession and dispose of its collateral pursuant to applicable law, and to use the proceeds from its disposition to satisfy its claim. Movant may not pursue any deficiency claim against the debtor or property of the estate except by filing a proof of claim pursuant to 11 U.S.C. § 501. Movant is secured by a security interest and lien on the subject vehicle. The plan requires that the post-petition note installments be paid directly to the movant. The debtor has failed to pay 11 post-petition installments. This is cause to terminate the automatic stay. *See Ellis v. Parr (In re Ellis)*, 60 B.R. 432, 434-435 (9th Cir. BAP 1985).

The trustee must not make any future payments on account of

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CONT... Teddy Scarbrough

Chapter 13

Movant's secured claim after entry of the order granting the motion. The secured portion of Movant's claim will be deemed withdrawn upon entry of the order without prejudice to Movant's right to file an amended unsecured claim for any deficiency. Absent a stipulation or order to the contrary, Movant must return to the chapter 13 trustee any payments received from the trustee on account of Movant's secured claim after entry of the order granting the motion.

The 14-day stay of FRBP 4001(a)(3) is ordered waived due to the fact that the movant's collateral is being used by the debtor without compensation and is depreciating in value. This order shall be binding and effective despite any conversion of this bankruptcy case to a case under any other chapter of Title 11 of the United States Code. All other relief is denied.

The movant shall submit an appropriate order.

Party Information

Debtor(s):

Teddy Scarbrough

Represented By
Claudia L Phillips

Trustee(s):

Elizabeth (ND) F Rojas (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Northern Division
Judge Peter Carroll, Presiding
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Tuesday, October 18, 2016

Hearing Room 201

10:00 AM

9:16-10358 Abel Mejia-Reyes and Sugery Mejia

Chapter 13

#3.00 Hearing
RE: [51] Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 1362 INCA DRIVE, Oxnard, CA . (Marth, Angie)

FR. 9-6-16

Docket 51

Tentative Ruling:

None.

Party Information

Debtor(s):

Abel Mejia-Reyes

Represented By
Juanita V Miller

Joint Debtor(s):

Sugery Mejia

Represented By
Juanita V Miller

Trustee(s):

Elizabeth (ND) F Rojas (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Northern Division
Judge Peter Carroll, Presiding
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Tuesday, October 18, 2016

Hearing Room 201

10:00 AM

9:16-11394 Kenneth K. Moore and Ellen H. Moore

Chapter 13

#4.00 HearingRE: [22] Notice of Motion and Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate (Amended).

Docket 22

Tentative Ruling:

None.

Final Ruling. By this motion, debtors Kenneth K. Moore and Ellen H. Moore seek an order imposing the automatic stay pursuant to 11 U.S.C. § 362(c)(4). No opposition has been filed by the trustee or any other party in interest. Having considered the motion, the court will dispense with oral argument. LBR 9013-1(j)(3). **No appearance is necessary.**

The motion is denied. Section 362(c)(4)(A) applies only to cases where two or more single or joint cases of the debtor were pending within the previous year but were dismissed, other than a case refiled under § 707(b). 11 U.S.C. § 362(c)(4)(A). In such cases, the stay under § 362(a) shall not go into effect upon the filing of the later case. In order to have the automatic stay *take effect at all*, a party in interest must, within 30 days of the commencement of the current bankruptcy case, file a motion asking the court to impose the automatic stay with respect to a specific creditor or with respect to all creditors. 11 U.S.C. § 362(c)(4)(B). After notice and a hearing, the court may order the stay to take effect only if the party in interest demonstrates that the bankruptcy case was filed in good faith as to all creditors to be stayed. Id.

In this case, the debtors filed a voluntary chapter 13 petition on July 25, 2016. According to the evidence, debtor had only one previous bankruptcy case pending within the last year; Case No. 9:16-bk-10538, which was dismissed on June 10, 2016. With only one bankruptcy pending within the last year, 11 U.S.C. § 362(c)(4) is inapplicable. Furthermore, any motion seeking relief under § 362(c)(4) must have been filed and served not later than August 24, 2016. Here, the motion was not filed until September 23, 2016. Accordingly, the motion is denied.

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CONT... Kenneth K. Moore and Ellen H. Moore

Chapter 13

Movant's counsel shall submit an appropriate order.

Party Information

Debtor(s):

Kenneth K. Moore

Represented By
Jaenam J Coe

Joint Debtor(s):

Ellen H. Moore

Represented By
Jaenam J Coe

Trustee(s):

Elizabeth (ND) F Rojas (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Northern Division
Judge Peter Carroll, Presiding
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Hearing Room 201

10:00 AM

9:16-11402 Armando A Aguilar, Jr. and Lisa C Aguilar

Chapter 7

#5.00 HearingRE: [11] Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 129 Sonoma Lane, Santa Paula, CA 93060 . (Zilberstein, Kristin)

Docket 11

Tentative Ruling:

None.

Final Ruling. This motion for relief from the automatic stay has been set for hearing on the notice required by LBR 4001(c)(1) and LBR 9013-1(d) (2). The failure of the debtor, the trustee, and parties in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9013-1(f) is considered as consent to the granting of the motion. LBR 9013-1(h). *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court is granting the relief requested by the moving party and for which a *prima facie* case has been established, an actual hearing is not necessary. *See Boone v. Burk (In re Eliapo)*, 468 F.3d 592, 602 (9th Cir. 2006). Their defaults are entered and the matter will be resolved without oral argument. LBR 9013-1(j) (3). **No appearance is necessary.**

The motion is granted pursuant to 11 U.S.C. § 362(d)(2) to permit movant, its successors, transferees and assigns, to enforce its remedies to foreclose upon and obtain possession of the property in accordance with applicable law. Movant may not pursue any deficiency claim against the debtor or property of the estate except by filing a proof of claim pursuant to 11 U.S.C. § 501 and/or a timely complaint to determine the nondischargeability of the debt under 11 U.S.C. § 523. Since a chapter 7 case does not contemplate reorganization, the sole issue before the court when stay relief is sought under 11 U.S.C. § 362(d)(2) is whether the debtor has equity in the property. *See e.g., Nev. Nat'l Bank v. Casbul of Nev., Inc. (In re Casgul of Nev., Inc.)*, 22 B.R. 65, 66 (9th Cir. BAP 1982); *Ramco Indus. v. Preuss (In re Preuss)*, 15 B.R. 896 (9th Cir. BAP 1981).

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CONT... Armando A Aguilar, Jr. and Lisa C Aguilar

Chapter 7

The subject real property has a value of \$285,000.00 and is encumbered by a perfected deed of trust or mortgage in favor of the movant. The liens against the property total \$393,388.54. The court finds there is no equity and there is no evidence that the trustee can administer the subject real property for the benefit of creditors.

The 14-day period specified in FRBP 4001(a)(3) is waived. This order shall be binding and effective despite any conversion of this bankruptcy case to a case under any other chapter of Title 11 of the United States Code. All other relief is denied.

The movant shall submit an appropriate order.

Party Information

Debtor(s):

Armando A Aguilar Jr.

Represented By
Andrew S Mansfield
Andrew S Mansfield

Joint Debtor(s):

Lisa C Aguilar

Represented By
Andrew S Mansfield

Trustee(s):

Jerry Namba (TR)

Pro Se

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10:00 AM

9:16-11499 Francisco Javier Lopez Bravo

Chapter 7

#6.00 HearingRE: [12] Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 4760 Bradfield Pl, Oxnard, CA 93033 and Proof of Service.

Docket 12

Tentative Ruling:

None.

Final Ruling. This motion for relief from the automatic stay has been set for hearing on the notice required by LBR 4001(c)(1) and LBR 9013-1(d) (2). The failure of the debtor, the trustee, and parties in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9013-1(f) is considered as consent to the granting of the motion. LBR 9013-1(h). *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court is granting the relief requested by the moving party and for which a *prima facie* case has been established, an actual hearing is not necessary. *See Boone v. Burk (In re Eliapo)*, 468 F.3d 592, 602 (9th Cir. 2006). Their defaults are entered and the matter will be resolved without oral argument. LBR 9013-1(j) (3). **No appearance is necessary.**

The motion is granted pursuant to 11 U.S.C. § 362(d)(2) to permit movant, its successors, transferees and assigns, to enforce its remedies to foreclose upon and obtain possession of the property in accordance with applicable law. Movant may not pursue any deficiency claim against the debtor or property of the estate except by filing a proof of claim pursuant to 11 U.S.C. § 501 and/or a timely complaint to determine the nondischargeability of the debt under 11 U.S.C. § 523. Since a chapter 7 case does not contemplate reorganization, the sole issue before the court when stay relief is sought under 11 U.S.C. § 362(d)(2) is whether the debtor has equity in the property. *See e.g., Nev. Nat'l Bank v. Casbul of Nev., Inc. (In re Casgul of Nev., Inc.)*, 22 B.R. 65, 66 (9th Cir. BAP 1982); *Ramco Indus. v. Preuss (In re Preuss)*, 15 B.R. 896 (9th Cir. BAP 1981).

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10:00 AM

CONT... Francisco Javier Lopez Bravo

Chapter 7

The subject real property has a value of \$338,206.13 and is encumbered by a perfected deed of trust or mortgage in favor of the movant. The liens against the property total \$338,580.85. The court finds there is no equity and there is no evidence that the trustee can administer the subject real property for the benefit of creditors. The trustee has filed a no asset report. Furthermore, the court takes judicial notice of the Chapter 7 Individual Debtor's Statement of Intention filed in this case on August 8, 2016 in which the debtor stated an intention to surrender the property to movant.

The 14-day period specified in FRBP 4001(a)(3) is waived. This order shall be binding and effective despite any conversion of this bankruptcy case to a case under any other chapter of Title 11 of the United States Code. All other relief is denied.

The movant shall submit an appropriate order.

Party Information

Debtor(s):

Francisco Javier Lopez Bravo	Pro Se
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Trustee(s):

Jeremy W. Faith (TR)	Pro Se
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**United States Bankruptcy Court
Central District of California
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Hearing Room 201

10:00 AM

9:16-11573 Jasmin Meza

Chapter 7

#7.00 HearingRE: [11] Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2015 NISSAN SENTRA, VIN 3N1AB7AP0FY335263 . (Wang, Jennifer)

Docket 11

Tentative Ruling:

None.

Final Ruling. This motion for relief from the automatic stay has been set for hearing on the notice required by LBR 4001(c)(1) and LBR 9013-1(d) (2). The failure of the debtor, the trustee, and parties in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9013-1(f) is considered as consent to the granting of the motion. LBR 9013-1(h). *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court is granting the relief requested by the moving party and for which a *prima facie* case has been established, an actual hearing is not necessary. *See Boone v. Burk (In re Eliapo)*, 468 F.3d 592, 602 (9th Cir. 2006). Their defaults are entered and the matter will be resolved without oral argument. LBR 9013-1(j) (3). **No appearance is necessary.**

The motion is granted pursuant to 11 U.S.C. § 362(d)(1) and (d)(2) to permit movant, its successors, transferees and assigns, to enforce its remedies to repossess or otherwise obtain possession and dispose of its collateral pursuant to applicable law, and to use the proceeds from its disposition to satisfy its claim. Movant may not pursue any deficiency claim against the debtor or property of the estate except by filing a proof of claim pursuant to 11 U.S.C. § 501 and/or a timely complaint to determine the nondischargeability of the debt under 11 U.S.C. § 523. Since a chapter 7 case does not contemplate reorganization, the sole issue before the court when stay relief is sought under 11 U.S.C. § 362(d)(2) is whether the debtor has equity in the property. *See e.g., Nev. Nat'l Bank v. Casbul of Nev., Inc. (In re Casgul of Nev., Inc.)*, 22 B.R. 65, 66 (9th Cir. BAP 1982); *Ramco Indus. v. Preuss (In re Preuss)*, 15 B.R. 896 (9th Cir. BAP 1981).

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CONT... Jasmin Meza

Chapter 7

The subject property has a value of \$14,150.00 and is encumbered by a perfected security interest in favor of the movant. That security interest secures a claim of \$23,995.36. There is no equity in the subject property and no evidence that the trustee can administer the subject property for the benefit of creditors. Also, the debtor has not provided movant with proof of insurance on the subject property. Furthermore, the court takes judicial notice of the Chapter 7 Individual Debtor's Statement of Intention filed in this case on September 1, 2016 in which the debtor stated an intention to surrender the property to movant. This is "cause" to terminate the stay under 11 U.S.C. § 362(d)(1).

The 14-day stay of FRBP 4001(a)(3) is ordered waived due to the fact that the movant's collateral is being used by the debtor without compensation and is depreciating in value. This order shall be binding and effective despite any conversion of this bankruptcy case to a case under any other chapter of Title 11 of the United States Code. All other relief is denied.

The movant shall submit an appropriate order.

Party Information

Debtor(s):

Jasmin Meza

Pro Se

Trustee(s):

Jeremy W. Faith (TR)

Pro Se

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10:00 AM

9:16-11679 Melisa Lubert

Chapter 13

#8.00 HearingRE: [11] Notice of motion and motion for relief from the automatic stay with supporting declarations UNLAWFUL DETAINER RE: 696 KIRK AVENUE, VENTURA, CA 93003 .

Docket 11

***** VACATED *** REASON: Case dismissed September 30, 2016**

Tentative Ruling:

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Party Information

Debtor(s):

Melisa Lubert

Represented By
Brian Nomi

Trustee(s):

Elizabeth (ND) F Rojas (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Northern Division
Judge Peter Carroll, Presiding
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Tuesday, October 18, 2016

Hearing Room 201

10:00 AM

9:16-11723 Darryl Anthony Fontes

Chapter 7

#9.00 HearingRE: [8] Notice of motion and motion for relief from the automatic stay with supporting declarations UNLAWFUL DETAINER RE: 137 Camino Ruiz #155 Camarillo, CA 93012 with Proof of Service. (Unruh, Carol)

Docket 8

Tentative Ruling:

None.

Final Ruling. This motion for relief from the automatic stay has been set for hearing on the notice required by LBR 4001(c)(1) and LBR 9013-1(d) (2). The failure of the debtor, the trustee, and parties in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9013-1(f) is considered as consent to the granting of the motion. LBR 9013-1(h). *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court is granting the relief requested by the moving party and for which a *prima facie* case has been established, an actual hearing is not necessary. *See Boone v. Burk (In re Eliapo)*, 468 F.3d 592, 602 (9th Cir. 2006). Their defaults are entered and the matter will be resolved without oral argument. LBR 9013-1(j) (3). **No appearance is necessary.**

The motion is granted pursuant to 11 U.S.C. §§ 362(d)(1) and (d)(2). The stay is terminated as to the debtor and the debtor's bankruptcy estate with respect to the movant, its successors, transferees and assigns. Movant may enforce its remedies to obtain possession of the property in accordance with applicable law, but may not pursue a deficiency claim against the debtor or property of the estate except by filing a proof of claim pursuant to 11 U.S.C. § 501.

Debtor defaulted in rent payments under a lease with movant prior to bankruptcy. Movant served debtor with a notice to quit the premises on August 8, 2016. That notice expired prior to bankruptcy without the debtor curing the default or quitting the premises. When debtor failed to vacate the premises, an unlawful detainer action was filed and served on September 1,

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CONT... Darryl Anthony Fontes

Chapter 7

2016. Debtor filed the bankruptcy petition on September 16, 2016 in an apparent effort to stay prosecution of the unlawful detainer action. This motion has been filed to proceed with the unlawful detainer action. This action must go forward because the debtor's right to possess the premises must be determined. This does not change simply because a bankruptcy petition was filed. See In re Butler, 271 B.R. 867, 876 (Bankr. C.D. Cal. 2002).

Movant further requests in the motion that "extraordinary relief" be granted by the court. An order prohibiting for 180 days the subsequent filing of a bankruptcy case by the debtor or by another person or entity to whom the subject property may be transferred is in the nature of an injunction not specifically authorized by the Bankruptcy Code. Johnson v. TRE Holdings LLC (In re Johnson), 346 B.R. 190, 196 (9th Cir. BAP 2006). Nor does there "appear to be direct statutory authority for an order that bans the filing of future bankruptcy cases by other persons, bans automatic stays in future cases, and authorizes the sheriff to ignore a future bankruptcy case when conducting an eviction." In re Van Ness, 399 B.R. 897, 903 (Bankr. E.D. Cal. 2009). Therefore, a motion is not the appropriate vehicle for obtaining the "extraordinary relief" requested. Movant must seek this aspect of the relief by adversary proceeding. Johnson, 346 B.R. at 195. Congress has provided an "in rem" remedy in 11 U.S.C. § 362(d)(4), which does not require an injunction. Id. at 197. However, relief under § 362(d)(4) is not available here, as the movant is the putative owner of the property and not a creditor with a lien secured by the subject property. See Ellis v. Yu (In re Ellis), 523 B.R. 673 (9th Cir. BAP 2014). Accordingly, the movant's request for "extraordinary relief" is denied.

The 14-day period specified in FRBP 4001(a)(3) is waived. This order shall be binding and effective despite any conversion of this bankruptcy case to a case under any other chapter of Title 11 of the United States Code. All other relief is denied.

The movant shall submit an appropriate order.

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CONT... Darryl Anthony Fontes

Chapter 7

Party Information

Debtor(s):

Darryl Anthony Fontes

Represented By
Daniel King

Trustee(s):

Jeremy W. Faith (TR)

Pro Se

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Central District of California
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Hearing Room 201

10:00 AM

9:16-11749 Miguel Angel Ramirez

Chapter 13

#10.00 HearingRE: [13] Notice of Motion and Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate 303 E. Poplar Street. Oxnard, CA 93033 .

Docket 13

Tentative Ruling:

None.

Final Ruling. This motion for order continuing the automatic stay as to all creditors has been set for hearing on shortened time pursuant to LBR 9075-1(b) by order entered on October 3, 2016, with an opposition deadline set for October 13, 2016 at 5:00 p.m. The failure of the trustee and all other parties in interest to file written opposition by the deadline is considered as consent to the granting of the motion. LBR 9013-1(h). *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court is granting the relief requested by the moving party and for which a *prima facie* case has been established, an actual hearing is not necessary. *See Boone v. Burk (In re Eliapo)*, 468 F.3d 592, 602 (9th Cir. 2006). Their defaults are entered and the matter will be resolved without oral argument. LBR 9013-1(j)(3). **No appearance is necessary.**

Section 362(c)(3)(A) states that if a single or joint case is filed by or against a debtor who is an individual in a case under chapter 7, 11, or 13, and if a single or joint case of the debtor was pending within the preceding 1-year period but was dismissed, other than a case refiled under a chapter other than chapter 7 after dismissal under § 707(b), the stay under § 362(a) with respect to any action taken with respect to a debt or property securing such debt or with respect to any lease shall terminate *with respect to the debtor* on the 30th day after the filing of the later case. 11 U.S.C. § 362(c)(3)(A) (emphasis added).

On motion of a party in interest for *continuation* of the automatic stay and upon notice and a hearing, the court may extend the stay in particular cases as to any and all creditors (subject to such conditions and limitations as the

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CONT... Miguel Angel Ramirez

Chapter 13

court may then impose) **after notice and a hearing completed before expiration of the 30-day period** *only if the party in interest demonstrates that the filing of the later case is in good faith as to the creditors to be stayed.* 11 U.S.C. § 362(c)(3)(B) (emphasis added).

For purposes of § 362(c)(3)(B), a case is presumptively filed "not in good faith" as to *all creditors* if any one of the following circumstances exist: (1) more than 1 previous case under any of chapters 7, 11, and 13 in which the individual was a debtor was pending within the preceding 1-year period; (2) a previous case under any of chapters 7, 11, and 13 in which the individual was a debtor was dismissed within such 1-year period, after the debtor failed to (a) file or amend the petition or other documents as required by the Code or the court without substantial excuse (mere inadvertence or negligence does not constitute substantial excuse, unless the dismissal was caused by the negligence of the debtor's attorney); (b) provide adequate protection as ordered by the court; (c) perform the terms of a plan confirmed by the court; or (3) there has not been a substantial change in the financial or personal affairs of the debtor since the dismissal of the next most previous case under chapter 7, 11, or 13 or any other reason to conclude that the later case will be concluded with a discharge if filed under chapter 7 or a plan that will be fully performed if filed under chapters 11 or 13. 11 U.S.C. § 362(c)(3)(C)(i) (emphasis added).

For purposes of § 362(c)(3)(B), a case is presumptively filed "not in good faith" as to *any particular creditor* that commenced an action under § 362 (d) in a previous case in which the individual was a debtor if, as of the date of dismissal of such case, that action was still pending or had been resolved by terminating, conditioning, or limiting the stay as to actions of such creditor. 11 U.S.C. § 362(c)(3)(C)(ii). Such presumptions may be rebutted only by clear and convincing evidence to the contrary. 11 U.S.C. § 362(c)(3)(C) (emphasis added).

In this case, debtor filed a voluntary chapter 13 petition on September 22, 2016. This motion was filed on September 29, 2016, and was noticed for a hearing to be concluded within the 30-day period following the filing of the petition. The motion is timely.

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CONT... Miguel Angel Ramirez

Chapter 13

According to the evidence, debtor seeks a continuation of the automatic stay as to all creditors in the case. Debtor asserts that dismissal of debtor's prior chapter 13 case was due to vehicle mechanical problems, which prevented debtor from attending the meeting of the creditors. Debtor has made all the necessary transportation arrangements to make the required appearances.

There being no evidence to the contrary, the court grants the relief requested in the motion based upon an apparent change in the personal and financial affairs of the debtor since dismissal of the last case.

Movant's counsel shall submit an appropriate order.

Party Information

Debtor(s):

Miguel Angel Ramirez

Represented By
Claudia L Phillips

Trustee(s):

Elizabeth (ND) F Rojas (TR)

Pro Se

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9:16-11782 Ephraim Rodriguez

Chapter 13

#11.00 HearingRE: [13] Notice of Motion and Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate 2008 BMW Series 7 .

Docket 13

Tentative Ruling:

None.

Final Ruling. This motion for order continuing the automatic stay as to all creditors has been set for hearing on shortened time pursuant to LBR 9075-1(b) by order entered on October 3, 2016, with an opposition deadline set for October 13, 2016 at 5:00 p.m. The failure of the trustee and all other parties in interest to file written opposition by the deadline is considered as consent to the granting of the motion. LBR 9013-1(h). *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court is granting the relief requested by the moving party and for which a *prima facie* case has been established, an actual hearing is not necessary. *See Boone v. Burk (In re Eliapo)*, 468 F.3d 592, 602 (9th Cir. 2006). Their defaults are entered and the matter will be resolved without oral argument. LBR 9013-1(j)(3). **No appearance is necessary.**

Section 362(c)(3)(A) states that if a single or joint case is filed by or against a debtor who is an individual in a case under chapter 7, 11, or 13, and if a single or joint case of the debtor was pending within the preceding 1-year period but was dismissed, other than a case refiled under a chapter other than chapter 7 after dismissal under § 707(b), the stay under § 362(a) with respect to any action taken with respect to a debt or property securing such debt or with respect to any lease shall terminate *with respect to the debtor* on the 30th day after the filing of the later case. 11 U.S.C. § 362(c)(3)(A) (emphasis added).

On motion of a party in interest for *continuation* of the automatic stay and upon notice and a hearing, the court may extend the stay in particular cases as to any and all creditors (subject to such conditions and limitations as the

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court may then impose) **after notice and a hearing completed before expiration of the 30-day period** *only if the party in interest demonstrates that the filing of the later case is in good faith as to the creditors to be stayed.* 11 U.S.C. § 362(c)(3)(B) (emphasis added).

For purposes of § 362(c)(3)(B), a case is presumptively filed "not in good faith" as to *all creditors* if any one of the following circumstances exist: (1) more than 1 previous case under any of chapters 7, 11, and 13 in which the individual was a debtor was pending within the preceding 1-year period; (2) a previous case under any of chapters 7, 11, and 13 in which the individual was a debtor was dismissed within such 1-year period, after the debtor failed to (a) file or amend the petition or other documents as required by the Code or the court without substantial excuse (mere inadvertence or negligence does not constitute substantial excuse, unless the dismissal was caused by the negligence of the debtor's attorney); (b) provide adequate protection as ordered by the court; (c) perform the terms of a plan confirmed by the court; or (3) there has not been a substantial change in the financial or personal affairs of the debtor since the dismissal of the next most previous case under chapter 7, 11, or 13 or any other reason to conclude that the later case will be concluded with a discharge if filed under chapter 7 or a plan that will be fully performed if filed under chapters 11 or 13. 11 U.S.C. § 362(c)(3)(C)(i) (emphasis added).

For purposes of § 362(c)(3)(B), a case is presumptively filed "not in good faith" as to *any particular creditor* that commenced an action under § 362 (d) in a previous case in which the individual was a debtor if, as of the date of dismissal of such case, that action was still pending or had been resolved by terminating, conditioning, or limiting the stay as to actions of such creditor. 11 U.S.C. § 362(c)(3)(C)(ii). Such presumptions may be rebutted only by clear and convincing evidence to the contrary. 11 U.S.C. § 362(c)(3)(C) (emphasis added).

In this case, debtor filed a voluntary chapter 13 petition on September 27, 2016. This motion was filed on September 29, 2016, and was noticed for a hearing to be concluded within the 30-day period following the filing of the petition. The motion is timely.

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According to the evidence, debtor seeks a continuation of the automatic stay as to all creditors in the case. Debtor asserts that dismissal of debtor's prior chapter 13 case was due to the loss of debtor's employment. Debtor now intends to seek confirmation of a plan supported initially by unemployment income.

There being no evidence to the contrary, the court grants the relief requested in the motion based upon an apparent change in the personal and financial affairs of the debtor since dismissal of the last case.

Movant's counsel shall submit an appropriate order.

Party Information

Debtor(s):

Ephraim Rodriguez

Represented By
Claudia L Phillips

Trustee(s):

Elizabeth (ND) F Rojas (TR)

Pro Se

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9:11-15378 **Hugh B. Thorson**

Chapter 7

#12.00 Chapter 7 Trustee's Final Report

JEREMY W. FAITH, Ch. 7 Trustee

HAHN FIFE & CO., LLP, Accountant for Trustee

EZRA BRUTZKUS GUBNER LLP, Attorney for Trustee

Docket 289

Tentative Ruling:

None.

Final Ruling. These fee applications have been set for hearing on the notice required by LBR 9013-1(d)(2) and other applicable rules. The failure of the debtor and all other parties in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9013-1(f) is considered as consent to the granting of the motion. LBR 9013-1(h). Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court is granting the relief requested by the moving party and for which a *prima facie* case has been established, an actual hearing is not necessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592, 602 (9th Cir. 2006). Their defaults are entered and the matter will be resolved without oral argument. LBR 9013-1(j)(3). **No appearance is necessary.**

Jeremy W. Faith. Jeremy W. Faith ("Trustee") has filed a first and final application for compensation and reimbursement of expenses pursuant to 11 U.S.C. §§ 326 & 330. Trustee has itemized \$119,717.71 in fees and \$193.77 in costs, for a total of \$119,911.48. No creditor or other party in interest, including the United States trustee, has filed an objection to the application.

In a case under chapter 7 or 11, the court may allow reasonable compensation under § 330 to the trustee for the trustee's services, payable after

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the trustee renders such services, not to exceed 25% on the first \$5,000 or less, 10% on any amounts in excess of \$5,000 but not in excess of \$50,000, 5% on any amount in excess of \$50,000 but not in excess of \$1,000,000, and reasonable compensation not to exceed 3% of such moneys in excess of \$1,000,000, upon all moneys disbursed or turned over in the case by the trustee to parties in interest, excluding the debtor, but including holders of secured claims. 11 U.S.C. § 326(a).

In this case, Trustee was appointed on July 16, 2013. Trustee's services cover the period of July 16, 2013 through September 22, 2016. The total money disbursed or turned over in the case by the Trustee to parties in interest, excluding the debtor, is \$3,215,590.29. There being no extraordinary circumstances present in this case, the trustee's requested compensation is presumed reasonable since it is sought at the statutory rate. In re Salgado-Nava, 473 B.R. 911 (9th Cir BAP 2012).

Accordingly, the court finds that the Trustee's requested compensation meets the requirements of 11 U.S.C. § 326(a) and represents reasonable compensation for actual, necessary services rendered in the administration of this estate. The compensation is approved.

Brutzkus Gubner. Brutzkus Gubner, counsel for the chapter 7 trustee ("Applicant"), has filed its application for a final allowance of fees and expenses in this case. Applicant has itemized \$91,332.00 in fees and \$966.73 in expenses, for a total of \$92,298.73. No creditor or other party in interest, including the United States trustee, has filed an objection to the application.

The court approved Applicant's employment on May 3, 2013, effective March 6, 2013. Applicant rendered a total of 183.40 hours of services to the estate billed at a blended hourly rate of \$498.00. Applicant's services cover the period from March 6, 2013 through May 3, 2016.

Section 330(a)(1)(A) & (B) permit approval of "reasonable compensation for actual, necessary services rendered by . . . [a] professional person, or . . . any para-professional person" and "reimbursement for actual, necessary expenses." 11 U.S.C. § 330(a)(1)(A) & (B). In the present case,

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Applicant was employed to assist in the administration of the estate. The fee application satisfies the requirements of LBR 2016-1(c) and demonstrates that (1) Applicant rendered actual services to the estate that were necessary to the administration of, or beneficial at the time at which the services were rendered toward the completion of, the case, and the compensation sought for such services is reasonable; and (2) the expenses incurred on behalf of the estate for which reimbursement is sought were actual and necessary.

Accordingly, the court allows as final fees the sum of \$91,332.00 -- \$72,519.50 as final compensation in the chapter 7 case and \$18,812.50 as final compensation in the chapter 11 case. The court further allows as final expenses the sum of \$966.73 -- \$560.79 as final expenses in the chapter 7 case and \$405.94 as final expenses in the chapter 11 case.

Beall & Burkhardt, APC. Beall & Burkhardt, APC, counsel for the debtor in possession (“Applicant”), has filed its application for a final allowance of fees and expenses in this case. Applicant has itemized \$37,335.00 in fees and \$189.69 in expenses, for a total of \$37,524.69. No creditor or other party in interest, including the United States trustee, has filed an objection to the application.

The court approved Applicant's employment on March 22, 2012, effective February 3, 2012. Applicant rendered a total of 93.20 hours of services to the estate billed at a blended hourly rate of \$400.00. Applicant's services cover the period from February 3, 2012 through February 18, 2016.

Section 330(a)(1)(A) & (B) permit approval of “reasonable compensation for actual, necessary services rendered by . . . [a] professional person, or . . . any para-professional person” and “reimbursement for actual, necessary expenses.” 11 U.S.C. § 330(a)(1)(A) & (B). In the present case, Applicant was employed to assist in the administration of the estate. The fee application satisfies the requirements of LBR 2016-1(c) and demonstrates that (1) Applicant rendered actual services to the estate that were necessary to the administration of, or beneficial at the time at which the services were rendered toward the completion of, the case, and the compensation sought for such services is reasonable; and (2) the expenses incurred on behalf of the estate for

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which reimbursement is sought were actual and necessary.

Accordingly, the court allows as a chapter 11 administrative expense final fees the sum of \$37,335.00. The court further allows as a chapter 11 administrative expense final expenses the sum of \$189.69.

Hahn Fife & Co., LLP. Hahn Fife & Co., LLP, accountant for the chapter 7 trustee (“Applicant”), has filed its application for a final allowance of fees and expenses in this case. Applicant has itemized \$60,448.00 in fees and \$676.80 in expenses, for a total of \$61,124.80. No creditor or other party in interest, including the United States trustee, has filed an objection to the application.

The court approved Applicant's employment on January 14, 2014, effective December 5, 2013. Applicant rendered a total of 156.80 hours of services to the estate billed at a blended hourly rate of \$385.51. Applicant's services cover the period from December 5, 2013 through April 8, 2016.

Section 330(a)(1)(A) & (B) permit approval of “reasonable compensation for actual, necessary services rendered by . . . [a] professional person, or . . . any para-professional person” and “reimbursement for actual, necessary expenses.” 11 U.S.C. § 330(a)(1)(A) & (B). In the present case, Applicant was employed to assist in the administration of the estate. The fee application satisfies the requirements of LBR 2016-1(c) and demonstrates that (1) Applicant rendered actual services to the estate that were necessary to the administration of, or beneficial at the time at which the services were rendered toward the completion of, the case, and the compensation sought for such services is reasonable; and (2) the expenses incurred on behalf of the estate for which reimbursement is sought were actual and necessary.

Accordingly, the court allows as final fees the sum of \$60,448.00. The court further allows as final expenses the sum of \$676.80.

Trustee shall submit an appropriate order.

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Party Information

Debtor(s):

Hugh B. Thorson

Represented By
William C Beall
Carissa N Horowitz
Renee R Dehesa

Trustee(s):

Jeremy W. Faith (TR)

Represented By
David Seror
Michael W Davis
Jessica L Bagdanov

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9:14-10151 Farrell C Odendhal

Chapter 7

#13.00 Chapter 7 Trustee's Final Report

JERRY NAMBA, Chapter 7 Trustee

HURLBETT & OLMSTEAD, Attorney for Trustee

Docket 42

Tentative Ruling:

None.

Final Ruling. These fee applications have been set for hearing on the notice required by LBR 9013-1(d)(2) and other applicable rules. The failure of the debtor and all other parties in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9013-1(f) is considered as consent to the granting of the motion. LBR 9013-1(h). *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court is granting the relief requested by the moving party and for which a *prima facie* case has been established, an actual hearing is not necessary. *See Boone v. Burk (In re Eliapo)*, 468 F.3d 592, 602 (9th Cir. 2006). Their defaults are entered and the matter will be resolved without oral argument. LBR 9013-1(j)(3). **No appearance is necessary.**

Jerry Namba ("Trustee") has filed a first and final application for compensation and reimbursement of expenses pursuant to 11 U.S.C. §§ 326 & 330. Trustee has itemized \$2,750.00 in fees and \$43.80 in costs, for a total of \$2,793.80. No creditor or other party in interest, including the United States trustee, has filed an objection to the application.

In a case under chapter 7 or 11, the court may allow reasonable compensation under § 330 to the trustee for the trustee's services, payable after the trustee renders such services, not to exceed 25% on the first \$5,000 or less, 10% on any amounts in excess of \$5,000 but not in excess of \$50,000, 5% on any amount in excess of \$50,000 but not in excess of \$1,000,000, and

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reasonable compensation not to exceed 3% of such moneys in excess of \$1,000,000, upon all moneys disbursed or turned over in the case by the trustee to parties in interest, excluding the debtor, but including holders of secured claims. 11 U.S.C. § 326(a).

In this case, Trustee was appointed on January 25, 2014. Trustee's services cover the period of January 25, 2014 through September 8, 2016. The total money disbursed or turned over in the case by the Trustee to parties in interest, excluding the debtor, is \$20,000.00. There being no extraordinary circumstances present in this case, the trustee's requested compensation is presumed reasonable since it is sought at the statutory rate. In re Salgado-Nava, 473 B.R. 911 (9th Cir BAP 2012).

Accordingly, the court finds that the Trustee's requested compensation meets the requirements of 11 U.S.C. § 326(a) and represents reasonable compensation for actual, necessary services rendered in the administration of this estate. The compensation is approved.

Hurlbett & Olmstead. Hurlbett & Olmstead, counsel for the chapter 7 trustee ("Applicant"), has filed its application for a final allowance of fees and expenses in this case. Applicant has itemized \$23,855.00 in fees and \$271.49 in expenses, for a total of \$24,126.49. No creditor or other party in interest, including the United States trustee, has filed an objection to the application.

The court approved Applicant's employment on August 11, 2014, effective May 7, 2014. Applicant rendered a total of 73.40 hours of services to the estate billed at an hourly rate of \$325.00. Applicant's services cover the period from May 7, 2014 through August 8, 2016.

Section 330(a)(1)(A) & (B) permit approval of "reasonable compensation for actual, necessary services rendered by . . . [a] professional person, or . . . any para-professional person" and "reimbursement for actual, necessary expenses." 11 U.S.C. § 330(a)(1)(A) & (B). In the present case, Applicant was employed to assist in the administration of the estate. The fee application satisfies the requirements of LBR 2016-1(c) and demonstrates that (1) Applicant rendered actual services to the estate that were necessary to the

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administration of, or beneficial at the time at which the services were rendered toward the completion of, the case, and the compensation sought for such services is reasonable; and (2) the expenses incurred on behalf of the estate for which reimbursement is sought were actual and necessary.

Accordingly, the court allows as final fees the sum of \$23,855.00. The court further allows as final expenses the sum of \$271.49.

Trustee shall submit an appropriate order.

Party Information

Debtor(s):

Farrell C Odendhal

Represented By
Monica M Robles
Felicita A Torres

Trustee(s):

Jerry Namba (TR)

Represented By
Reed H Olmstead

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9:14-12209 Mark S Connolly

Chapter 7

#14.00 Hearing RE: [19] Order to Show Cause Re Contempt for Violation of Discharge Injunction; Declarations of Mark S. Connolly and Knute Rife in Support Thereof (Grant, Karen)

FR. 9-13-16

Docket 19

***** VACATED *** REASON: Continued to November 29, 2016, at 10:00 a.m.**

Tentative Ruling:

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Party Information

Debtor(s):

Mark S Connolly

Represented By
Karen L Grant

Trustee(s):

Sandra McBeth (TR)

Pro Se

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9:16-11500 James Charles White, Jr.

Chapter 7

#14.10 Order to Show Cause Why Case Should Not Be Dismissed For Failure to Pay Filing Fee in Installments As Ordered By the Court

Docket 13

Tentative Ruling:

None.

Party Information

Debtor(s):

James Charles White Jr.

Pro Se

Trustee(s):

Jeremy W. Faith (TR)

Pro Se

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10:02 AM

9:16-11147 Juanita Crestine Valencia

Chapter 7

#15.00 Reaffirmation Hearing Date Set
RE: [12] Reaffirmation Agreement Between Debtor and Gateway One Lending & Finance (Macedo, Jennifer)

Docket 12

***** VACATED *** REASON: Calendared in error.**

Tentative Ruling:

.

Party Information

Debtor(s):

Juanita Crestine Valencia

Represented By
Andrew S Mansfield

Trustee(s):

Sandra McBeth (TR)

Pro Se

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10:02 AM

9:16-11497 Diane E Mercado

Chapter 7

#16.00 Reaffirmation Hearing Date Set
RE: [10] Pro se Reaffirmation Agreement Between Debtor and Wells Fargo
Dealer Services

Docket 10

Tentative Ruling:

None.

Party Information

Debtor(s):

Diane E Mercado

Represented By
David S Hagen

Trustee(s):

Jeremy W. Faith (TR)

Pro Se