

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Tuesday, June 17, 2025

Hearing Room 201

9:00 AM

9: -

Chapter 0

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Tentative Ruling:

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- NONE LISTED -

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9:25-10144 Felipa Ruthe Richland

Chapter 7

#1.00 Hearing re: [103] Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2019 Mercedes-Benz CLS450C, VIN: WDD2J5JB0KA043503

Docket 103

***** VACATED *** REASON: Order granting relief from stay entered
6/9/25**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Felipa Ruthe Richland

Represented By
Michael S Kogan

Movant(s):

Mercedes-Benz Financial Services

Represented By
Sheryl K Ith

Trustee(s):

Nancy J Zamora (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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9:25-10444 Diversified Panels Systems, Inc.

Chapter 7

#2.00 Hearing re: [12] Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: (4) 4-5/8" Wall Panels SW/SW 9' 5", (1) 2" Ceiling Panel SW/SW 10' 0", (2) 2" x 4-3/4" x 2" Base Track, (8) Flat Battens 15" x 10'

Docket 12

Tentative Ruling:

June 17, 2025

Appearances required.

On December 4, 2024, Diversified Panel Systems, Inc. (the "Debtor") sent a "quote" to "Kosher Provision" and "Benny Abraham" for certain wall and ceiling panels (the "Property"), and the shipping of such panels, totaling \$3,500. *See* Docket No. 12, *Motion for Relief from the Automatic Stay Under 11 U.S.C. § 362* (the "Motion"), *Exhibit 1*. The "quote" is stamped "PAID" as of December 5, 2024, in the amount of \$1,985.35. *See id.*

On April 2, 2025 (the "Petition Date"), the Debtor filed a voluntary petition for relief under Chapter 7 of Title 11 of the United States Code. *See* Docket No. 1, *Voluntary Petition for Non-Individuals Filing for Bankruptcy*. The Debtor scheduled Kosher Provisions as an unsecured creditor in the amount of \$1,285.35 related to a "[d]eposit for unfinished order or overpayment." *See id.* at p. 26, *Schedule E/F: Creditors Who Have Unsecured Claims*. The Debtor also scheduled certain creditors with blanket liens on the Debtor's assets, Fora Financial West, LLC and JP Morgan Chase Bank, N.A., and a creditor with a judgment lien, Plan B Management, Inc. *See id.* at pp. 16-17, *Schedule D: Creditors Who Have Claims Secured by Property*.

On May 19, 2025, Kosher Provisions, Inc. ("Movant") filed the Motion, seeking to lift the automatic stay pursuant to 11 U.S.C. §§ 362(d)(1) and (d)(2) in relation to the Property on the grounds that (1) Movant's interest in the Property is not protected by an adequate equity cushion, (2) the estate has no equitable interest in the Property and continued detention harms Movant, and (3) pursuant to 11 U.S.C. § 362(d)(2)(A), the

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Debtor has no equity in the Property; and, pursuant to 11 U.S.C. § 362(d)(2)(B), the Property is not necessary for an effective reorganization. *See* Docket No. 12, pp. 3-4, *Attachment*.

In addition to lifting the stay, Movant requests (1) relief to proceed under applicable nonbankruptcy law to enforce its remedies to repossess and sell the Property, (2) confirmation that there is no stay in effect, (3) waiver of the 14-day stay prescribed by Fed. R. Bankr. P. 4001(a)(3), and (4) if relief from stay is not granted, adequate protection be ordered. *See id.*, p. 5.

Notice

The Motion and notice thereof were served upon the Debtor via U.S. Mail First class, postage prepaid on May 19, 2025, notifying the Debtor that pursuant to this Court's Local Rule 9013-1(d), any opposition to the Motion must be filed and served no less than fourteen (14) days prior to the hearing on the Motion. *See id.*, *Proof of Service of Document*, p. 12. This Court's Local Rule 4001-1(c)(1)(C)(iv) provides that "movant must serve [] the holder of a lien or encumbrance against the subject property that is known to the movant, scheduled by the debtor, or appears in the public record."

On June 3, 2025, the Debtor filed that *Non-Opposition by Debtor to Motion for Relief from Automatic Stay Filed by Kosher Provision, Inc.* (the "Non-Opposition"). *See* Docket No. 14. In the Non-Opposition, the Debtor asserts that the Property has been manufactured, is segregated, and readily identifiable. *See id.*, p. 2. Therefore, the Debtor has no opposition to the Motion. *See id.*

Movant did not serve the creditors scheduled by the Debtor as having blanket liens on its assets. The Motion fails for lack of appropriate service.

Analysis

Pursuant to 11 U.S.C. § 362(a), "[e]xcept as provided in subsection (b) of this section, a petition filed under section 301, 302, or 303 of this title, or an application filed under section 5(a)(3) of the Securities Investor Protection Act of 1970, operates as a stay, applicable to all entities, of . . . (3) any act to obtain possession of property of the estate or of property from the estate or to exercise control over property of the estate; . . ." Pursuant to 11 U.S.C. § 541(a)(1), "[t]he commencement of a case under

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section 301, 302, or 303 of this title creates an estate. Such estate is comprised of [] all legal or equitable interests of the debtor in property as of the commencement of the case." Pursuant to 11 U.S.C. § 541(d), "[p]roperty in which the debtor holds, as of the commencement of the case, only legal title and not an equitable interest, such as a mortgage secured by real property, or an interest in such a mortgage, sold by the debtor but as to which the debtor retains legal title to service or supervise the servicing of such mortgage or interest, becomes property of the estate under subsection (a)(1) or (2) of this section only to the extent of the debtor's legal title to such property, but not to the extent of any equitable interest in such property that the debtor does not hold."

Constructive Trust

Movant argues through the Motion that relief is appropriate under 11 U.S.C. § 362(d) (1) in that the Debtor holds the Property in constructive trust for Movant, and the Debtor "holds only legal title" in the Property. *See* Docket No. 12, pp. 12-13.

"A constructive trust [] is a remedy for circumstances where, although both legal and equitable title repose in one party, in equity the beneficial interest should belong to another." A constructive trust is an equitable remedy imposed to prevent unjust enrichment." *In re Advent Management Corp.*, 178 B.R. 480, 486 (9th Cir. BAP 1995)(internal citations omitted). "California has codified the definition of a constructive trust in two statutes. The first provides that '[o]ne who wrongfully detains a thing is an involuntary trustee thereof, for the benefit of the owner.'" *Id.* (citing Cal. Civ. Code § 2223). "The second provides: 'One who gains a thing by fraud, accident, mistake, undue influence, the violation of trust, or other wrongful act, is, unless he or she has some other and better right thereto, an involuntary trustee of the thing gained, for the benefit of the person who would otherwise have had it.'" *Id.* (citing Cal. Civ. Code § 2224).

"Court recognition of the existence of the constructive trust removes the property from within the definition of 'property of the estate.'" *Id.* at 488. "A constructive trust is a remedy; as such, it is inchoate until its existence is established by court order." *Id.* (internal citations omitted). "The incipient beneficiary of a constructive trust has no rights greater than any other creditor of the debtor who has not reduced his claim to judgment and perfected it.'" *Id.* (citing *In re Markair, Inc.*, 172 B.R. 638, 642 (9th

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Cir. BAP 1994)). A "constructive trust can only be established by litigation, and the litigation must be successful before the property right is absolute." *Id.* "In a bankruptcy, it does not end the matter for a court to find that state law would impose a constructive trust over certain property; the constructive trust will not be given effect if it is against the federal bankruptcy policy favoring ratable distribution to all creditors." *Id.* at 489; *see also In re Golden Triangle Capital, Inc.*, 171 B.R. 79, 82 (9th Cir. BAP 1994).

The Court has three (3) queries for Movant regarding its constructive theory as constituting cause to lift the stay. First, Movant asserts that the Debtor "holds only legal title" in the Property. *See* Docket No. 12, p. 12. If a constructive trust is a remedy for circumstances where a party holds both legal *and* equitable title in a res, how then may Movant assert a constructive trust in the Property? Second, may the Court impose the equitable remedy of constructive trust utilizing California law in a situation where no court has made a determination that Movant is a beneficiary to a constructive trust holding the Property? Does case law not stand for the proposition that in this instance, Movant must hold a judgment/order finding the Debtor to be a trustee of the Property, with Movant as the beneficiary of the trust under the auspices of California constructive trust law? Lastly, the meeting of creditors concluded on or about June 5, 2025. There is not yet any indication that the Chapter 7 trustee is abandoning the Property. With secured claims over the Property, and millions of dollars in unsecured claims, where lies the prudence in the Court granting the Motion in light of the Bankruptcy Code's policy of ratable distribution of assets? On this point, more fully, *see infra*.

Equity in the Property

If the Court finds that the Property constitutes property of the Debtor's estate, the alternative relief of the Motion is triggered. That is, the Court must find that the Debtor lacks equity in the Property. "[T]he party requesting [relief under 11 U.S.C. § 362(d)] has the burden of proof on the issue of the debtor's equity in property..." 11 U.S.C. § 362(g)(1). It appears to the Court that Movant values the Property at \$0.00 based principally, if not solely on the theory that the Property was custom made for Movant, and so is "of no use to anyone else." *See* Docket No. 12, p. 9. Yet, Movant also asserts that Movant "needs" the Property. *See id.* Thus, the Property is worth something to Movant. If the Property is worth something to Movant, the Property

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may be sold to Movant by the Chapter 7 trustee for the benefit of the Debtor's bankruptcy estate. It is not clear to the Court what the Property is worth to Movant, and the Court has no certainty as to the validity of liens against the Property, if any. Nonetheless, the argument that the Property is worth nothing is incorrect. As proof of equity in the Property lies with Movant, the Motion fails under 11 U.S.C. §§ 362(d)(1) and (2).

Party Information

Debtor(s):

Diversified Panels Systems, Inc.

Represented By
William E. Winfield

Movant(s):

Kosher Provision, Inc.

Represented By
Donna R Dishbak

Trustee(s):

Amy L Goldman (TR)

Pro Se

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9:25-10522 Daniel Burrell, Sr. and Elba Burrell

Chapter 7

#3.00 Hearing re: [22] Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2022 BMW X5 xDrive45e VIN#5UXTA6C00N9M79465

Docket 22

Tentative Ruling:

June 17, 2025

Appearances waived. The Motion is granted pursuant to 11 U.S.C. §§ 362(d)(1) and (2). The request to waive Fed. R. Bankr. P. 4001(a) is denied. Movant to lodge a conforming order within 7 days.

On May 22, 2025, BMW Financial Services NA, LLC service provider for BMW Bank of North America ("Movant") filed that *Motion for Relief from the Automatic Stay Under 11 U.S.C. § 362* (the "Motion") seeking to lift the automatic stay pursuant to 11 U.S.C. §§ 362(d)(1) and (d)(2) in relation to a 2022 BMW X5 xDrive45e (the "Vehicle") of Daniel Burrell Sr. and Elba Burrell (the "Debtors") on the grounds that (1) Movant's interest in the Vehicle is not adequately protected by an adequate equity cushion and the fair market value of the Vehicle is declining, and (2) pursuant to 11 U.S.C. § 362(d)(2)(A), the Debtors have no equity in the Vehicle; and, pursuant to 11 U.S.C. § 362(d)(2)(B), the Vehicle is not necessary for an effective reorganization. *See* Docket No. 22, p. 3-4.

In addition to lifting the stay, Movant requests (1) relief to proceed under applicable nonbankruptcy law to enforce its remedies to repossess and sell the Vehicle, and (2) waiver of the 14-day stay provided under Fed. R. Bankr. P. 4001(a)(3). *See id.*, p. 5.

The Motion and notice thereof were served upon the Debtors via U.S. Mail First class, postage prepaid on May 22, 2025, notifying the Debtors that pursuant to this Court's Local Rule 9013-1(f)(1), any opposition to the Motion must be filed and served no less than fourteen (14) days prior to the hearing on the Motion. *See id.*, *Proof of Service of Document*, p. 12. Pursuant to this Court's Local Rule 9013-1(h), "if a party does not timely file and serve documents, the court may deem this to be consent to the

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granting or denial of the motion, as the case may be."

On June 2, 2025, the Debtors filed that *Response to Motion Regarding the Automatic Stay* (the "Response"). See Docket No. 33. In the Response, the Debtors assert that (1) the bankruptcy case was not filed in bad faith, and (2) Movant has not established that it retains the legal title to enforce a debt that has been charged off, not provided the governing agreement or adequate evidence of standing because the debt was charged off on the Debtor Elba Burrell's credit report. See *id.*

Analysis

11 U.S.C. § 362(d)(1)

Pursuant to 11 U.S.C. § 362(d)(1), "[o]n request of a party in interest and after notice and a hearing, the court shall grant relief from the stay provided under subsection (a) of this section, such as by terminating, annulling, modifying, or conditioning such stay for cause, including the lack of adequate protection of an interest in property of such party in interest."

The Code does not define the term "real party in interest." In the relief from stay context, courts "tend to focus the definition on parties who are entitled to enforce the obligation." See *In re Rice*, 462 BR 651, 656-657 (6th Cir. BAP 2011); *In re Veal* 450 BR 897, 908 (9th Cir. BAP 2011) ("most real party in interest inquiries focus on whether the plaintiff or movant holds the rights he or she seeks to redress"); *In re Comcoach Corp.*, 698 F.2d 571, 573 (2nd Cir. 1983) (real party in interest is "the one who, under the applicable substantive law, has the legal right which is sought to be enforced or is the party entitled to bring suit").

Beyond the lack of adequate protection, "cause" is determined on a case-by-case basis. See *In re MacDonald*, 755 F.2d 715, 717 (9th Cir. 1985). The failure of a debtor to make post-petition payments on a secured obligation may constitute cause. See *In re Watson*, 286 B.R. 594, 604 (Bankr. D. NJ 2002).

On July 1, 2022, Elba Burrell executed that *BMW Financial Services NA, LLC Motor Vehicle Retail Installment Contract- California* (the "Contract") as "Buyer(s)." See Docket No. 22, *Exhibit 1*. Through the Contract, Movant agreed to finance the

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Daniel Burrell, Sr. and Elba Burrell

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purchase of the Vehicle, and Elba Burrell agreed to make 84 monthly payments in the amount of \$1,075.38 to Movant beginning August 15, 2022. *See id.* Upon the Debtor's default, the Contract provided for, *inter alia*, collection of any monetary obligations due under the Contract and for the repossession of the Vehicle. *See id.*, p. 5. Movant holds a lien on the Vehicle. *See id.*, *Exhibit 2*. Therefore, Movant has established that it (1) has standing to bring the Motion as the real party in interest because Movant is entitled to enforce the obligations under the terms of the Contract, (2) Movant has presented a loan agreement that permits collection and repossession, and (3) Movant has presented evidence of a valid lien.

The purported charge off that appears on the Debtor's credit report is not binding on this Court. A "charge off" is a notation that a creditor has "changed the outstanding debt from a receivable to a loss in its own account books." *Anderson v. Credit One Bank, N.A.*, 884 F.3d 382, 385 (2nd Cir. 2018). A charge off "does not diminish the legal right of the original creditor to collect the full amount of the debt." *See Hinkle v. Midland Credit Mgmt., Inc.*, 827 F.3d 1295, 1297 (11th Cir. 2016); *see In re McGarvey*, 613 B.R. at 307 n.14 (Bankr. E.D. Cal. 2020) ("The creditor may continue to try and collect (or sell it to someone else to try and collect) the debt. The 'charge-off' does not change the legal enforceability of the debt."); *see Dye v. TransUnion, LLC*, No. 13-cv-1094, 2013 WL 5663094, at *3 (D. Nev. Oct. 15, 2013) ("[Charged off] debt is still enforceable.").

Movant asserts a secured claim against the Vehicle in the amount of \$65,892.79. *See* Docket No. 22, p. 8. Movant asserts that the Debtors are in arrears in the amount of \$18,281.46. *See id.* It appears that the Debtors' last monthly payment of \$1,075.38 was received by Movant on December 9, 2023. *See id.* at p. 8.

In light of the Debtors' failure to make post-petition payments and the ever-eroding equity in the Vehicle due to the lack of payments, "cause" exists to lift the automatic stay pursuant to 11 U.S.C. § 362(d)(1).

11 U.S.C. § 362(d)(2)

Pursuant to 11 U.S.C. § 362(d)(2), "[o]n request of a party in interest and after notice and a hearing, the court shall grant relief from the stay provided under subsection (a) of this section, such as by terminating, annulling, modifying, or conditioning such stay

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with respect to a stay of an act against property under subsection (a) of this section, if (A) the debtor does not have an equity in such property and (B) such property is not necessary to an effective reorganization." "Since reorganization is not relevant in Chapter 7, the only issue is whether there is equity in the property." *In re Preuss*, 15 B.R. 896, 897 (9th Cir. BAP 1981). Value of a motor vehicle may be determined by the Kelley Blue Book. *See In re Bertolini*, 2007 WL 2254711, at *1 (Bankr. E.D. Cal. 2007).

Movant asserts through the Motion that its secured claim in this matter, the Vehicle of which serves as collateral for said claim, totals \$65,892.79 as of April 22, 2025. *See* Docket No. 22, p. 8. According to the Kelley Blue Book Pricing Report the Vehicle has a fair market value of \$47,341.00. *See id.*, at *Exhibit 3*. As there exists no equity in the Vehicle, and because the instant case is one under Chapter 7, the Motion is granted pursuant to 11 U.S.C. § 362(d)(2).

Fed. R. Bankr. P. 4001(a)

The Court will not waive the 14-day stay under Fed. R. Bankr. P. 4001(a)(3) as no analysis has been provided by Movant as to why such relief is warranted.

Party Information

Debtor(s):

Daniel Burrell Sr.

Pro Se

Joint Debtor(s):

Elba Burrell

Pro Se

Movant(s):

BMW Financial Services NA, LLC

Represented By
Joseph C Delmotte

Trustee(s):

Sandra McBeth (TR)

Pro Se

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9:25-10587 Kyle Dill

Chapter 7

#4.00 Hearing re: [9] Notice of motion and motion for relief from the automatic stay with supporting declarations UNLAWFUL DETAINER RE: 3511 Pear Court; Simi Valley, CA 93065

Docket 9

Tentative Ruling:

June 17, 2025

Appearances waived. The Motion is granted pursuant to 11 U.S.C. §§ 362(d)(1) and (2). The request to waive Fed. R. Bankr. P. 4001(a) is denied. Movant to lodge a conforming order within 7 days.

Oluwatosin Bamidele ("Movant") seeks relief as to the residential property located at 3511 Pear Court, Simi Valley, CA 93065 (the "Premises") through an order pursuant to 11 U.S.C. §§ 362(d)(1) and 362(d)(2) on the grounds that 'cause' exists as to the debtor Kyle Dill (the "Debtor") because the Debtor has no right to continued occupancy of the Premises. *See Motion for Relief from the Automatic Stay or for An Order Confirming That Automatic Stay Does Not Apply Under 11 U.S.C. § 362(l)* (the "Motion") (Docket No. 9).

An unlawful detainer proceeding was commenced on February 24, 2024. *See id.*, p. 3. Under 11 U.S.C. § 362(d)(1), Movant contends that the Debtor's right to possession of the Premises terminated because (1) the lease or other right of occupancy expired by its terms on February 28, 2025, (2) lease payments have not been made after filing the bankruptcy petition, and (3) pursuant to 11 U.S.C. § 362(d)(2)(A), the Debtor has no equity in the Premises, and pursuant to 11 U.S.C. § 362(d)(2)(B), the Premises are not necessary for reorganization. *See id.*, p. 4. **[FN 1]**

In addition to lifting the stay, Movant requests relief to (1) proceed under applicable nonbankruptcy law to enforce its remedies to foreclose upon and obtain possession of the Premises, and (2) the 14-day stay prescribed by FRBP 4001(a)(3) be waived. *See id.*, p. 5.

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Notice

The Motion and notice thereof were served upon the Debtor via overnight mail on May 19, 2025, notifying the Debtor that pursuant to this Court's Local Rule 9013-1(d), any opposition to the Motion must be filed and served no less than fourteen (14) days prior to the hearing on the Motion. *See id.*, *Proof of Service of Document*, p. 11. Pursuant to this Court's Local Rule 9013-1(h), "if a party does not timely file and serve documents, the court may deem this to be consent to the granting or denial of the motion, as the case may be." Neither the Debtor, nor any other party served with the Motion has timely filed an opposition to the Motion. The Court therefore takes the default of all non-responding parties, including the Debtor.

Analysis

11 U.S.C. § 362(d)(1)

Pursuant to 11 U.S.C. § 362(d)(1), "[o]n request of a party in interest and after notice and a hearing, the court shall grant relief from the stay provided under subsection (a) of this section, such as by terminating, annulling, modifying, or conditioning such stay for cause, including the lack of adequate protection of an interest in property of such party in interest." Beyond the lack of adequate protection, "cause" is determined on a case-by-case basis. *See In re MacDonald*, 755 F.2d 715, 717 (9th Cir. 1985).

As to "cause" under 11 U.S.C. § 362, Movant asserts that the Debtor has not paid monthly rent of \$6,500.00 beginning on August 1, 2024. *See* Docket 9, p. 7. Schedule G identifies the lease agreement associated with the Premises with Movant. *See* Docket No. 1, *Schedule G: Executory Contracts and Unexpired Leases*, p. 1. The Debtor lists \$6,500.00 as a rental or homeownership expense on his Schedule J. *See id.*, *Schedule J: Your Expenses*, p. 1. However, the lease expired by its own terms on February 28, 2025. *See* Docket No. 9, p. 4. Debtor may assume only a lease that is still in existence; a lease which has been terminated or which has expired is not capable of being assumed. *See* 11 U.S.C. § 365; *see also In re Acorn Invs.*, 8 B.R. 506, 510 (Bankr. S.D. Cal. 1981); *In re G. Force Investments, Inc.*, 442 B.R. 646, 64 (Bankr. N.D. Ohio 2010). Further, the failure to pay post-petition lease payments on a real property lease may constitute cause to lift the stay under 11 U.S.C. § 362(d)(1). *See In re Rocchio*, 125 B.R. 345, 347 (Bankr. D. RI 1991); *see also In re Touloumis*,

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170 B.R. 825 (Bankr. S.D.N.Y. 1994); 11 U.S.C. § 365(d)(3)(A).

As the Debtor has failed to make lease payments to Movant post-petition, the Motion is granted pursuant to 11 U.S.C. § 362(d)(1).

11 U.S.C. § 362(d)(2)

Pursuant to 11 U.S.C. § 362(d)(2), "[o]n request of a party in interest and after notice and a hearing, the court shall grant relief from the stay provided under subsection (a) of this section, such as by terminating, annulling, modifying, or conditioning such stay with respect to a stay of an act against property under subsection (a) of this section, if (A) the debtor does not have an equity in such property and (B) such property is not necessary to an effective reorganization." "Since reorganization is not relevant in Chapter 7, the only issue is whether there is equity in the property." *In re Preuss*, 15 B.R. 896, 897 (9th Cir. BAP 1981).

As there exists no equity in the Premises for the Debtor, and because the instant case is one under Chapter 7, the Motion is granted pursuant to 11 U.S.C. § 362(d)(2).

4001(a)(3) Waiver

As to Fed. R. Bankr. P. 4001(a)(3), "[t]he purpose of this provision is to permit a short period of time for the debtor or the party opposing relief to seek a stay pending an appeal of the order." *In re Sternitzky*, 635 B.R. 353, 361 (Bankr. W.D. Wis. 2021). "The party obtaining relief from the automatic stay may persuade the court to grant a shorter time period for the debtor to seek a stay pending appeal, or even grant no time." *Id.* No analysis has been provided to support the request to waive the application of Fed. R. Bankr. P. 4001(a)(3), and so the Court declines to do so.

[FN 1] Movant checks the box that pursuant to 11 U.S.C. § 362(b)(22) and (23) there is no stay because Movant commenced an eviction, unlawful detainer action or similar proceeding against the Debtor involving residential property in which the Debtor resides. See *id.*, p. 3. However, Movant does not request confirmation that there is no stay in effect as relief in the Motion. See *id.*, p. 5.

Party Information

Debtor(s):

Kyle Dill

Pro Se

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Tuesday, June 17, 2025

Hearing Room 201

9:00 AM

CONT... Kyle Dill

Chapter 7

Movant(s):

Oluwatosin Bamidele

Represented By
Brian Nomi

Trustee(s):

David Keith Gottlieb (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
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Tuesday, June 17, 2025

Hearing Room 201

9:00 AM

9:21-10694 Carlos Peralta, Jr.

Chapter 13

#5.00 CONT'D Hearing re: [42] Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 4541 South G Street, Oxnard, CA 93033

fr. 5-20-25,

Docket 42

***** VACATED *** REASON: Withdrawn by movant on 6/2/25**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Carlos Peralta Jr.

Represented By
Todd J Mannis

Movant(s):

Nationstar Mortgage LLC

Represented By
Joseph C Delmotte

Trustee(s):

Elizabeth (ND) F Rojas (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
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Tuesday, June 17, 2025

Hearing Room 201

9:00 AM

9:21-11016 Sandra Lea Grass

Chapter 13

#6.00 Hearing re: [79] Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 195 Cedar Street, Ventura, CA 93001

Docket 79

***** VACATED *** REASON: Withdrawn by movant on 6/11/25**

Tentative Ruling:

June 17, 2025

Appearances required.

HSBC Bank USA, National Association, as Trustee for Wells Fargo Asset Securities Corporation, Mortgage Pass-Through Certificates, Series 2006-AR14 ("Movant") seeks a lifting of the automatic stay pursuant to 11 U.S.C. § 362(d)(1) in relation to the real property located at 195 Cedar Street, Ventura, CA 93001 (the "Property") of Sandra Lea Grass (the "Debtor") on the grounds that the Debtor has failed to make postpetition mortgage payments as they became due under the *2nd Amended Chapter 13 Plan* (the "Plan"). *See* Docket No. 79, *Motion for Relief from Stay Under 11 U.S.C. § 362* (the "Motion"), pp. 3-4.

In addition to lifting the stay, Movant requests relief to (1) proceed under applicable nonbankruptcy law to enforce its remedies to foreclose upon and obtain possession of the Property, (2) at its option, offer, provide and enter into a potential forbearance agreement or other loan workout/loss mitigation agreement by contacting the Debtor, (3) waiver of the 14-day stay pursuant to Fed. R. Bankr. P. 4001(a)(3), and (4) if relief from stay is not granted, adequate protection be ordered. *See id.*, p. 5.

Notice

The Motion and notice thereof were served upon the Debtor via U.S. Mail First class, postage prepaid on May 15, 2025, notifying the Debtor that pursuant to this Court's Local Rule 9013-1(d), any opposition to the Motion must be filed and served no less than fourteen (14) days prior to the hearing on the Motion. *See id.*, *Proof of Service of Document*, p. 12.

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9:00 AM

CONT...

Sandra Lea Grass

Chapter 13

On June 3, 2025, the Debtor filed that *Response to Motion Regarding the Automatic Stay* (the "Response"). *See* Docket No. 81. In the Response, the Debtor asserts that two wire transfers in the total amount of \$112,979.65 were submitted to Movant's loan servicer New Rez LLC d/b/a Shellpoint Mortgage Servicing on June 3, 2025. *See id.*, p. 2. The Debtor asserts that the wire transfers cure any arrearage owed to Movant. *See id.*

Analysis

Pursuant to 11 U.S.C. § 362(d)(1), "[o]n request of a party in interest and after notice and a hearing, the court shall grant relief from the stay provided under subsection (a) of this section, such as by terminating, annulling, modifying, or conditioning such stay [] for cause, including the lack of adequate protection of an interest in property of such party in interest." Failure to make postpetition mortgage payments as they become due in a Chapter 13 case may constitute "cause" for relief from the automatic stay under § 362(d)(1). *See In re Marks*, 2012 WL 6554705, at *11 (9th Cir. BAP Dec. 14, 2012), *aff'd*, 624 F. App'x 963 (9th Cir. 2015) (citing *In re Ellis*, 60 B.R. 432, 435 (9th Cir. BAP 1985)).

Under the terms of the Plan, the Debtor is required to make regular payments to Movant under the terms of the prepetition lending agreement. *See* Docket No. 60, p. 6, Class 2. Movant asserts that the Debtor defaulted on Plan payments consisting of four (4) unpaid postconfirmation payments of \$4,488.63 and fourteen (14) unpaid postconfirmation payments of \$4,888.09. *See* Docket No. 79, p. 9. Less a suspense account of \$4,285.67, Movant asserts that there is a total postconfirmation delinquency of \$101,654.47 (as of the date of the Motion) with a payment of \$4,888.09 becoming due May 1, 2025. *See id.* According to the Motion, the last monthly payment of \$8,977.26 was received by Movant on October 3, 2023. *See id.*

In the Response the Debtor asserts that she has cured any outstanding deficiency. *See* Docket No. 81. Is the Debtor current?

Party Information

Debtor(s):

Sandra Lea Grass

Represented By
Michael Salanick

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CONT... Sandra Lea Grass

Chapter 13

Movant(s):

NewRez LLC d/b/a Shellpoint

Represented By
Patrick Kane

Trustee(s):

Elizabeth (ND) F Rojas (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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Tuesday, June 17, 2025

Hearing Room 201

9:00 AM

9:24-10269 Antonio Gabriel De La Torre, Jr.

Chapter 13

#7.00 CONT'D Hearing re: [62] Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 3728 Orange Drive, Oxnard, CA 93030

fr. 5-20-25,

Docket 62

Tentative Ruling:

June 17, 2025

Appearances waived.

The Motion is denied without prejudice for improper service. Movant to upload a conforming order within 7 days.

May 20, 2025

Appearances are waived. The Motion is denied without prejudice for improper service. Movant to upload a conforming order within 7 days.

U.S. Bank Trust National Association, as Trustee of the Lodge Series III Trust, its successors and/or assignees ("Movant") seeks a lifting of the automatic stay pursuant to 11 U.S.C. § 362(d)(1) in relation to the real property located at 3728 Orange Drive, Oxnard, CA 93030 (the "Property") of Antonio Gabriel De La Torre, Jr. (the "Debtor") on the grounds that the Debtor has failed to make postpetition mortgage payments as they became due under the *1st Amended Chapter 13 Plan* (the "Plan"). See Docket No. 62, *Motion for Relief from Stay Under 11 U.S.C. § 362* (the "Motion"), pp. 3-4.

In addition to lifting the stay, Movant requests relief to (1) proceed under applicable nonbankruptcy law to enforce its remedies to foreclose upon and obtain possession of the Property, (2) at its option, offer, provide and enter into a potential forbearance agreement or other loan workout/loss mitigation agreement by contacting the Debtor,

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CONT... **Antonio Gabriel De La Torre, Jr.** **Chapter 13**

(3) waiver of the 14-day stay pursuant to Fed. R. Bankr. P. 4001(a)(3), and (4) upon entry of the order, for purposes of Cal. Civ. Code § 2923.5, the Debtor is a borrower as defined in Cal. Civ. Code § 2920.5(c)(2)(C). *See id.*, p. 5.

Notice

The Motion and notice thereof were served upon the Debtor via U.S. Mail First class, postage prepaid on April 17, 2025, at the incorrect address of 3728 Orange Drive, Oxnard, CA 93030. *See id.*, *Proof of Service of Document*, p. 12. The correct mailing address for the Debtor is 2430 Lobelia Drive, Oxnard, CA 93036. *See* Docket No. 1, p. 2; *see also* Docket No. 20, *Schedule A/B: Property*, p. 3. Therefore, notice of the Motion is improper.

Party Information

Debtor(s):

Antonio Gabriel De La Torre Jr.

Represented By
Matthew D. Resnik

Movant(s):

U.S. Bank Trust National

Represented By
Shannon A Doyle

Trustee(s):

Elizabeth (ND) F Rojas (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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Tuesday, June 17, 2025

Hearing Room 201

9:00 AM

9:24-11154 Erica Janeane Siaotong

Chapter 13

#8.00 Hearing re: [29] Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2022 BMW X3 sDrive30i VIN#5UX43DP01N9L16644

Docket 29

Tentative Ruling:

June 17, 2025

Appearances waived. The Motion is granted pursuant to 11 U.S.C. § 362(d)(1), including the request to waive Fed. R. Bankr. P. 4001(a). Movant to lodge a conforming order within 7 days.

On May 22, 2025, BMW Financial Services NA, LLC Service Provider for Financial Services Vehicle ("Movant") filed that *Motion for Relief from the Automatic Stay Under 11 U.S.C. § 362 (Personal Property)* (the "Motion") seeking to lift the automatic stay pursuant to 11 U.S.C. § 362(d)(1) in relation to a 2022 BMW X3 sDrive30i (the "Vehicle") of Erica Janeane Siaotong (the "Debtor") on the grounds that (1) the lease of the Vehicle has matured, (2) the Debtor failed to make payments to Movant pursuant to the terms of the lease agreement, and (3) the Debtor voluntarily surrendered the Vehicle on November 13, 2024, pursuant to the terms of that *1st Amended Plan* (the "Plan"). See Docket No. 29, pp. 3-4, *Attachment 4.a.(7)*.

In addition to lifting the stay, Movant requests (1) relief to proceed under applicable nonbankruptcy law to enforce its remedies to repossess and sell the Vehicle, (2) waiver of the 14-day stay provided under Fed. R. Bankr. P. 4001(a)(3), and (3) if relief is not granted, the Court order adequate protection. See *id.*, p. 5.

The Motion was filed on May 22, 2025, and served upon the Debtor via U.S. Mail first class, postage prepaid on the same date. See Motion, *Proof of Service of Document*, p. 12. Pursuant to this Court's Local Rule 9013-1(h), "if a party does not timely file and serve documents, the court may deem this to be consent to the granting or denial of the motion, as the case may be." Neither the Debtor, nor any other party served with the Motion has timely filed an opposition to the Motion. The Court

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CONT... Erica Janeane Siaotong

Chapter 13

therefore takes the default of all non-responding parties, including the Debtor.

Analysis

11 U.S.C. § 362(d)(1)

Pursuant to 11 U.S.C. § 362(d)(1), "[o]n request of a party in interest and after notice and a hearing, the court shall grant relief from the stay provided under subsection (a) of this section, such as by terminating, annulling, modifying, or conditioning such stay for cause, including the lack of adequate protection of an interest in property of such party in interest." Beyond the lack of adequate protection, "cause" is determined on a case-by-case basis. *See In re MacDonald*, 755 F.2d 715, 717 (9th Cir. 1985). The failure of a debtor to make post-petition payments on a secured obligation may constitute cause. *See In re Watson*, 286 B.R. 594, 604 (Bankr. D. NJ 2002).

Under the terms of the Plan, the Debtor indicated her intention to surrender the Vehicle. *See* Docket No. 16, p. 11, Class 7. Movant asserts a secured claim against the Vehicle in the amount of \$33,354.08. *See* Docket No. 29, p. 8. The claim is swelling by the day due to an absence of postpetition payments by the Debtor. *See id.* The payments to Movant on the Vehicle pursuant to the underlying loan agreement are tardy by five (5) months. *See id.* One (1) prepetition payment and four (4) postpetition payments of \$847.92 each have not been made. *See id.* Additionally, the lease on the Vehicle matured on February 22, 2025, and the Debtor voluntarily surrendered the Vehicle on November 13, 2024. *See id.*, p. 9; *Exhibit 1*.

In light of the Debtor's failure to make postpetition payments, the ever-eroding equity in the Vehicle due to the lack of payments, the maturity of the lease on the Vehicle, and the voluntary surrender of the Vehicle, "cause" exists to lift the automatic stay pursuant to 11 U.S.C. § 362(d)(1).

Party Information

Debtor(s):

Erica Janeane Siaotong

Represented By
Kevin T Simon

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CONT... Erica Janeane Siaotong

Chapter 13

Movant(s):

BMW Financial Services NA, LLC

Represented By
Joseph C Delmotte

Trustee(s):

Elizabeth (ND) F Rojas (TR)

Pro Se

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9:00 AM

9:24-11321 Elaine Cornelia Snyder

Chapter 13

#9.00 Hearing re: [55] Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 2553 Neptune Place, Port Hueneme, CA 93041

Docket 55

Tentative Ruling:

June 17, 2025

Appearances are waived. The Court will grant the Motion pursuant to 11 U.S.C. § 362(d)(1) for the reasons set forth *infra*, but will deny the Motion as to its request that the Court waive Fed. R. Bankr. P. 4001(a)(3). Movant to upload a conforming order within 7 days.

U.S. Bank Trust National Association, as Trustee of LB-Treehouse Series VI Trust, its successors and/or assignees ("Movant") seeks a lifting of the automatic stay pursuant to 11 U.S.C. § 362(d)(1) in relation to the real property located at 2553 Neptune Place, Port Hueneme, CA 93041 (the "Property") of Elaine Cornelia Snyder (the "Debtor") on the grounds that the Debtor has failed to make postpetition mortgage payments as they became due under the *1st Chapter 13 Plan* (the "Plan"). See Docket No. 55, *Motion for Relief from Stay Under 11 U.S.C. § 362* (the "Motion"), pp. 3-4.

In addition to lifting the stay, Movant requests relief to (1) proceed under applicable nonbankruptcy law to enforce its remedies to foreclose upon and obtain possession of the Property, (2) at its option, offer, provide and enter into a potential forbearance agreement or other loan workout/loss mitigation agreement by contacting the Debtor, (3) waiver of the 14-day stay pursuant to Fed. R. Bankr. P. 4001(a)(3), (4) upon entry of the order, for purposes of Cal. Civ. Code § 2923.5, the Debtor be deemed a borrower as defined by Cal. Civ. Code § 2920.5(c)(2)(C), and (5) if relief from stay is not granted, adequate protection be ordered. See *id.*, p. 5.

Notice

The Motion and notice thereof were served upon the Debtor via U.S. Mail First class, postage prepaid on May 16, 2025, notifying the Debtor that pursuant to this Court's

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CONT...

Elaine Cornelia Snyder

Chapter 13

Local Rule 9013-1(d), any opposition to the Motion must be filed and served no less than fourteen (14) days prior to the hearing on the Motion. *See id.*, *Proof of Service of Document*, p. 12. Pursuant to this Court's Local Rule 9013-1(h), "if a party does not timely file and serve documents, the court may deem this to be consent to the granting or denial of the motion, as the case may be." Neither the Debtor, nor any other party served with the Motion has timely filed an opposition to the Motion. The Court therefore takes the default of all non-responding parties, including the Debtor.

Analysis

Pursuant to 11 U.S.C. § 362(d)(1), "[o]n request of a party in interest and after notice and a hearing, the court shall grant relief from the stay provided under subsection (a) of this section, such as by terminating, annulling, modifying, or conditioning such stay [] for cause, including the lack of adequate protection of an interest in property of such party in interest." Failure to make postpetition mortgage payments as they become due in a Chapter 13 case may constitute "cause" for relief from the automatic stay under § 362(d)(1). *See In re Marks*, 2012 WL 6554705, at *11 (9th Cir. BAP Dec. 14, 2012), *aff'd*, 624 F. App'x 963 (9th Cir. 2015) (citing *In re Ellis*, 60 B.R. 432, 435 (9th Cir. BAP 1985)).

Under the terms of the Plan, the Debtor is required to make regular payments to Movant under the terms of the prepetition lending agreement. *See* Docket No. 52, p. 6, Class 2. [FN 1] Movant asserts that the Debtor defaulted on Plan payments consisting of six (6) unpaid postpetition preconfirmation payments of \$3,229.11. *See* Docket No. 55, p. 9. Including attorneys' fees and costs of \$4,676.05, Movant asserts that there is a total postconfirmation delinquency of \$24,050.71 (as of the date of the Motion) with a payment of \$3,229.11 becoming due June 1, 2025. *See id.* [FN 2] According to the Motion, the last monthly payment of \$776.34 was received by Movant on December 29, 2023. *See id.*

Cause has been shown sufficient to lift the automatic stay pursuant to 11 U.S.C. § 362(d)(1) due to the Debtor's failure to make no less than six (6) postpetition mortgage payments pursuant to the terms of the Plan.

As to Fed. R. Bankr. P. 4001(a)(3), "[t]he purpose of this provision is to permit a short period of time for the debtor or the party opposing relief to seek a stay pending an appeal of the order." *In re Sternitzky*, 635 B.R. 353, 361 (Bankr. W.D. Wis.

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CONT... Elaine Cornelia Snyder

Chapter 13

2021). "The party obtaining relief from the automatic stay may persuade the court to grant a shorter time period for the debtor to seek a stay pending appeal, or even grant no time." *Id.* No analysis has been provided to support the request to waive the application of Fed. R. Bankr. P. 4001(a)(3), and so the Court declines to do so.

[FN 1] The Debtor did not correctly complete that 1st Amended Plan as there is no box checked in Class 2. Since the Debtor listed the arrearage of Movant in Class 2, the box that indicates the "Debtor will maintain and make current contractual installment payments on the secured claims list below, with any changes required by the applicable contract and noticed in conformity with any applicable rules" should have been checked. *See id.*

[FN 2] There is a typographical error in the date of the next payment becoming due as it is listed as "June 1, 20". *See id.*

Party Information

Debtor(s):

Elaine Cornelia Snyder

Represented By
Steven J Renshaw

Movant(s):

US Bank Trust National Association

Represented By
Shannon A Doyle

Trustee(s):

Elizabeth (ND) F Rojas (TR)

Pro Se

**United States Bankruptcy Court
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9:00 AM

9:25-10113 Meagan M. Yates and Katie Yates

Chapter 13

#10.00 Hearing re: [53] Motion for relief from co-debtor stay

Docket 53

Tentative Ruling:

June 17, 2025

Appearances required.

On May 20, 2025, Transform Credit, Inc. ("Movant") filed that *Motion for Relief from Co-Debtor Stay* (the "Motion") seeking to lift the codebtor stay under 11 U.S.C. § 1301(a) of Dylan Satterfield ("Dylan"). *See* Docket No. 53. Through the Motion, Movant asserts that Dylan signed a promissory note (the "Loan") in favor of Movant, which Meagan M. Yates and Katie Yates (the "Debtors") guaranteed pursuant to a guaranty and indemnity loan agreement (the "Guaranty"). *See id.*, pp. 1-2. Movant further asserts that the Debtors' *1st Amended Chapter 13 Plan* (the "Plan") does not provide for the payment of the entire Loan at the contractual interest rate and Movant is, therefore, entitled to relief from the codebtor stay pursuant to 11 U.S.C. § 1301(c). *See id.*, p. 2; *see also* Docket No. 29, *1st Amended Chapter 13 Plan*.

In addition to lifting the codebtor stay under 11 U.S.C. § 1301(a), Movant requests waiver of the 14-day stay provided under Fed. R. Bankr. P. 4001(a)(3). *See* Docket No. 53, p. 3.

Notice

Under this Court's Local Rule 4001-1(1)(C)(iii), the motion, notice of hearing, and all supporting documents must be served by the moving party in the time and manner prescribed in LBR 9013-1(d) on any applicable codebtor where relief is sought from the codebtor stay under 11 U.S.C. §§ 1201 or 1301. Pursuant to this Court's LBR 9013-3(d)(2)(B), service by U.S. Mail must list the exact street address of each person or entity served.

The Motion was served upon the Debtors via U.S. Mail First class, postage prepaid on

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CONT... Meagan M. Yates and Katie Yates

Chapter 13

May 20, 2025. *See id.*, *Proof of Service of Document*, pp. 4-5. The Motion was also served on Dylan at "983 Santa Fe Street, Fillmore, CA 93015". *See id.* p. 6. The Debtors did not identify a codebtor or list an address for a codebtor in their schedules. *See* Docket No. 14, *Schedule H: Your Codebtors*, p. 1. The Guaranty was executed by Dylan on "4/30/2024". *See id.* There is no evidence before the Court that Dylan still receives mail at the Santa Fe Street address given that the Guaranty was executed over one year ago, and he was not listed as a codebtor in the Debtors' schedules. Therefore, the Court is unable to confirm that service upon Dylan was proper.

This Court's Local Rule 9013-1(c)(2) provides that "[e]very motion must be accompanied by written notice of motion specifying briefly the relief requested in the motion and, if applicable, the date, time, and place of hearing. Except as set forth in LBR 7056-1 with regard to motions for summary judgment or partial summary adjudication, or as otherwise ordered, the notice of motion must advise the opposing party that LBR 9013-1(f) requires a written response to be filed and served at least 14 days before the hearing."

The Motion does not notify the Debtors and Dylan that any opposition to the Motion must be filed and served no less than fourteen (14) days prior to the hearing on the Motion in compliance with this Court's Local Rule 9013-1(c)(2). Therefore, notice of the Motion is improper.

On May 30, 2025, the Debtors filed that *Limited Non-Opposition to Motion for Relief from Stay* (the "Non-Opposition"). *See* Docket No. 55. In the Non-Opposition, the Debtors assert that they do not oppose the Motion "limited solely to recovery of interest and other reasonable costs and fees provided for under the contract from the non-filing co-debtor Dylan Satterfield." *See id.*, pp. 1-2.

Analysis

Pursuant to 11 U.S.C. § 509(a), a "codebtor" is "an entity that is liable with the debtor on, or that has secured, a claim of a creditor against the debtor" (e.g., a guarantor). Pursuant to 11 U.S.C. § 1301(a), "[e]xcept as provided in subsections (b) and (c) of this section, after the order for relief under this chapter, a creditor may not act, or commence or continue any civil action, to collect all or any part of a consumer debt of the debtor from any individual that is liable on such debt with the debtor, or that

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CONT... Megan M. Yates and Katie Yates

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secured such debt, unless- (1) such individual became liable on or secured such debt in the ordinary course of such individual's business; or (2) the case is closed, dismissed, or converted to a case under chapter 7 or 11 of this title." Pursuant to 11 U.S.C. § 1301(c), "[o]n request of a party in interest and after notice and a hearing, the court shall grant relief from the stay provided by subsection (a) of this section with respect to a creditor, to the extent that- (1) as between the debtor and the individual protected under subsection (a) of this section, such individual received the consideration for the claim held by such creditor; (2) the plan filed by the debtor proposes not to pay such claim; or (3) such creditor's interest would be irreparably harmed by continuation of such stay." The Court must grant relief from the co-debtor stay upon proof of one of the grounds stated in 11 U.S.C. § 1301(c). *See In re Laska*, 20 B.R. 675, 676 (Bankr. N.D. Ohio 1982). "Under the plain wording of § 1301(c) (2), Movant is entitled to relief from the co-debtor stay 'to the extent—... the plan filed by the debtor proposes not to pay such claim.' Where a claim will not be paid in full through a co-debtor's Chapter 13 plan, the court simply lacks the discretion under § 1301(c)(2) to continue the stay against the co-debtor." *In re Grace*, No. 14-33624, 2015 WL 912532, at *2 (Bankr. N.D. Ohio Feb. 27, 2015) *citing In re Schaffrath*, 214 B.R. 153, 155 (6th Cir. BAP 1997)(relief mandatory where plan does not propose to pay entire claim).

Here, the Debtors executed the Guaranty on the Loan and Dylan executed the Loan. *See* Docket No. 53, at *Exhibit A*. Therefore, Dylan is a "codebtor" despite not being list as such on the Debtors' Schedule H.

On March 24, 2025, Movant filed that *Proof of Claim* in the amount \$2,219.13, unsecured. *See Proof of Claim 9-1*. The Plan provides that unsecured creditors in Class 5 will receive a total of \$66,719.81 and 100%. *See* Docket No. 29, p. 3, Sec. I.B. The Plan filed by the Debtors proposes to pay Movant's claim but not at the contractual rate of interest. *See* Docket No. 53. While the Plan proposes to pay Movant's claim, Movant asserts that it "does not have protection from the Debtors in the form of money payments, and is suffering, and will continue to suffer, irreparable harm from continuation of the co-debtor stay, as will the co-debtor as interest continues to accrue." *See id.*, p. 3, ¶ 7.

Importantly, 11 U.S.C. § 1301(a) specifically provides that "the court shall grant relief from the stay provided by subsection (a) of this section with respect to a creditor, to

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CONT... Meagan M. Yates and Katie Yates

Chapter 13

the extent that- . . . (2) the plan filed by the debtor proposes not to pay such claim; or (3) such creditor's interest would be irreparably harmed by continuation of such stay." (emphasis added); *see In re Grace*, at *3.

Movant is receiving 100% of its claim under the terms of the Plan but is not receiving the accruing interest. Therefore, Movant is only entitled to stay relief to try and collect what it will not be paid in this case from the Debtors.

Fed. R. Bankr. P. 4001(a)(3)

As to Fed. R. Bankr. P. 4001(a)(3), "[t]he purpose of this provision is to permit a short period of time for the debtor or the party opposing relief to seek a stay pending an appeal of the order." *In re Sternitzky*, 635 B.R. 353, 361 (Bankr. W.D. Wis. 2021). "The party obtaining relief from the automatic stay may persuade the court to grant a shorter time period for the debtor to seek a stay pending appeal, or even grant no time." *Id.* No analysis has been provided to support the request to waive the application of Fed. R. Bankr. P. 4001(a)(3), and so, if the Court were to grant the Motion, the Court would grant the request to waive Fed. R. Bankr. P. 4001(a)(3).

Conclusion

Movant is entitled to limited relief from the codebtor stay under 11 U.S.C. § 1301(a). However, there is no evidence that notice of the Motion was proper.

Party Information

Debtor(s):

Meagan M. Yates

Represented By
Susan Salehi

Joint Debtor(s):

Katie Yates

Represented By
Susan Salehi

Movant(s):

Transform Credit Inc.

Represented By
Diana Torres-Brito

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CONT... Meagan M. Yates and Katie Yates

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Trustee(s):

Elizabeth (ND) F Rojas (TR)

Pro Se

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9:23-10945 Jeffrey Dennis Peppard

Chapter 11

#11.00 Hearing re: [188] Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2018 Lexus RX450h, VIN: 2Y2BGMCA5JC022918

Docket 188

***** VACATED *** REASON: Withdrawn by movant on 6/12/25**

Tentative Ruling:

June 17, 2025

Appearances waived. The Motion is granted pursuant to 11 U.S.C. § 362(d)(1). The request to waive Fed. R. Bankr. P. 4001(a) is denied. Movant to lodge a conforming order within 7 days.

On May 21, 2025, Santander Bank, N.A. as servicer for Santander Consumer USA Inc. ("Movant") filed that *Motion for Relief from the Automatic Stay Under 11 U.S.C. § 362 (Personal Property)* (the "Motion") seeking to lift the automatic stay pursuant to 11 U.S.C. § 362(d)(1) in relation to a 2018 Lexus RX450h (the "Vehicle") of Jeffrey Dennis Peppard (the "Debtor") on the grounds that (1) Movant's interest in the Vehicle is not adequately protected as the fair market value of the Vehicle is declining and payments are not being made to Movant sufficient to protect Movant's interest against that decline, (2) proof of insurance regarding the Vehicle has not been provided to Movant, and (3) postpetition payments have not been made to Movant pursuant to the terms of that *Fourth Amended Chapter 11 Plan* (the "Plan"). See Docket No. 188, *Motion for Relief from Stay Under 11 U.S.C. § 362* (the "Motion"), pp. 3-4.

In addition to lifting the stay, Movant requests (1) relief to proceed under applicable nonbankruptcy law to enforce its remedies to repossess and sell the Vehicle, (2) waiver of the 14-day stay provided under Fed. R. Bankr. P. 4001(a)(3), and (3) if relief is not granted, the Court order adequate protection. See *id.*, p. 5.

The Motion was filed on May 21, 2025, and served upon the Debtor via U.S. Mail first class, postage prepaid on the same date. See *id.*, *Proof of Service of Document*, p. 12. Pursuant to this Court's Local Rule 9013-1(h), "if a party does not timely file and

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serve documents, the court may deem this to be consent to the granting or denial of the motion, as the case may be." Neither the Debtor, nor any other party served with the Motion has timely filed an opposition to the Motion. The Court therefore takes the default of all non-responding parties, including the Debtor.

Analysis

11 U.S.C. § 362(d)(1)

Pursuant to 11 U.S.C. § 362(d)(1), "[o]n request of a party in interest and after notice and a hearing, the court shall grant relief from the stay provided under subsection (a) of this section, such as by terminating, annulling, modifying, or conditioning such stay for cause, including the lack of adequate protection of an interest in property of such party in interest." Beyond the lack of adequate protection, "cause" is determined on a case-by-case basis. *See In re MacDonald*, 755 F.2d 715, 717 (9th Cir. 1985). The failure of a debtor to make post-petition payments on a secured obligation may constitute cause. *See In re Watson*, 286 B.R. 594, 604 (Bankr. D. NJ 2002). Courts have held that the failure of a debtor to maintain insurance over a secured creditor's collateral works as a failure to adequately protect the secured creditor in said collateral, and such lack of adequate protection constitutes cause to lift the stay. *See In re El Patio, Ltd.*, 6 BR 518, 522 (Bankr. C.D. Cal. 1980); *see also In re DB Capital Holdings, LLC*, 454 B.R. 804, 817 (Bankr. Colo. 2011); *In re Olayer*, 577 B.R. 464, 472 (Bankr. W.D. Pa. 2017) ("The failure to maintain adequate insurance to protect the value of estate assets is a breach of the debtor's fundamental obligations, needlessly expenses the estate to the risk of a catastrophic loss, and may constitute sufficient cause for stay relief.").

Under the terms of the Plan, the Debtor is required to make regular payments to Movant under the terms of the prepetition lending agreement. *See* Docket No. 134, p. 9, Class 3. Movant asserts a secured claim against the Vehicle in the amount of \$9,831.38 as of May 12, 2025. *See id.*, p. 8. The claim is swelling by the day due to an absence of post-petition payments by the Debtor. *See id.* The payments to Movant on the Vehicle pursuant to the underlying loan agreement are tardy by four (4) months. *See id.* Four (4) postpetition payments of \$611.12 have not been made for a total postpetition delinquency of \$2,444.48. *See id.* It appears that the Debtor's last

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monthly payment was received by Movant on January 14, 2025. *See id.* Additionally, there is no evidence that the Debtor has insurance on the Vehicle.

In light of the Debtor's failure to make post-petition payments, the ever-eroding equity in the Vehicle due to the lack of payments, and the failure to provide evidence of insurance on the Vehicle, "cause" exists to lift the automatic stay pursuant to 11 U.S.C. § 362(d)(1).

Fed. R. Bankr. P. 4001(a)

The Court will not waive the 14-day stay under Fed. R. Bankr. P. 4001(a)(3) as no analysis has been provided by Movant as to why such relief is warranted.

Party Information

Debtor(s):

Jeffrey Dennis Peppard

Represented By
Jeffrey S Shinbrot

Movant(s):

Santander Bank, N.A., as servicer

Represented By
Randall P Mroczynski

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9:22-10379 Gift Theory, Inc.

Chapter 7

#12.00 Hearing re: [120] Chapter 7 trustee's motion to reclassify portions of certain general unsecured claims to include priority unsecured claims under 11 U.S.C. § 507(a)(7)

Docket 120

Tentative Ruling:

June 17, 2025

Appearances required.

Background

On May 24, 2022, Gift Theory, Inc. (the "Debtor") filed that *Voluntary Petition for Non-Individuals Filing for Bankruptcy* (the "Petition") under Chapter 7 of Title 11 of the United States Code. *See* Docket No. 1. Sandra McBeth (the "Trustee") is the duly appointed chapter 7 trustee.

There have been 449 proofs of claims filed in this case totaling over \$2.72 million, with \$1,610.68 claiming secured status, and \$191,494.31 claiming priority status. *See* Claims Register.

The Debtor sold "clocks, timepieces, furniture, and home décor items." *See* Docket No. 120, *Chapter 7 Trustee's Notice of Motion and Motion to Reclassify Portions of Certain General Unsecured Claims to Include Priority Unsecured Claims Under 11 U.S.C. § 507(a)(7)* (the "Motion"), p. 3, lines 11-12. Prior to filing the Petition, the Debtor continued to take orders, deposits, and full payments for orders, but failed to deliver many of the said ordered items. *See id.* at lines 12-15. Further, according to the Trustee, many of the individual claimants in this case inadvertently failed to seek priority treatment for \$3,350 of their claims as provided for by 11 U.S.C. § 507(a)(7). *See id.* at p. 4, lines 18-24.

On May 16, 2025, the Trustee filed the Motion, through which the Trustee seeks to "reclassify" 368 claims filed by individuals to include a priority claim of up to \$3,350

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pursuant to 11 U.S.C. § 507(a)(7). *See id., generally.* The Motion asserts that each listed claim in the Motion "aris[es] from the deposit or full payment, before the Petition Date, of money in connection with the purchase of property for personal use by the individual Claimant that was not delivered – i.e., for a deposit or full payment for a clock or other goods that were never delivered by the Debtor..." *See id.* at p. 4 lines 18-24.

Notice

Pursuant to this Court's Local Rule 9013-1(d)(1), "a motion and notice thereof must be served upon the adverse party..." Here, the Motion was not served on all the affected parties. *See* Docket No. 120, pp. 22-25, *Proof of Service of Document*.

This Court's Local Rule 3007-1(b)(2) provides, "[t]he claim objection must be served on the claimant at the address disclosed by the claimant in its proof of claim..." The Motion, in part, objects to Claim No. 165 of Zheng as duplicative of Claim No. 130, but Zheng was not served with the Motion.

Analysis

Pursuant to 11 U.S.C. § 507(a)(7), "allowed unsecured claims of individuals, to the extent of [\$3,350] for each such individual, arising from the deposit, before the commencement of the case, of money in connection with the purchase [] of property [] for the personal, family, or household use of such individuals, that were not delivered or provided."

"The two limitations imposed on those seeking priority distribution under section 507(a)(7) are (1) that the claim arise from the deposit of money and (2) that the services or goods remain undelivered." *In re Four Star Fin. Servs., LLC*, 469 B.R. 30, 32 (C.D. Cal. 2012).

"A Chapter 7 trustee is the representative of a bankruptcy estate and is charged with representing the interest of the creditor body. If a purpose would be served, a trustee has the duty to examine claims and to object to an improper claim. It is not a trustee's duty, however, to correct or amend a claim so that a creditor may receive disbursements from an estate." *In re ABS Ventures, Inc.*, 523 B.R. 443, 453 (Bankr.

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M.D. Pa. 2014) (citations omitted) (finding it was the claimants responsible to ensure an amended proof of claim was filed if it wished to receive disbursements from the estate).

Here, the Court is left with several questions.

First, what authority does the Trustee have to, essentially, file amendments to the claims of creditors to increase distributions to those creditors? These do not appear to be 11 U.S.C. § 502 objections, which the Trustee does have standing to bring, and, in some instances, a duty to bring.

Second, what evidence does the Trustee have that all the claims set forth in the Motion were by individuals for goods to be used for personal, family, or household use of such individuals? For instance, there appears to be two non-individual claimants: (1) Friend of Lawrence Public Library (#130) for \$1,204.34; and (2) Advanced Carbide Grinding, Inc. (#3) for \$1,416.01.

Third, what evidence does the Trustee have that the goods at issue in each of the proofs of claim were not delivered?

Fourth, what is the impact on creditors if the Motion is granted? Is this a 100% case? If not, are not those creditors that correctly filed secured and priority claims affected negatively by this Court's granting of the Motion?

Lastly, if Claim 165-1 is to be disallowed, is a claim objection not required to be brought in conformance with this Court's Local Rules?

Party Information

Debtor(s):

Gift Theory, Inc.

Represented By
William E. Winfield

Movant(s):

Sandra McBeth (TR)

Represented By
Timothy J Yoo
Todd M Arnold
Carmela Pagay

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Zachary Page

Trustee(s):

Sandra McBeth (TR)

Represented By
Timothy J Yoo
Todd M Arnold
Carmela Pagay
Zachary Page

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9:22-10379 Gift Theory, Inc.

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#13.00 Hearing re: Chapter 7 Trustee's (1) Objections to certain misclassified claims; and (2) request to reclassify such claims

- (1) Carol Goodbody - Claim No. 269
- (2) Dominic Piscitello - Claim No. 182
- (3) Eillen Kreipl - Claim No. 126
- (4) Juanita Raleigh - Claim No. 420
- (5) Linda Sirmons - Claim No. 270
- (6) Lyn Lindstrom - Claim No. 80
- (7) Margaret Krivy - Claim No. 347

Docket 121

Tentative Ruling:

June 17, 2025

Appearances required.

Background

On May 24, 2022, Gift Theory, Inc. (the "Debtor") filed that *Voluntary Petition for Non-Individuals Filing for Bankruptcy* (the "Petition") under Chapter 7 of Title 11 of the United States Code. *See* Docket No. 1. Sandra McBeth (the "Trustee") is the duly appointed chapter 7 trustee.

The Debtor sold "clocks, timepieces, furniture, and home décor items." *See* Docket No. 121, p. 3, lines 11-12. Prior to filing the Petition, the Debtor continued to take orders, deposits, and full payments for orders, but failed to deliver many of the said ordered items. *See id.*

Before the Court is *Chapter 7 Trustee's (1) Objections to Certain Misclassified Claims and (2) Request to Reclassify Such Claims* (the "Objection") in which the Trustee seeks to reclassify Proof of Claim Nos. 80, 126, 182, 269, 270, 347, and 420 (collectively, the "Claims"). *See* Docket No. 121. The Objection asserts that the

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Claims "improperly asserted a secured claim without providing any evidence of a lien or security interest in the Debtor's assets and/or (2) [] asserted an unsecured priority claim in excess of the \$3,350 cap provided under Section 507(a)(7)." *See id.* at p. 6 lines 12-14.

Notice

Pursuant to this Court's Local Rule 3007-1(b)(2), a "claim objection must be served on the claimant at the address disclosed by the claimant in its proof of claim and at such other addresses and upon such other parties as may be required by FRBP 7004 and other applicable rules." This Court's Local Rule 3007-1(b)(3)(A) provides that "[a] response must be filed and served not later than 14 days prior to the date of hearing set forth in the notice," and pursuant to this Court's Local Rule 3007-1(b)(6), "[i]f the claimant does not timely file and serve a response, the court may sustain the objection without a hearing."

Here, the Objection and that *Notice of Objection to Claim* were served on May 16, 2025, via U.S. Mail on the holders of the Claims. *See* Docket No. 121, *Proof of Service of Document*, pp. 88-90; and Docket No. 122, *Proof of Service of Document*, pp. 2-3. No response to the Objection has been filed. The Court therefore takes the default of all non-responding parties served with the Objection, including the holders of the Claims.

Analysis

The Court sustains the Objection to the extent the Objection seeks to reclassify as general unsecured claims, those portions of claims that denote priority under 11 U.S.C. § 507(a)(7), but in amounts that exceed the cap under 11 U.S.C. § 507(a)(7), i.e., Claim Nos. 126, 182, and 270. The Court will inquire with the Trustee regarding the balance of the Claims. What evidence does the Trustee have that the remaining Claims are for personal, individual, or household use?

Party Information

Debtor(s):

Gift Theory, Inc.

Represented By
William E. Winfield

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Trustee(s):

Sandra McBeth (TR)

Represented By
Timothy J Yoo
Todd M Arnold
Carmela Pagay
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9:25-10107 Alicia Realica Alinaya

Chapter 13

#14.00 Hearing re: [30] Objection to Claim No. 8 filed by
Steven Walczak & Samantha Walczak

Docket 30

Tentative Ruling:

June 17, 2025

Appearances required.

Background

On January 30, 2025, Alicia Realica Alinaya (the "Debtor") filed a voluntary petition for relief under Chapter 13 of Title 11 of the United States Code. *See* Docket No. 1, *Voluntary Petition for Individuals Filing for Bankruptcy*.

The Debtor listed Steven and Samantha Walczak (the "Claimants") as unsecured creditors having a disputed claim of \$0.00 based upon the State Court Lawsuit, *infra*. *See* Docket No. 11, *Schedule E/F: Creditors Who Have Unsecured Claims*, p. 5.

On April 10, 2025, the Claimants filed that Proof of Claim No. 8 for \$876,318.34 (the "Claim") based upon a lawsuit in the Superior Court of California for the County of Ventura (Case No.: 56-2022-00563119-CU-OR-VTA) for (1) breach of CC&Rs, (2) nuisance, and (3) declaratory relief (the "State Court Lawsuit"). *See* Proof of Claim No. 8; and Docket No 37, *Exhibit 1*, pp. 6-18. Attached to the Claim is a motion by the Claimants in the State Court Lawsuit seeking a default judgment against the Debtor. *See* Proof of Claim No. 8, pp. 5-24.

Before the Court is that *Disallow Claim: Objection to Claim No. 8 Filed by Steven Walczak & Samantha Walczak & Samantha Walczak* (the "Claim Objection") filed by the Debtor on May 14, 2025, seeking to disallow the Claim entirely (1) as having no supporting documentation other than an application for default, (2) because the Claim – to the extent it is based upon the ongoing State Court Lawsuit – is contingent, unliquidated, disputed and thus not enforceable against the Debtor and should be

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disallowed entirely, and (3) because no judgment or default ruling has been made in the State Court Lawsuit. *See* Docket No. 30, *Declaration of Debtor Alicia Realica Alinaya in Support of Objection to Claim*, p. 7, and *Exhibit B*, pp. 36-39.

On June 3, 2025, the Claimants filed that *Response in Opposition to Debtor's Objection to Proof of Claim of Steven Walczak and Samantha Walczak* in which the Claimants oppose the Claim Objection. *See* Docket No. 37.

Notice

Pursuant to this Court's Local Bankruptcy Rule ("LBR") 3007-1(b), a claim objection must be set for hearing on notice of not less than 30 days. *See* LBR 3007-1(b)(1). The claim objection must be served on the claimant at the address disclosed by the claimant in its proof of claim and at such other addresses and upon such parties as may be required by FRBP 7004 and other applicable rules.

On May 14, 2025, the Debtor filed that *Notice of Motion for: Disallow Claim: Objection to Claim No. 8 Filed by Steven Walczak & Samantha Walczak* (the "Notice"). *See* Docket No. 31. On May 14, 2025, the Notice was filed and served via U.S. Mail on the Claimants at the address listed on both the Claim and on the creditor mailing matrix. *See id.* at pp. 2-4, *Proof of Service Document*; *see also* Claim No. 8-1.

In accordance with LBR 3007-1(b)(3)(A), "[a] response [to an objection] must be filed and served not later than 14 days prior to the date of hearing set forth in the notice..." Further, "[i]f a response is not timely filed and served, the court may grant the relief requested in the objection without further notice or hearing." *See* LBR 3007-1(b)(3)(B).

Notice of the Objection appears appropriate.

Analysis

Pursuant to 11 U.S.C. § 502(a), a proof of claim is deemed allowed unless a party in interest objects. Section 502(b) of the Bankruptcy Code enumerates an exhaustive list of reasons for sustaining an objection to a proof of claim. *See* 11 U.S.C. § 502(b).

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Pursuant to 11 U.S.C. § 502(b)(1), upon the filing of an objection to a claim, "the court, after notice and a hearing, shall determine the amount of such claim [] and shall allow such claim in such amount, except to the extent that such claim is unenforceable against the debtor and property of the debtor, under any agreement or applicable law for a reason other than because such claim is contingent or unmatured."

Federal Rules of Bankruptcy Procedure ("Rule") 3001 applies to proofs of claims. Rule 3001(a) requires the creditor to attach the supporting documents to the proof of claim. *See* Fed. R. Bankr. P. 3001(a). Under Rule 3001(f) a proof of claim must be "executed and filed in accordance with these rules" in order to "constitute prima facie evidence of the validity and amount of the claim." *See* Fed. R. Bankr. P. 3001(f).

"A duly executed proof of claim is prima facie evidence of the validity and amount of a claim. Rule 3001(f). The burden then switches to the objecting party to present evidence to overcome the prima facie case . . . *In Re Holm*, 931 F.2d 620, 623 (9th Cir. 1991)." *In Re Murgillo*, 176 B.R. 524, 529 (9th Cir. BAP 1995).

"To defeat the claim, the objector must come forward with sufficient evidence and show facts tending to defeat the claim by probative force equal to that of the allegations of the proofs of claim themselves." *Lundell v. Anchor Const. Specialists, Inc.*, 223 F.3d 1035, 1039 (9th Cir. 2000) (internal citation omitted). "If the objector produces sufficient evidence to negate one or more of the sworn facts in the proof of claim, the burden reverts to the claimant to prove the validity of the claim by a preponderance of the evidence. The ultimate burden of persuasion remains at all times upon the claimant." *Id.* (internal citations omitted).

This Court's LBR 3007-1(c)(1) provides that "[a]n objection to claim must be supported by admissible evidence sufficient to overcome the evidentiary effect of a properly documented proof of claim executed and filed in accordance with FRBP 3001. The evidence must demonstrate that the proof of claim should be disallowed, reduced, subordinated, re-classified, or otherwise modified." "A copy of the complete proof of claim, including attachments or exhibits, must be attached to the objection to claim, together with the objector's declaration stating that the copy of the claim attached is a true and complete copy of the proof of claim on file with the court..." LBR 3007-1(c)(2).

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The Debtor's first argument in the Claim Objection is that the Claim does not comply with Rule 3001(c)(1). *See* Docket No. 30, p. 3, lines 21-25. The Claim, however, is not based on a writing, but rather tort.

The Debtor's second argument seems to expand on their first argument, stating that "absolutely no documentation, no information and no references supporting her claim or when what her claim applies to" accompanied the Claim. *See id.* at p. 4, lines 1-2. Yet, the default motion was attached to the Claim.

Lastly, the Debtor argues that the Claim is contingent and unliquidated. "The Bankruptcy Code does not define the terms contingent or unliquidated." *In re Audre, Inc.*, 202 B.R. 490, 492 (Bankr. S.D. Cal. 1996)(citing *In re Nicholes*, 184 B.R. 82, 88 (9th Cir. BAP 1995)). "It is generally settled that 'if all events giving rise to liability occurred prior to the filing of the bankruptcy petition', the claim is not contingent." *Id.* (internal citations omitted). What events arose, related to the Claim, post-petition?

"The term liquidated has also acquired a working definition through case law." *Id.* "[T]he question whether a debt is liquidated turns on whether it is subject to 'ready determination and precision in computation of the amount due.'" *Id.* "[D]ebts based on unlitigated tort and quantum meruit claims are generally unliquidated because damages are not based on a fixed sum." *Id.* "[W]hether a debt is liquidated or not...does not depend strictly on whether the claim sounds in tort or in contract, but whether it is capable of ready computation." *Id.* at 493. It would seem to the Court that the Claim is unliquidated, but that fact alone appears easily remedied, as the State Court is primed to determine the amount of the State Court Lawsuit.

Party Information

Debtor(s):

Alicia Realica Alinaya

Represented By
Ronda Baldwin-Kennedy

Movant(s):

Alicia Realica Alinaya

Represented By
Ronda Baldwin-Kennedy

Trustee(s):

Elizabeth (ND) F Rojas (TR)

Pro Se

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9:25-10006 Jason Henry DeVries and Angela Lee DeVries

Chapter 7

#15.00 Hearing re: [31] Motion for relief from discharge injunction [11 U.S.C. § 524(e)]

Docket 31

Tentative Ruling:

June 17, 2025

Appearances required.

Background

On February 9, 2024, Gerrit B. Berg and Kimberly K. Berg (the "Bergs"), individually and as co-trustees of the Berg Family Trust Dated 10/15/2003, filed against Jason and Angela Devries (collectively, the "Debtors"), individually and as trustees of the Plan B Trust Dated 10/19/2007, that *Complaint for: 1. Nuisance 2. Trespass [and] 3. Negligence* in the San Luis Obispo County Superior Court (the "State Court Action"). *See* Docket No. 27, *Declaration of Michael D. Haupt in Support of Motion for Relief from Discharge Injunction*, pp. 5-13, *Exhibit A*.

On January 3, 2025 (the "Petition Date"), the Debtors filed a voluntary petition for relief pursuant to Chapter 7 of Title 11 of the United States Code. *See* Docket No. 1, *Voluntary Petition for Individuals Filing for Bankruptcy*. The Bergs are listed in the Debtors' schedules as having a "\$0.00" unsecured claim, which claim is contingent, unliquidated and disputed. *See id.* at p. 29, *Schedule E/F: Creditors Who Have Unsecured Claims*. On the Petition Date, the Court issued that *Notice of Chapter 7 Bankruptcy Case* (the "Case Notice"). *See* Docket No. 7. The Case Notice provided that "the deadline to object to discharge or to challenge whether certain debts are dischargeable" was April 7, 2025. *See id.* at p. 2. The Court provided the Bergs with notice of the Case Notice by first class mail on January 5, 2025. *See* Docket No. 8, *Certificate of Notice*, p. 1. The address to which the Court sent the Bergs the Case Notice was 1094 Karina Way, Arroyo Grande, CA 93420-5184. *See id.*

Kimberly Berg attests that the Bergs never received the Case Notice. *See* Docket No. 26, *Declaration of Kimberly K. Berg in Support of Motion for Relief from Discharge*

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CONT... Jason Henry DeVries and Angela Lee DeVries

Chapter 7

Injunction [11 U.S.C. § 524(e)], p. 2, lines 4-7.

On April 14, 2025, the Court entered that *Order of Discharge – Chapter 7*, discharging the Debtors. *See* Docket No. 23.

Before the Court is that *Notice of Motion and Motion for Relief from Discharge Injunction [11 U.S.C. § 524(e)]* (the "Motion") filed on May 15, 2025, in which the Bergs state that they "move this court for an order for relief from the discharge injunction under 11 U.S.C. § 524(e)." *See* Docket No. 31, p. 1, lines 23-27. The sole case cited in the Motion is that of *In re Robben*, 562 B.R. 469 (Bankr. D. Kan. 2017). *See id.* at p. 6, line 26. While not entirely clear, in reviewing the *In re Robben* case, and the Motion, it appears to the Court that what the Bergs seek is an order modifying the Debtors' discharge injunction to allow the State Court Action to proceed, or an order confirming that the Debtors' discharge injunction does not apply to the State Court Action pursuant to 11 U.S.C. § 524(e).

Notice

As a motion, and assuming for the moment that a motion would be the appropriate procedural vehicle, it seems that the Motion was brought under this Court's Local Rule 9013-1(d). This Court's Local Rule 9013-1(c)(2) provides that "the notice of motion must advise the opposing party that LBR 9013-1(f) requires a written response to be filed and served at least 14 days before the hearing." Here, the Motion provides that "[a]ny written response to this motion must be made in writing in the form required by the Local Bankruptcy Rule 9013-1(g)(1) [] and service thereof must be received by the trustee and the office of the United States Trustee with *[sic]* fifteen (15) days of service of this notice." *See* Docket No. 25, pp. 1-2.

Under this Court's Local Bankruptcy Rules 9013-1(c), (d) and (f), notice of the Motion was improper.

Analysis

Pursuant to 11 U.S.C. § 524(a)(2), "a discharge . . . operates as an injunction against the commencement or continuation of an action, the employment of process, or an act, to collect, recover or offset any such debt as a personal liability of the debtor." However, a "discharge of a debt of the debtor does not affect the liability of any other

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entity on, or the property of any other entity for, such debt." 11 U.S.C. § 524(e).

The Motion fails for two (2) distinct reasons. First, the Motion, as a motion, is the incorrect procedural vehicle to seek declaratory relief from the Court regarding a request that the Court construe the Debtors' discharge. Second, the Court is without statutory authority to modify the Debtors' discharge.

Request for Relief from Discharge

The Bergs seem to request that the Court modify the Debtors' discharge to allow the State Court Action to continue, arguing that they would have sought relief from the automatic stay prior to the entry of the Debtors' discharge to continue with the State Court Action had they known of the Debtors' bankruptcy case. *See* Docket No. 31, pp. 6-7.

"Once the debtor's discharge is entered, the bankruptcy court is without power to modify the discharge [as the discharge] is set in statutory concrete and cannot be modified." *In re Zagala*, 2007 Bankr. LEXIS 2115, at *5-7 (Bankr. E.D. Cal. 2007); *see also In re Munoz*, 287 B.R. 546, 553 (9th Cir. BAP 2002)(the Bankruptcy Code "leaves no discretion in the court to 'modify' the discharge injunction.").

The Bergs cite the *In re Robben* case in which the trial court provided that the Tenth Circuit BAP has "found that a majority of courts have concluded that the discharge injunction may be modified and that modification is one method for the bankruptcy court to exercise its role of 'traffic cop' with respect to creditors' actions against discharged debtors." *See* Docket No. 31, p. 6, lines 16-26; *see also In re Robben*, 562 B.R. at 475. The *In re Robben* court cites *In re Eastburg*, 447 B.R. 624 (10th Cir. BAP 2011) for its proposition that a majority of courts allow the modification of the discharge injunction. *See In re Robben*, 562 B.R. at fn 22. The *In re Eastburg* court specifically cites to the *In re Munoz* case regarding the Ninth Circuit BAP's disagreement with the majority of courts on this issue. *See In re Eastburg*, 447 B.R. at fn 43. At least as far as the Ninth Circuit BAP is concerned, this Court is not empowered to modify the Debtors' discharge injunction.

Determination of Discharge

Section 524(e) of the Bankruptcy Code makes clear that a discharge injunction applies to the debtor's personal liability but does not inhibit collection efforts against other

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entities. *In re Beeney*, 142 B.R. 360, 362 (9th Cir. BAP 1992) (finding that the failure "to seek relief from stay during the pendency of the bankruptcy" does not bar the litigation as the debtor had not been prejudiced and the bankruptcy court did not have to enter an order authorizing prosecution of the lawsuit); *see also In re Kabiling*, 551 B.R. 440, 446 (9th Cir. BAP 2016) (finding that "pursuing a post-discharge lawsuit in which the debtor is named as a putative party to collect from a collateral source, such as an insurance policy or an uninsured employers' fund, does not violate section 524 provided the 'plaintiff makes it clear that it is not naming the debtor as a party for anything other than formal reasons'" (citing *In re Munoz*, 287 B.R. at 550; *In re Ruvacalba*, *supra*, at 550 ("the assumption [that] a bankruptcy court order is required any time an action is taken nominally against a debtor after discharge is also incorrect. The §524(a)(2) discharge injunction prohibits only action to recover a debt as personal liability of the debtor. Where the purpose of the action is to collect from a collateral source, such as insurance [], and the plaintiff makes it clear that it is not naming the debtor as a party for anything other than formal reasons, no bankruptcy court order is necessary"); *In re Jet Florida Systems, Inc.*, 883 F.2d 970, 976 (11th Cir. 1989); and *In re Zagala*, *supra*, at *5-7 (denying a motion as "moot in so far as it seek any relief from the automatic stay" as the stay was terminated with the discharge; holding "the court has no power to modify the discharge injunction [and...] does not bar the post-discharge prosecution [of a lawsuit...] where the liability, if any, will be enforced only against [the debtor's] insurance carrier"). *See also Blixseth v. Credit Suisse*, 961 F.3d 1074, 1085 (9th Cir. 2020).

Here, on the facts presented by the Bergs no order from this Court may be required to continue with the State Court Action. However, the Court has no understanding of whether the Bergs are waiving any collection rights against the Debtors resulting from a judgment in the State Court Action, or whether the Debtors truly are simply nominally named defendants. Nonetheless, "determinations regarding the scope of the discharge require a declaratory judgment obtained in an adversary proceeding." *In re Munoz*, 287 B.R. at 551. "It is error to circumvent the requirement of an adversary proceeding by using a 'contested matter' motion under Federal Rule of Bankruptcy Procedure 9014." *Id.*

Conclusion

The Motion is denied. The Bergs are to lodge a confirming order within 7 days.

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Party Information

Debtor(s):

Jason Henry DeVries

Represented By
Chris Gautschi

Joint Debtor(s):

Angela Lee DeVries

Represented By
Chris Gautschi

Movant(s):

Gerrit B Berg

Represented By
Leslie A Tos

Kimberly K Berg

Represented By
Leslie A Tos

Trustee(s):

Sandra McBeth (TR)

Pro Se

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#16.00 CONT'D (as a Status Conference) Hearing RE: [9] Motion to
Avoid Lien Judicial Lien with Cal-West Equities, Inc.

fr: 9-10-24; 01-14-25, 3-25-25, 4-22-25, 5-6-25,

Docket 9

Tentative Ruling:

July 17, 2025

Appearances waived.

The Court has reviewed that *Joint Status Report*. See Docket No. 136. The hearing on the motion is continued to August 5, 2025, at 1:00 p.m. A status conference report regarding the motion is to be filed 14 days prior to the continued hearing.

May 6, 2025

Appearances required.

Background

On May 22, 2024, Thomas Anthony Ferro (the "Debtor") filed a voluntary petition for relief pursuant to Chapter 7 of Title 11 of the U.S. Code. See Docket No. 1, *Voluntary Petition for Individuals Filing for Bankruptcy*. On July 3, 2024, the Debtor filed *Debtor's Notice of Motion and Motion to Avoid Lien Under 11 U.S.C. § 522(f)* (the "Motion"). See Docket No. 9. Through the Motion, the Debtor seeks to avoid the judgment lien assigned to Cal-West Equities, Inc. ("Cal-West") pursuant to 11 U.S.C. § 522(f) as impairing the Debtor's homestead exemption in a parcel of real property located at 23448 W. Moon Shadows Drive, Malibu, CA 90265 (the "Property"). See *id.*

On July 17, 2024, Cal-West filed that *Notice of Opposition and Request for a Hearing* (the "Opposition"). See Docket No. 18. Through the Opposition, Cal-West argues

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that the Motion must be denied in that (1) the Debtor's spouse's joint tenancy interest in the Property must be included in the Debtor's estate as community property, (2) Cal-West must first conduct discovery as to other alleged consensual liens on the Property, which liens may be inferior to that of Cal-West's lien, (3) the Debtor's homestead exemption should be reduced to \$175,000 based on the Debtor's bad faith, and (4) Cal-West's lien cannot be avoided because its underlying claim is non-dischargeable. *See id.*

On September 3, 2024, the Debtor filed *Debtor's Reply to Opposition of Cal-West Equities, Inc. 's to [sic] Motion to Avoid Judicial Lien Pursuant to 11 U.S.C. § 522(f)*. *See* Docket No. 40.

On March 11, 2025, Cal-West filed that *Second Supplemental Opposition to Debtor's Motion to Avoid Lien of Cal-West Equities, Inc. Under 11 U.S.C. § 522(f)* (the "Second Supplemental Opposition"). *See* Docket No. 89. Through the Second Supplemental Opposition, Cal-West argues that "Debtor and his wife took a number of actions that not only demonstrate that the Property is community property, but demonstrate that the presumption of community property should and does apply." *See id.* at p. 4, lines 9-12. Cal-West also argues that it filed "objections to the claim of Geringer [] that would create additional equity in the Property" and that the deadline to object to "the homestead exemption has not yet passed." *See id.* at lines 14-17. Lastly, Cal-West argues that the home on the Property recently succumbed to a fire, and that there are issues regarding what portion of the Property remains to satisfy Cal-West's lien. *See id.* at lines 17-23.

The Non-Dischargeability of Cal-West's Claim

Cal-West argues that the hearing on the Motion should be continued to "allow a determination of nondischargeability to be made..." *See* Docket No. 18. The Court does not follow. "Courts have routinely held that the avoidability of a lien is not affected by the dischargeability of the underlying debt." *In re Hunnicutt*, 457 B.R. 463, 464 (Bankr. D.S.C. 2011)(internal citations omitted). "Lien avoidance and dischargeability of debts are not dependent on each other." *In re Sirikanjanachai*, 628 B.R. 562, 570 (1st Cir. BAP 2021)(citations omitted). "The 'avoidance of a lien does not destroy the underlying debt but rather changes the status of a creditor from a secured creditors to an unsecured position.'" *Id.* at 569. "Thus, a creditor whose

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judgment lien has been avoided under § 522(f), but whose claim is nondischargeable, may seek to recover from non-exempt property after the debtor's discharge." *Id.*

Cal-West seems to agree that a determination of the dischargeability of its claim by this Court has no bearing on the Debtor's ability to avoid Cal-West's lien under 11 U.S.C. § 522(f). *See* Docket No. 18, fn 6. Cal-West, however, argues that "equity demands that the Court not allow Debtor to avoid the Cal-West lien." *Id.* Again, the Court does not follow. "[E]quitable considerations do not allow a bankruptcy court to contravene express provisions of the Bankruptcy Code." *In re Betterroads Asphalt, LLC*, 594 B.R. 516, 560 (Bankr. D. P.R. 2018)(citing *Law v. Siegel*, 571 U.S. 415 (2014)).

The Debtor's Claimed Exemption

"When a debtor files for bankruptcy, it creates an estate that includes virtually all the debtor's assets." *In re Masingale*, 108 F.4th 1195, 1197 (9th Cir. 2024)(internal citations omitted). "But to help debtors get back on their feet, the Bankruptcy Code permits them to exempt interests in specified property from the estate..." *Id.* "The debtor 'shall file a list of property that the debtor claims as exempt' under § 522(b), and '[u]nless a party in interest objects, the property claimed as exempt on such list is exempt.'" *Id.* "The effect of an exemption is that the debtor's interest in the property is withdrawn from the estate (and hence from the creditors) for the benefit of the debtor." *Id.* "Under the Bankruptcy Rules, a party in interest (such as a trustee or creditor) has thirty days from the date of the creditors' meeting to object to the claimed homestead exemption." *Id.* at 1198; *see also* Fed. R. Bankr. P. 4003(b)(1) ("a party in interest may file an objection to the list of property claimed as exempt within 30 days after the meeting of creditors held under § 341(a) is concluded or within 30 days after any amendment to the list or supplemental schedules is filed, whichever is later.").

In the instant case, the Debtor claimed as exempt, \$699,426 in the Property pursuant to Cal. Code of Civ. P. § 704.730. *See* Docket No. 1, *Schedule C: The Property You Claim as Exempt*. The meeting of creditors under 11 U.S.C. § 341(a) concluded on April 28, 2025. *See* Docket Nos. 98 and 11. The deadline for parties-in-interest to object to the Debtor's claimed exemption has not yet lapsed. At the moment, the Debtor has a valid exemption in the Property, but subject to any objection to the

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Damage to Property Post-Petition

"Absent conversion from one chapter to another, the nature and extent of a debtor's exemption rights are determined as of the date of the petition... Thus, any post-petition disposition of the property or post-petition change in the identity of the property into proceeds has no impact upon the exemption analysis." *In re Kim*, 257 B.R. 680, 685 (9th Cir. BAP 2000)(citing *In re Herman*, 120 B.R. 127, 130 (9th Cir. BAP 1990)). "Under the so-called 'snapshot' rule, bankruptcy exemptions are fixed at the time of the bankruptcy petition." *In re Jacobson*, 676 F.3d 1193, 1199 (9th Cir. 2012)(citing *White v. Stump*, 266 U.S. 310, 313 (1924)). "Those exemptions must be determined in accordance with the state law 'applicable on the date of filing.'" *Id.*

The Court is unclear as to Cal-West's argument that damage to the Property post-petition affects its analysis here. If the Court is to determine the exemptions of the Debtor in the Property as of the date of the petition, what difference does erosion of value post-petition make in the analysis? In fact, a lower value would only further bolster the Debtor's Motion.

The Nature of the Debtor's Interest in the Property

"As a general principle, a debtor's property rights that become part of the bankruptcy estate under § 541 are determined by applicable nonbankruptcy law." *In re Khalil*, 2015 WL 2213696 *6 (9th Cir. BAP 2015).

"California is a community property state, which characterizes marital property as either community property or separate property." *In re Brace*, 908 F.3d 531, 536 (9th Cir. 2018)(internal citations omitted). Pursuant to Cal. Fam. Code § 760, "[e]xcept as otherwise provided by statute, all property, real or personal, wherever situated, acquired by a married person during the marriage while domiciled in this state is community property." "Property that a spouse acquired before the marriage is that spouse's separate property." *Id.* at 537. "[F]or property acquired on or after January 1, 1985, married persons may change – i.e., transmute – the character of property from community to separate, or vice versa, if the transmutation is 'made in writing by an express declaration that is made, joined in, consented to, or accepted by the spouse whose interest in the property is adversely affected.'" *In re Brace*, 470 P.3d 15, 20

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(2020); *see also* Cal. Fam. Code § 852(a). "[A] valid transmutation under Family Code 852, subdivision (a), can be divided into two basic components: (1) a writing that satisfies the statute of frauds; and (2) an expression of intent to transfer a property interest." *In re Bibb*, 87 Cal.App.4th 461, 468 (2001). Specifically, Cal. Fam. Code. § 852(a) "require(s) that a writing effecting a transmutation of property contain on its face a clear and unambiguous expression of intent to transfer an interest in the property, independent of extrinsic evidence." *Id.* A grant deed signed by the party adversely affected by the purported transmutation constitutes a writing "made, joined in, consented to, or accepted by the spouse whose interest in the property is adversely affected." *Id.* A deed that purports to transmute separate property of one spouse into the separate property of both spouses as joint tenants is satisfied when the deed reads, "[Separate Property Holding Spouse] hereby grant(s) to [themselves and their spouse], as joint tenants the following described real property..." *Id.* Use of the word "grant" in the deed "satisfies the express declaration requirement of section 852, subdivision (a)." *Id.*

Under California law, as to real property, "[i]f the debtor holds property in joint tenancy, only his one-half joint interest becomes part of the bankruptcy estate." *In re Brace*, 979 F.3d 1228, 1230 (9th Cir. 2020)(citing *In re Reed*, 940 F.2d 1317, 1332 (9th Cir. 1991)); *see also In re Brace*, 470 P.3d at 21 ("joint tenants typically have separate property interests in the property.").

Here, the deed of the Property reads, "THOMAS FERRO, A MARRIED MAN WHO ACQUIRED TITLE AS THOMAS FERRO, AND UNMARRIED MAN hereby GRANT(S) to THOMAS FERRO AND ROSA FERRO, HUSBAND AND WIFE AS JOINT TENANTS." *See* Docket No. 9, *Exhibit B*. The Debtor testified that he "acquired title to [the Property] in 1986," "as an unmarried man," and then, after his 2006 marriage to Rosa Ferro, conveyed a joint tenancy interest in the Property to he and his wife, Rosa Ferro, recording a grant deed regarding the same in 2012. *See* Docket No. 9, p. 7, lines 6-15. Ergo, the Property was separate property of the Debtor, and then conveyed by the Debtor to he and his spouse as joint tenants. This conveyance effected a valid transmutation of the Property.

Cal-West argues, citing *In re Brace*, that as to "real property [] acquired after January 1, 1975, the form of title does not govern the character of the property; instead, the general community property presumption applies." *See* Docket No. 18, p. 14, lines

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24-26. Cal-West also argues, citing *In re Bibb*, that "a grant deed signed by a husband conveying separate real property to himself and his wife as 'joint tenants' meets the express declaration requirement for transmitting [sic] the property from separate property to community property." *See id.* at p. 15, lines 8-18. Cal-West then argues that the aforementioned deed of trust transmuted the Property to community property. *See id.* at lines 19-21. Lastly, Cal-West argues, citing *In re Bibb*, that since Rosa Ferro obtained her interest in the Property after the marriage, her interest is presumed to be community property, and because there was no written transmutation, the Property is in-fact community property. *See id.* at lines 21-24. The Court disagrees.

The Court in *In re Bibb* held just the opposite from Cal-West's final conclusion. There, a spouse that held separate property, transmuted their separate property to them and their spouse as joint tenants. This was held to meet the strictures of Cal. Fam. Code. § 852(a). This same analysis applies to the instant case, as Cal-West seems to agree, at least in part. The Debtor transmuted their separate property to them and their spouse as joint tenants. The Ninth Circuit has held that "[u]nder California law, if the property at issue is held in joint tenancy, only the debtor's one-half joint interest becomes part of the bankruptcy estate." *In re Brace*, 908 F.3d at 537. Cal-West appears to be arguing that after the Debtor executed the deed of trust titling the Property into a joint tenancy, the spouse's interest in-fact became community property, presumptively, and a further writing would need to be produced proving that the Property was transmuted into the Debtor's spouse's separate property as a joint tenant. This seems to the Court to cut against the *In re Bibb* holding.

In the *In re Brace* matter, the monies used to purchase the property after the marriage were community property. Title in the property was taken as a joint tenancy. The California Supreme Court held that "when a married couple uses community funds to acquire property with joint tenancy title on or after January 1, 1975, the property is presumptively community property under Family Code section 760 in a dispute between the couple and a bankruptcy trustee." *In re Brace*, 470 P.3d at 18. This is not the factual scenario here. Here, this was separate property of the Debtor, obtained prior to the marriage, and transmuted to the spouses as joint tenants after the marriage. The California Supreme Court specifically held that "we do not address interspousal deeds by which one spouse conveys his or her separate property to both spouses as joint tenants, as in *Bibb*." *See id.* at 936.

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Through the Second Supplemental Opposition, Cal-West takes a new position. Cal-West now argues that the Property was always community property because the deed for the Property reads that "[t]his conveyance confirms a community property interest, which was purchased with Community Property Funds, R & T 11911.'" *See* Docket No. 89, p. 7, lines 2-8. The Debtor has testified that he "acquired title to the Property [] on September 25, 1986 as an unmarried man. [] *See* Docket No. 43, p. 2, lines 1-3. On May 14, 1998, the Debtor "granted the Property to [himself] as an unmarried man after [his] divorce from [his] former wife." *See id.* at lines 4-8. Not until May 2, 2012, did the Debtor execute a deed "transferring joint tenancy interest in the Property to Rose for no consideration." *See id.* at lines 12-16. The evidence shows that the Property was the Debtor's sole property until he executed the 2012 deed that gave his current wife, Rosa Ferro, an interest in the Property as a joint tenant.

Cal-West also argues that the Debtor intended the Property to be community property with Rosa Ferro because of his actions regarding the Property and statements made at the 11 U.S.C. § 341(a) meeting. *See* Docket No. 89, p. 7, lines 9-16. Cal-West argues that the Debtor testified at the 11 U.S.C. § 341(a) hearing that he placed Rosa Ferro on title because she was older than he is, they have young children, and he "didn't want her to have to go through probate." *See id.* Cal-West also argues that the Debtor and Rosa Ferro live together in the Property, and that "they used the Property as community property, for their mutual benefit, and Debtor's actions related to it show precisely that his intention was to treat the Property as community property and transmute it to community property through the Grant Deed." *See id.* at p. 8, lines 1-5. Cal-West also argues that the outstanding loans against the Property were used for the community, and that the Geringer loan was executed by both the Debtor and Rosa Ferro. *See id.* at lines 6-19.

Cal-West also leaves out critical parts of holdings and the law in its argument in the Supplemental Opposition. Cal-West appears to summarize Cal. Civ. Code § 5110 in citing *In re Marriage of Tucker*, 141 Cal.App.3d 128 (1983). *See* Docket No. 89, p. 13, lines 5-14. Specifically,

Cal-West cites *In re Marriage of Tucker*, 141 Cal.App.3d 128 (1983), as providing that "if title to real property is taken in joint tenancy during marriage, it is presumed to be community property." *See id.* at lines 9-14. In fact, the Tucker court held that "[u]nder Civ. Code § 5110, when property is *acquired* and title taken in joint tenancy

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during marriage the presumption that the property is community property can be rebutted only by a showing of an agreement or understanding to the contrary." *In re Marriage of Tucker*, 141 Cal.App.3d at 129. (emphasis added). The California Supreme Court in *In re Brace* provided the same. 9 Cal.5th 903 (2020). "'The presumption, ... that property acquired during the marriage is community, is perhaps the most fundamental principle of California's community property law.'" *Id.* at 914. The presumption at play in Cal. Fam. Code § 760 and Cal. Evid. Code § 662 is that property "acquired" after marriage is community. It is not simply taking title to property during marriage that triggers the presumption.

Lastly, Cal-West argues in the Second Supplemental Opposition that "[w]hile the First and Second [mortgages on the Property] were obtained prior to the marriage, Debtor and his wife paid them during marriage with community funds and with loans obtained against the Property." *See* Docket No. 89, p. 15, lines 8-10. However, monies of the community property used to pay obligations on a separate property mortgage only creates a monetary right between spouses upon dissolution. *See In re Fadel*, 492 B.R. 1 (9th Cir. BAP 2013).

Cal-West has failed to advance a valid argument illustrating that the Property is not owned by the Debtor and Rosa Ferro as joint tenants, and thus only the Debtor's interest in the Property constitutes property of the Debtor's bankruptcy estate.

Value of the Property

On August 27, 2024, Cal-West filed that *Supplemental Opposition to Debtor's Motion to Avoid Lien of Cal-West Equities, Inc. Under 11 U.S.C. 525(f)* (the "First Supplemental Opposition"). *See* Docket No. 38. Through the First Supplemental Opposition, Cal-West argues that the Property's value is \$2.6 million instead of \$2.3 million. Unless one or more of the consensual liens on the Property is avoided, the increased valuation matters not.

Next Steps

The deadline for parties to object to the exemptions of the Debtor has indeed not passed.

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Appearances required.

March 25, 2025

Appearances required.

The Court has reviewed that *Joint Status Report*. See Docket No. 93. The Court maintains some confusion about where this matter stands. What precisely is ripe for determination, and what must be decided through an evidentiary hearing?

January 14, 2025

Appearances required.

Background

On May 22, 2024, Thomas Anthony Ferro (the "Debtor") filed a voluntary petition for relief pursuant to Chapter 7 of Title 11 of the U.S. Code. See Docket No. 1, *Voluntary Petition for Individuals Filing for Bankruptcy*. On July 3, 2024, the Debtor filed *Debtor's Notice of Motion and Motion to Avoid Lien Under 11 U.S.C. § 522(f)* (the "Motion"). See Docket No. 9. Through the Motion, the Debtor seeks to avoid the judgment lien assigned to Cal-West Equities, Inc. ("Cal-West") pursuant to 11 U.S.C. § 522(f) as impairing the Debtor's homestead exemption in a parcel of real property located at 23448 W. Moon Shadows Drive, Malibu, CA 90265 (the "Property"). See *id.*

On July 17, 2024, Cal-West filed that *Notice of Opposition and Request for a Hearing* (the "Opposition"). See Docket No. 18. Through the Opposition, Cal-West argues that the Motion must be denied in that (1) the Debtor's spouse's joint tenancy interest in the Property must be included in the Debtor's estate as community property, (2) Cal-West must first conduct discovery as to other alleged consensual liens on the Property, which liens may be inferior to that of Cal-West's lien, (3) the Debtor's homestead exemption should be reduced to \$175,000 based on the Debtor's bad faith,

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and (4) Cal-West's lien cannot be avoided because its underlying claim is non-dischargeable. *See id.*

On September 3, 2024, the Debtor filed *Debtor's Reply to Opposition of Cal-West Equities, Inc.'s to [sic] Motion to Avoid Judicial Lien Pursuant to 11 U.S.C. § 522(f)*. *See* Docket No. 40.

The Non-Dischargeability of Cal-West's Claim

Cal-West argues that the hearing on the Motion should be continued to "allow a determination of nondischargeability to be made..." *See* Docket No. 18. The Court does not follow. "Courts have routinely held that the avoidability of a lien is not affected by the dischargeability of the underlying debt." *In re Hunnicutt*, 457 B.R. 463, 464 (Bankr. D.S.C. 2011)(internal citations omitted). "Lien avoidance and dischargeability of debts are not dependent on each other." *In re Sirikanjanachai*, 628 B.R. 562, 570 (1st Cir. BAP 2021)(citations omitted). "The 'avoidance of a lien does not destroy the underlying debt but rather changes the status of a creditor from a secured creditors to an unsecured position.'" *Id.* at 569. "Thus, a creditor whose judgment lien has been avoided under § 522(f), but whose claim is nondischargeable, may seek to recover from non-exempt property after the debtor's discharge." *Id.*

Cal-West seems to agree that a determination of the dischargeability of its claim by this Court has no bearing on the Debtor's ability to avoid Cal-West's lien under 11 U.S.C. § 522(f). *See* Docket No. 18, fn 6. Cal-West, however, argues that "equity demands that the Court not allow Debtor to avoid the Cal-West lien." *Id.* Again, the Court does not follow. "[E]quitable considerations do not allow a bankruptcy court to contravene express provisions of the Bankruptcy Code." *In re Betterroads Asphalt, LLC*, 594 B.R. 516, 560 (Bankr. D. P.R. 2018)(citing *Law v. Siegel*, 571 U.S. 415 (2014)).

The Court will inquire with Cal-West about the authority this Court has to contravene the auspices of 11 U.S.C. § 522(f) based on what Cal-West believes to be the non-dischargeable nature of its claims against the Debtor under 11 U.S.C. §§ 523(a)(2)(A) and (a)(6). *See* Docket No. 21.

The Debtor's Claimed Exemption

"When a debtor files for bankruptcy, it creates an estate that includes virtually all the

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debtor's assets.'" *In re Masingale*, 108 F.4th 1195, 1197 (9th Cir. 2024)(internal citations omitted). "But to help debtors get back on their feet, the Bankruptcy Code permits them to exempt interests in specified property from the estate..." *Id.* "The debtor 'shall file a list of property that the debtor claims as exempt' under § 522(b), and '[u]nless a party in interest objects, the property claimed as exempt on such list is exempt.'" *Id.* "'The effect of an exemption is that the debtor's interest in the property is withdrawn from the estate (and hence from the creditors) for the benefit of the debtor.'" *Id.* "Under the Bankruptcy Rules, a party in interest (such as a trustee or creditor) has thirty days from the date of the creditors' meeting to object to the claimed homestead exemption." *Id.* at 1198; *see also* Fed. R. Bankr. P. 4003(b)(1) ("a party in interest may file an objection to the list of property claimed as exempt within 30 days after the meeting of creditors held under § 341(a) is concluded or within 30 days after any amendment to the list or supplemental schedules is filed, whichever is later.").

In the instant case, the Debtor claimed as exempt, \$699,426 in the Property pursuant to Cal. Code of Civ. P. § 704.730. *See* Docket No. 1, *Schedule C: The Property You Claim as Exempt*. The meeting of creditors under 11 U.S.C. § 341(a) is to take place on February 24, 2025. *See* Docket No. 66. The deadline for parties-in-interest to object to the Debtor's claimed exemption has not yet lapsed. At the moment, the Debtor has a valid exemption in the Property, but subject to any objection to the claimed exemption.

The Nature of the Debtor's Interest in the Property

"As a general principle, a debtor's property rights that become part of the bankruptcy estate under § 541 are determined by applicable nonbankruptcy law." *In re Khalil*, 2015 WL 2213696 *6 (9th Cir. BAP 2015).

"California is a community property state, which characterizes marital property as either community property or separate property." *In re Brace*, 908 F.3d 531, 536 (9th Cir. 2018)(internal citations omitted). Pursuant to Cal. Fam. Code § 760, "[e]xcept as otherwise provided by statute, all property, real or personal, wherever situated, acquired by a married person during the marriage while domiciled in this state is community property." "'Property that a spouse acquired before the marriage is that spouse's separate property.'" *Id.* at 537. "[F]or property acquired on or after January

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1, 1985, married persons may change – i.e., transmute – the character of property from community to separate, or vice versa, if the transmutation is ‘made in writing by an express declaration that is made, joined in, consented to, or accepted by the spouse whose interest in the property is adversely affected.’” *In re Brace*, 470 P.3d 15, 20 (2020); *see also* Cal. Fam. Code § 852(a). “[A] valid transmutation under Family Code 852, subdivision (a), can be divided into two basic components: (1) a writing that satisfies the statute of frauds; and (2) an expression of intent to transfer a property interest.” *In re Bibb*, 87 Cal.App.4th 461, 468 (2001). Specifically, Cal. Fam. Code. § 852(a) “require(s) that a writing effecting a transmutation of property contain on its face a clear and unambiguous expression of intent to transfer an interest in the property, independent of extrinsic evidence.” *Id.* A grant deed signed by the party adversely affected by the purported transmutation constitutes a writing “made, joined in, consented to, or accepted by the spouse whose interest in the property is adversely affected.” *Id.* A deed that purports to transmute separate property of one spouse into the separate property of both spouses as joint tenants is satisfied when the deed reads, “[Separate Property Holding Spouse] hereby grant(s) to [themselves and their spouse], as joint tenants the following described real property...” *Id.* Use of the word “grant” in the deed “satisfies the express declaration requirement of section 852, subdivision (a).” *Id.*

Under California law, as to real property, “[i]f the debtor holds property in joint tenancy, only his one-half joint interest becomes part of the bankruptcy estate.” *In re Brace*, 979 F.3d 1228, 1230 (9th Cir. 2020)(citing *In re Reed*, 940 F.2d 1317, 1332 (9th Cir. 1991)); *see also In re Brace*, 470 P.3d at 21 (“joint tenants typically have separate property interests in the property.”).

Here, the deed of the Property reads, “THOMAS FERRO, A MARRIED MAN WHO ACQUIRED TITLE AS THOMAS FERRO, AND UNMARRIED MAN hereby GRANT(S) to THOMAS FERRO AND ROSA FERRO, HUSBAND AND WIFE AS JOINT TENANTS.” *See* Docket No. 9, *Exhibit B*. The Debtor testified that he “acquired title to [the Property] in 1986,” “as an unmarried man,” and then, after his 2006 marriage to Rosa Ferro, conveyed a joint tenancy interest in the Property to he and his wife, Rosa Ferro, recording a grant deed regarding the same in 2012. *See* Docket No. 9, p. 7, lines 6-15. Ergo, the Property was separate property of the Debtor, and then conveyed by the Debtor to he and his spouse as joint tenants. This

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conveyance effected a valid transmutation of the Property.

Cal-West argues, citing *In re Brace*, that as to "real property [] acquired after January 1, 1975, the form of title does not govern the character of the property; instead, the general community property presumption applies." *See* Docket No. 18, p. 14, lines 24-26. Cal-West also argues, citing *In re Bibb*, that "a grant deed signed by a husband conveying separate real property to himself and his wife as 'joint tenants' meets the express declaration requirement for transmitting [sic] the property from separate property to community property." *See id.* at p. 15, lines 8-18. Cal-West then argues that the aforementioned deed of trust transmuted the Property to community property. *See id.* at lines 19-21. Lastly, Cal-West argues, citing *In re Bibb*, that since Rosa Ferro obtained her interest in the Property after the marriage, her interest is presumed to be community property, and because there was no written transmutation, the Property is in-fact community property. *See id.* at lines 21-24. The Court disagrees.

The Court in *In re Bibb* held just the opposite from Cal-West's final conclusion. There, a spouse that held separate property, transmuted their separate property to them and their spouse as joint tenants. This was held to meet the strictures of Cal. Fam. Code. § 852(a). This same analysis applies to the instant case, as Cal-West seems to agree, at least in part. The Debtor transmuted their separate property to them and their spouse as joint tenants. The Ninth Circuit has held that "[u]nder California law, if the property at issue is held in joint tenancy, only the debtor's one-half joint interest becomes part of the bankruptcy estate." *In re Brace*, 908 F.3d at 537. Cal-West appears to be arguing that after the Debtor executed the deed of trust titling the Property into a joint tenancy, the spouse's interest in-fact became community property, presumptively, and a further writing would need to be produced proving that the Property was transmuted into the Debtor's spouse's separate property as a joint tenant. This appears to the Court to cut against the *In re Bibb* holding.

In the *In re Brace* matter, the monies used to purchase the property after the marriage were community property. Title in the property was taken as a joint tenancy. The California Supreme Court held that "when a married couple uses community funds to acquire property with joint tenancy title on or after January 1, 1975, the property is presumptively community property under Family Code section 760 in a dispute between the couple and a bankruptcy trustee." *In re Brace*, 470 P.3d at 18. This factual scenario would partially support Cal-West's argument. That is not the factual

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scenario here. Here, this was separate property of the Debtor, obtained prior to the marriage, and transmuted to the spouses as joint tenants after the marriage. The California Supreme Court specifically held that "we do not address interspousal deeds by which one spouse conveys his or her separate property to both spouses as joint tenants, as in *Bibb*." *See id.* at 936.

Cal-West has failed to advance a valid argument illustrating that the Property is not owned by the Debtor and Rosa Ferro as joint tenants, and thus only the Debtor's interest in the Property constitutes property of the Debtor's bankruptcy estate.

Value of the Property

On August 27, 2024, Cal-West filed that *Supplemental Opposition to Debtor's Motion to Avoid Lien of Cal-West Equities, Inc. Under 11 U.S.C. 525(f)* (the "Supplement"). *See* Docket No. 38. Through the Supplement, Cal-West argues that the Property's value is \$2.6 million instead of \$2.3 million. Unless one or more of the consensual liens on the Property is avoided, the increased valuation matters not.

Next Steps

With the above analysis in mind, the Court will meet with the parties about next steps regarding the resolution of the Motion.

Party Information

Debtor(s):

Thomas Anthony Ferro

Represented By

Robert M Yaspan

Debra Brand

Joseph G McCarty

Movant(s):

Thomas Anthony Ferro

Represented By

Robert M Yaspan

Robert M Yaspan

Debra Brand

Debra Brand

Joseph G McCarty

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Trustee(s):

Jerry Namba (TR)

Represented By
Timothy J Yoo

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9:24-10572 Thomas Anthony Ferro

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#17.00 CONT'D Status Conference re: Objection to Claim #12 by Claimant Geringer Capital, Inc., successor-in-interest to Miller Carbonic, Inc., in the amount of \$ 541,917.01

fr. 5-6-25,

Docket 100

***** VACATED *** REASON: Hearing continued to 9/9/2025 at 1:00 p.m.
per order entered 06/5/2025**

Tentative Ruling:

May 6, 2025

Appearances waived.

The hearing is continued to June 17, 2025, pursuant to that *Stipulation to Continue Hearing on Objection to Proof of Claim of Geringer Capital, Inc., Successor-In-Interest to Miller Carbonic, Inc. [Claim Number 12]*. See Docket No. 112.

Party Information

Debtor(s):

Thomas Anthony Ferro

Represented By
Robert M Yaspan
Debra Brand
Joseph G McCarty

Trustee(s):

Jerry Namba (TR)

Represented By
Timothy J Yoo

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9:25-10444 Diversified Panels Systems, Inc.

Chapter 7

#18.00 Hearing re: [20] Motion to compel the trustee to
abandon property of the estate

Docket 20

Tentative Ruling:

June 17, 2025

Appearances required.

Background

On April 2, 2025, Diversified Panels Systems, Inc. (the "Debtor") filed that *Voluntary Petition for Non-Individuals Filing for Bankruptcy* pursuant to Chapter 7 of the Title 11 of the United States Code. See Docket No. 1. Amy L. Goldman (the "Trustee") is the duly appointed chapter 7 trustee for the Debtor's estate. See Docket No. 3, *Notice of Chapter 7 Bankruptcy Case – No Proof of Claim Deadline*.

The Debtor's principal place of business is located at 2345 Statham Boulevard., Units 1 and 2, Oxnard, California (the "Property"), which the Debtor leased from Martin W. Foreman, Trustee of the Martin W Foreman Trust dated March 13, 1981 (the "Lessor"). See Docket No. 1, *Schedule G: Executory Contracts and Unexpired Leases*, p. 34. On June 4, 2025, the Court entered that *Order Granting Motion for Relief from Stay Under 11 U.S.C. § 362 (Unlawful Detainer)* granting relief from stay to the Lessor to pursue an unlawful detainer action against the Debtor and obtain possession of the Property. See Docket No. 17.

The Debtor lists a total of about \$15.2 million of personal property consisting primarily of about \$3.3 million in accounts receivable and \$5.8 million in net operating loss. See Docket No. 1, *Schedule A/B: Assets – Real and Personal Property*. The Debtor also lists \$5.8 million of work in progress and \$109,000 of machinery, vehicles, and various office equipment (the "Tangible Personal Property"). See *id.* In addition to other secured creditors, the Debtor scheduled three (3) secured creditors – Fora Financial West, LLC ("Fora"), JPMorgan Chase Bank, N.A.

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("JPMorgan"), and Plan B Management, Inc. ("Plan B") – that purportedly have liens totaling approximately \$10.9 million on substantially all the Debtor's property. *See id.* at *Schedule D: Creditors Who Have Claims Secured by Property*.

Further, the Debtor scheduled as leases it is a party to, a 2024 GMC Sierra 1500 4WD and seven (7) forklifts. *See id.* at *Schedule G: Executory Contracts and Unexpired Leases*; and Docket No. 20, p. 2 ¶6.

Before the Court is that *Motion to Compel the Trustee to Abandon Property of the Estate* (the "Motion") filed by the Debtor on June 6, 2025, seeking to compel the Trustee "to abandon the Debtor's personal property assets that are currently being held at [the Property]." *See* Docket No. 20, p. 6. Through the Motion, the Debtor asserts that the property at issue is burdensome to the estate as it is over encumbered by Fora, JPMorgan, and Plan B's respective liens, or is subject to leases, or constitute goods subject to reclamation, and is at risk of being disposed of by the Lessor. *See id.* The Motion states that the Debtor's principal, Richard Bell, will "return the leased property to the lessors, deliver completed panels to reclamation claimants who have paid in full once they have obtained relief from the automatic stay, and sell the rest of the property to pay the secured creditors." *See id.* at *Declaration of Richard Bell*, p. 8 ¶ 25.

On June 9, 2025, the Court entered that *Order Granting Application and Setting Hearing on Shortened Notice* (the "OST Order") setting the Motion for hearing on shortened time. *See* Docket No. 23. The Court will hear oppositions and replies at the hearing. *See id.*

Notice

The OST Order required telephonic notice on all secured creditors, lessors, the Trustee, and the United States trustee by June 10, 2025; and required written notice of the hearing and the Motion via first class mail on all creditors, the Trustee, and the United States trustee by June 9, 2025. *See* Docket No. 23.

Analysis

Pursuant to 11 U.S.C. § 554(b) "[o]n request of a party in interest and after notice and

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a hearing, the court may order the trustee to abandon any property of the estate that is burdensome to the estate or that is of inconsequential value and benefit to the estate." "In order to approve a motion to abandon, the bankruptcy court must find either that (1) the property is burdensome to the estate or (2) of inconsequential value and inconsequential benefit to the estate." *In re Viet Vu*, 245 B.R. 644, 647 (9th Cir. BAP 2000).

"Property is burdensome to an estate if the expected cost of administering the asset would exceed the expected benefit[, or t]he cost of administering an asset might exceed the benefit when the asset is encumbered with liens in excess of its value, or when the value of the asset can be realized only through expensive litigation that may or may not result in recovery." *In re EuroGas, Inc.*, 755 F.App'x 825, 831 (10th Cir. 2019). "In short, determining whether an asset is burdensome to the estate requires the bankruptcy court to look at the big picture and consider an asset's value, encumbrances, and option (or lack thereof) for liquidation." *Id.*

"An order compelling abandonment is the exception, not the rule. Moreover, the Debtor has the burden to establish that subject property to be abandoned is burdensome or of inconsequential value." *In re Viet Vu, supra*, at 650.

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.* at 647 (citing *In re K.C. Mach. & Tool Co.*, 816 F.2d 238, 245 (6th Cir. 1987)); *see also In re Gill*, 574 B.R. 709, 714 (9th Cir. BAP 2017). "[I]n evaluating a proposal to abandon property, it is the interests of the estate and the creditors that have primary consideration, not the interests of the debtor." *In re Galloway*, 2014 WL 4212621 *6 (9th Cir. BAP 2014).

"The bankruptcy trustee must determine, in his sound business judgment, what disposition is in the best interests of the estate." *Id.* In analyzing a motion to abandon under 11 U.S.C. § 554, "the Court need only find that the trustee made: (1) a business judgment; (2) made in good faith; (3) upon some reasonable basis; and (4) within the trustee's scope of authority." *In re Fulton*, 162 B.R. 539, 540 (W.D. Mo. 1993).

"Indeed, under Ninth Circuit law, a bankruptcy court is permitted to deny

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abandonment even when ‘the factual predicates for abandonment under 11 U.S.C. § 554(a) are present.’” *Richards v. Marshack*, 2025 WL 885250 *2 (C.D. Cal. 2025) (citing *In re Johnston*, 49 F.3d 538, 540 (9th Cir. 1995)).

In the instant case, it is difficult to analyze the Motion. The Motion was filed just two (2) months after the Debtor filed its bankruptcy case. The Court entered the order lifting the stay as to the Lessor less than three (3) weeks ago, and to the Court’s knowledge there had not been an unlawful detainer action filed prior to the Court lifting the stay. The Trustee has yet to complete the meeting of creditors under 11 U.S.C. § 341(a). See Docket No. 27, *Notice of Continued Meeting of Creditors and Appearance of Debtor [11 USC 341(a)]*. As the Trustee continues their investigation, no proof of claim filing deadline has been established to confirm the purported liens over the Tangible Property. The largest of the scheduled liens (92% of the \$10 million) is in favor of Plan B, and the Debtor disputes that lien. See Docket No. 1, pp. 16-18. Finally, the Court is hearing the Motion on shortened notice. The Court has some difficulty in making appropriate findings on the evidentiary record facing it, and also given the posture of the case.

Further, the Debtor seems to obscure a customer of the Debtor that provided a deposit for the future delivery of goods, and a reclamation claimant.

As to the former, does that party not have a general unsecured claim for the deposit against the estate? And is that claim not of the same level and priority as all other similarly situated creditors?

As to the latter, Cal. Comm. Code § 2-702 provides that “[w]here the seller discovers that the buyer has received goods on credit while insolvent he may reclaim the goods upon demand made within ten days after the receipt...” Pursuant to Cal. Commercial Code § 2-702(3), “[t]he seller’s right to reclaim under subsection (2) is subject to the rights of a buyer in ordinary course or other good faith purchaser under this Article.” Pursuant to 11 U.S.C. § 546(c), a reclaiming creditor is one that “has sold goods to the debtor, in the ordinary course of business...”

If the Court understands the Debtor correctly, the parties stated to have reclamation rights are not deliverers of goods to the Debtor on credit, and so there would be no right to reclaim goods under the UCC or the Bankruptcy Code. Further, even if there

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were such rights, are these rights not subject to secured liens, those secured
lienholders being treated as good faith purchasers?

Party Information

Debtor(s):

Diversified Panels Systems, Inc.

Represented By
William E. Winfield

Movant(s):

Diversified Panels Systems, Inc.

Represented By
William E. Winfield
William E. Winfield

Trustee(s):

Amy L Goldman (TR)

Pro Se

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9:25-10281 Nancy Maria Anaya

Chapter 13

#19.00 CONT'D Hearing re: [17] United States Trustee's motion for order compelling attorney to file disclosure of compensation and refund of fees pursuant to 11 U.S.C. § 329

fr. 5-20-25, 6-3-25,

Docket 17

Tentative Ruling:

July 17, 2025

Appearances required. Debtor's counsel and the Debtor are to appear, in person.

Neither Debtor, nor Debtor's counsel appeared at the June 3, 2025 or May 20, 2025, hearings, as required by the Court. That *Motion to File Confidential Document Under Seal and Declaration of Stephen L. Burton in Support Thereof* (the "Motion to Seal") was filed on June 3, 2025. See Docket No. 27. The Court's Clerk notified counsel, through Docket No. 28, that the Motion to Seal does not comply with this Court's Local Rule 5003-2(c). See Docket No. 28. Nor was an order uploaded. Again, Debtor and Debtor's counsel are to appear, in person, at the July 17, 2025, hearing.

June 3, 2025

Appearances required. Debtor's counsel and the Debtor are to appear, in person.

May 20, 2025

Appearances required. Debtor's counsel and the Debtor are to appear, in person.

On March 4, 2025, Nancy Maria Anaya (the "Debtor") filed that petition for relief

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Nancy Maria Anaya

Chapter 13

under chapter 13 of Title 11 of the United States Code. *See* Docket No. 1, *Voluntary Petition for Individuals Filing for Bankruptcy* (the "Petition"). The Petition was a face page filing, filed by attorney Stephen Burton ("Burton"). *See id.*

On March 6, 2025, the Debtor and Burton were served with that *Case Commencement Deficiency Notice* and that *Order to Comply with Bankruptcy Rule 1007 and 3015(b) Notice of Intent to Dismiss Case*, which notified the Debtor that if she failed to file her schedules, statements, and plan, or a motion requesting an extension of time to do so by March 18, 2025, then the Court would dismiss the instant case. *See* Docket Nos. 7 and 8, respectively.

On March 17, 2025, the Debtor filed *Debtor's Motion to Extend Time to File Case Opening Documents* (the "Extension Motion"), a two-page form motion, requesting additional time to file the required schedules, statements, and other case initiation documents on the grounds that the "debtor needs time to complete her tax returns and to complete her budget." *See* Docket No. 10. The Extension Motion was granted on March 18, 2025, with an extension through March 31, 2025. *See* Docket No. 11.

The Debtor's case was dismissed on April 1, 2025, for failure to file schedules, statements, and/or plan. *See* Docket No. 13, *Order and Notice of Dismissal for Failure to File Schedules, Statements and/or Plan*.

Before the Court is *United States Trustee's Notice of Motion and Motion for Order Compelling Attorney to File Disclosure of Compensation and Refund of Fees Pursuant to 11 U.S.C. § 329* (the "Motion") filed on April 21, 2025, seeking an order compelling Burton to file a *Declaration of Compensation* and to refund to the Debtor any fees, if warranted. *See* Docket No. 17.

The Motion asserts that Burton has engaged in conduct in two other cases in this district with facts and results similar to the instant case. *See id.* at p. 6 ¶¶6-7. Burton has failed to timely file a disclosure of his compensation even after filing a request for an extension of time to file schedules and allowed the cases to be dismissed by the respective courts' orders for failure to file schedules and all required documents. *See id.* *See also* Case No. 1:24-bk-12062-VK; and Case No. 1:25-bk-10155-MB.

On May 1, 2025, Burton filed that *Disclosure of Compensation of Attorney for*

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Debtor(s) in which Burton indicated he agreed to file the instant case in exchange for \$6,000. *See* Docket No. 19.

Pursuant to 11 U.S.C. 329(b) "[i]f such compensation exceeds the reasonable value of any such services, the court may cancel any such agreement, or order the return of any such payment, to the extent excessive, to [] (2) the entity that made such payment."

Pursuant to Fed. R. Bankr. P. 2016(b)(1) "[w]ithin 14 days after the order for relief [] every debtor's attorney (whether or not applying for compensation) must file and send to the United States trustee the statement required by §329."

Here, Burton did not file his required disclosure of compensation timely. Burton only filed the disclosure after the United State Trustee filed the Motion. Further, Burton never filed the required schedules, statements, or plan after requesting an extension of time to do so. And, the United State Trustee appears to have warned Burton at least twice before about such conduct.

The Court will inquire with Burton and the Debtor what Burton actually received for his filing of the instant case.

Party Information

Debtor(s):

Nancy Maria Anaya

Represented By
Stephen L Burton

Movant(s):

United States Trustee (ND)

Pro Se

Trustee(s):

Elizabeth (ND) F Rojas (TR)

Pro Se

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9:24-10693 Shaffiq Salim Rahim and Naseem Sayani

Chapter 11

#20.00 Hearing re: [115] Final application of subchapter V trustee for approval of fees and reimbursement of expenses for John-Patrick McGinnis Fritz

Period: 6/25/2024 to 5/27/2025 - Fees: \$8,961.50; Expenses: \$0.00

Docket 115

Tentative Ruling:

June 17, 2025

Appearances waived.

On June 20, 2024, Shaffiq Salim Rahim and Naseem Sayani (jointly, the "Debtors") filed that *Voluntary Petition for Individuals Filing for Bankruptcy* under Subchapter V of Chapter 11 of Title 11 of the United States Code. *See* Docket No. 1. John-Patrick M. Fritz ("Fritz") is the duly appointed Subchapter V Trustee. *See* Docket No. 14, *Notice of Appointment of Subchapter V Trustee*.

On May 1, 2025, the Court confirmed the Debtors' plan of reorganization. *See* Docket No. 105, *Order Confirming Debtors' Plan Under 11 U.S.C. § 1191(a)*.

On May 27, 2025, Fritz filed that *Final Application of Subchapter V Trustee for Approval of Fees and Reimbursement of Expenses* (the "Application"). *See* Docket No. 115. Through the Application, Fritz seeks allowance, on a final basis, of fees totaling \$8,961.50 for the period of June 25, 2024, to May 27, 2025. *See id.*

On May 27, 2025, Fritz filed that *Notice of Hearing on Application for Payment of: Final Fees and/or Expenses [11 U.S.C. § 331 or § 330]* (the "Notice"). *See* Docket No. 118. On May 27, 2025, the Notice was served upon the Debtor and the creditor mailing matrix via Notice of Electronic Filing [NEF] and United States mail first class, postage prepaid. *See id.* at *Proof of Service of Document*, pp. 3-8. Pursuant to this Court's Local Rule 9013-1(h), "if a party does not timely file and serve documents, the court may deem this to be consent to the granting or denial of the

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CONT... **Shaffiq Salim Rahim and Naseem Sayani** **Chapter 11**

motion, as the case may be." No party served with the Notice has filed an opposition to the Application. The Court takes the default of all non-responding parties served with the Notice.

The Court finds the fees sought through the Application to be reasonable. The hourly fee multiplied by the number of hours expended by Fritz were of a benefit to the Debtors' estate. Further, there has been no opposition to the Application. On a final basis, and pursuant to 11 U.S.C. § 330, Fritz is allowed fees in the amount of \$8,961.50 and is to be paid fees in the amount of \$8,961.50 in conformance with the Plan.

Fritz is to upload a conforming order within 7 days.

Party Information

Debtor(s):

Shaffiq Salim Rahim

Represented By
Summer M Shaw

Joint Debtor(s):

Naseem Sayani

Represented By
Summer M Shaw

Movant(s):

John-Patrick McGinnis Fritz (TR)

Pro Se

Trustee(s):

John-Patrick McGinnis Fritz (TR)

Pro Se

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9:24-10090 Edward Ned Li

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#21.00 Hearing re: [142] Debtor's amended motion for approval of compromise between the debtor and creditors/adversary plaintiffs C. Shawn Skillern and CSS Enterprises, Inc., and with creditor Central Coast Vascular, Inc. pursuant to F.R.B.P Rule 9019

Docket 142

Tentative Ruling:

June 17, 2025

Appearances required.

Background

On January 27, 2024 (the "Petition Date"), Edward Ned Li (the "Debtor") filed a voluntary petition for relief under Chapter 11 of Title 11 of the United States Code. *See* Docket No. 1, *Voluntary Petition for Individuals Filing for Bankruptcy*. The Debtor elected to proceed under Subchapter V of Chapter 11. *See id.* at p. 4.

On March 22, 2024, C. Shawn Skillern and CSS Enterprises, Inc. (jointly, "CSS") filed that *Motion for Order Sustaining Creditor's Objections to Debtor's Edward N. Li's Claimed Exemptions* (the "Exemption Objection"). *See* Docket No. 30. On March 25, 2024, CSS filed that *Motion for Order Sustaining Creditor's Objection to Debtor Edward N. Li's Subchapter V Eligibility* (the "Eligibility Objection"). *See* Docket No. 34. On April 22, 2024, CSS filed that *Adversary Complaint for Determination of Non-Dischargeability of Debt Pursuant to 11 U.S.C. §§ 523(a)(2), (4), and (6)* seeking a determination that the Judgment, *infra*, is nondischargeable. *See* Case 9:25-ap-01015-RC (the "Adversary"), Docket No. 1. **[FN1]**

CSS filed Proof of Claims 7-1 and 8-1 in the amounts of \$2.6 million (the "Judgment") from a jury verdict (occurring in the Superior Court of California for the Country of Ventura, case no. 56-2019-00537489-CU-CO-VTA (the "State Court Lawsuit")) arising from the Debtor's breach of his fiduciary duty and engaging in fraud, malice, and oppression. *See* Claims Nos. 7 and 8. Additionally, Central Coast

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Vascular, Inc. ("CCV" and with CSS, the "Judgment Creditors") – an entity owned by C. Shawn Skillern – filed Proof of Claim 9-1 in the amount of \$186,259.60 for prevailing party costs awarded to CCV in the State Court Lawsuit. *See* Claim No. 9; and Docket No. 142, p. 3 ¶5.

On April 25, 2024, the Debtor filed *Debtor's Chapter 11 Subchapter V Plan* (the "Plan"). *See* Docket No. 40. The Court has continued the hearings on the Exemption Objection and the Eligibility Objection from time to time at the request of the parties. *See* Docket Nos. 50, 62 and 74. The Court has also continued the trial in the Adversary from time to time at the request of the parties. *See* Case 9:25-ap-01015-RC, Docket Nos. 30, 31, 34, and 35.

Before the Court are *Debtor's Amended Motion for Approval of Compromise Between the Debtor and Creditors / Adversary Plaintiffs C. Shawn Skillern and CSS Enterprises, Inc. and with Creditor Central Coast Vascular, Inc. Pursuant to F.R.B.P. Rule 9019* (the "9019 Motion") and *Debtor's Amended Motion for an Order: (1) Authorizing Debtor to Enter Proposed Unsecured Financing Pursuant to Section 363 and Sections 364(a) and (b) of the Bankruptcy Code; (2) Granting Related Relief* (the "DIP Loan Motion"). *See* Docket Nos. 142 and 140, respectively.

On May 15, 2025, the Debtor and the Judgment Creditors entered into that *Settlement Agreement and General Mutual Release of Claims* (the "Agreement") to resolve the Adversary, the Exemption Objection, and the Eligibility Objection. *See* Docket No. 149, *Exhibit 1*, pp. 4-27. Through the 9019 Motion and the DIP Loan Motion, the Debtor seeks approval of the Agreement and to obtain post-petition, unsecured financing as a part of the funding required to effectuate the Agreement. *See* Docket Nos. 140 and 142.

The Agreement provides that (1) the Debtor pay \$2.6 million to CSS, (2) the Debtor pay \$120,000 to CCV, and (3) the Debtor and the Judgment Creditors exchange mutual releases. [FN2] *See* Docket No. 149, *Exhibit 1*.

Additionally, the Agreement provides that the Debtor will fund the \$2.6 million payment with: (1) \$800,000 from the Kevin M Case MD 401(K) Profit Sharing Plan at Ameritas (the "401K Account"), (2) \$310,000 from the Roth Contributory IRA Account at Charles Schwab & Co. Inc, (the "Roth IRA Account") (3) \$265,000 from

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the Edward Ned Li Trust of 1983, as Amended at Charles Schwab & Co. Inc., (the "Debtor's Trust") (4) \$225,000 from the debtor in possession checking account at Well Fargo Bank, and (5) \$1,000,000 from the Li Living Trust in the form of loan. *See* Docket No. 142, pp. 3-4. The Debtor asserts that the 401K Account, the Roth IRA Account, and the Debtor's Trust are not assets of the estate. *See id.*

The Agreement also states the Debtor will pay the \$120,000 to CCV "in cash or other immediately available funds." *See id.* at p. 4 lines 16-17. These monies are to come from the Debtor's Trust. *See id.* at lines 18-20.

Through the DIP Loan Motion, the Debtor seeks the Court's approval to enter into that *Unsecured Promissory Note* (the "Loan") with Li Living Trust (a trust in which the trustee are the Debtor's parents) in which the Debtor and Esther Li agree to borrow \$1,000,000 at 2% interest payable over 30 years with monthly payments of \$3,696.19. *See* Docket No. 140, *Exhibit 2*, pp. 17-19.

As of April 2025, the Debtor had cash on hand of about \$2,860,200. *See* Docket No. 151, *Monthly Operating Report for Small Business Under Chapter 11*. It is unclear if this represents growth in the balances since the Petition Date, or if this includes all the Debtor's accounts, investment and liquid.

The 9019 Motion and the DIP Loan Motion state that other creditors will be treated similarly as the Judgment Creditors, receiving the same pro-rata distribution, but do state what percentage that is or how such a thing will be done. *See* Docket Nos. 140 and 142.

Notice

Pursuant to Fed. R. Bankr. P. 2002(a)(2) "the clerk, or some other person as the court may direct, shall give the debtor, the trustee, all creditors and indenture trustees at least 21 days' notice by mail of: [] a proposed use, sale, or lease of property of the estate other than in the ordinary course of business, unless the court for cause shown shortens the time or directs another method of giving notice." Pursuant to Fed. R. Bankr. P. 2002(a)(3), "the clerk, or some other person as the court may direct, shall give the debtor, the trustee, all creditors and indenture trustees at least 21 days' notice by mail of: [] the hearing on approval of the compromise or settlement of a

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controversy other than approval of an agreement pursuant to Rule 4001(d), unless the court for cause shown directs that notice not be sent."

This Court's Local Rule 9013-1(f)(1) provides that "each interested party opposing or responding to the motion must file and serve the response [] on the moving party and the United States trustee not later than 14 days before the date designated for hearing." Pursuant to this Court's Local Rule 9013-1(h), "if a party does not timely file and serve documents, the court may deem this to be consent to the granting or denial of the motion, as the case may be."

Notice of the 9019 Motion

On May 15, 2025, the Debtor filed that *Notice of Motion for: Amended Motion for Approval of Compromise Between the Debtor and Creditors / Adversary Plaintiffs C. Shwawn Skillern and CSS Enterprises, Inc. and with Creditor Central Coast Vascular, Inc. Pursuant to F.R.B.P. Rule 9019* (the "9019 Notice"). See Docket No. 143. On May 15, 2025, the 9019 Motion and 9019 Notice were served on the Notice of Electronic Filing [NEF] parties via NEF and upon the creditor matrix via United States mail, first class, postage prepaid. See Docket No. 142, *Proof of Service of Document*, pp. 30-32; and Docket No. 143, *Proof of Service of Document*, pp. 3-5.

There has been no opposition to the 9019 Motion.

Notice of the DIP Loan Motion

Pursuant to Fed. R. Bankr. P. 4001(c)(1)(A) "[a] motion for authorization to obtain credit must comply with Rule 9014 and must be accompanied by a copy of the credit agreement and a proposed form of order." Pursuant to Fed. R. Bankr. P. 9014(a) "[r]easonable notice and an opportunity to be heard must be given to the party against whom relief is sought."

On May 15, 2025, the Debtor filed that *Notice of Amended Motion for: Debtor's Motion for an Order: (1) Authorizing Debtor to Enter Proposed Unsecured Financing Pursuant to Section 363 and Sections 364(a) and (b) of the Bankruptcy Code; (2)b Granting Related Relief* (the "DIP Loan Notice"). See Docket No. 141. On May 15, 2025, the DIP Loan Motion and the DIP Loan Notice were served on the creditor

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mailing matrix via United State mail, first class, postage prepaid. *See* Docket No. 140, *Proof of Service of Document*, pp. 20-22; and Docket No. 141, *Proof of Service of Document*, pp. 3-5.

Pursuant to LBR 4001-2, "[e]ach motion to obtain credit or to approve the use of cash collateral, debtor in possession financing, and/or cash management under 11 U.S.C. §§ 363 or 364, or related stipulation (collectively, "Financing Motion") must be accompanied by mandatory court-approved form F 4001-2.STMT.FINANCE." The DIP Loan Motion was not accompanied by the mandatory form.

There has been no opposition to the DIP Loan Motion.

Analysis

The 9019 Motion

Pursuant to Fed. R. Bankr. P. 9019(a), "[o]n motion by the trustee and after notice and a hearing, the court may approve a compromise or settlement."

The bankruptcy court has great latitude in approving settlement agreements. *See In re A & C Properties*, 784 F.2d 1377, 1380-81 (9th Cir. 1986). A proposed settlement may only be approved if it is "fair and equitable." *See In re Woodson*, 839 F.2d 610, 620 (9th Cir. 1988); *see also In re Guy F. Atkinson Co. of Cal.*, 242 B.R. 497, 502 (9th Cir. BAP 1999) ("At its base, the approval of a settlement turns on the question of whether the compromise is in the best interest of the estate."). Under this standard, the court must consider: (a) the probability of success in the litigation; (b) the difficulties, if any, to be encountered in the matter of collection; (c) the complexity of the litigation involved, and the expense, inconvenience, and delay necessarily attending it; and (d) the paramount interest of the creditors and a proper deference to their reasonable views in the premises. *See In re Woodson*, 839 F.2d at 620.

"The law favors compromise, 'and as long as the bankruptcy court amply considered the various factors that determined the reasonableness of the compromise, the court's decision should be affirmed.'" *In re Open Medicine Institute, Inc.*, 639 B.R. 169, 181 (9th Cir. BAP 2022)(citing *In re A & C Props.*, 784 F.2d at 1383)). "Moreover, '[w]hen assessing a compromise, courts need not rule upon disputed facts and questions of law, but rather only canvass the issues. A mini trial is not required.'" *Id.* (citing *In re*

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Schmitt, 215 B.R. 417, 423 (9th Cir. BAP 1997)).

"The bankruptcy court's decision to approve a compromise is reviewed for abuse of discretion." *Id.* at 180 (citing *In re Mickey Thompson Ent. Grp.*, 292 B.R. 415, 420 (9th Cir. BAP 2003)).

The Ninth Circuit BAP has "relied on *Berkely Delaware Court* for the proposition that the bankruptcy court has discretion to apply § 363 to the compromise of claims." *Id.* at 181-182 (citing *In re Isom*, 2020 WL 1950905 *9 (9th Cir. BAP 2020)("Whether to impose formal sale procedures, however, is ultimately a matter of discretion that depends on the dynamics of the particular situation...[T]he court need not implement bidding procedures and an auction if the case does not call for it.")). "[T]he purpose of the *Mickey Thompson* rule is to maximize estate assets by requiring trustees and bankruptcy courts to consider 'whether there is a more attractive solution than that which the trustee has negotiated.'" *Id.* at 182 (citing *In re Mickey Thompson Ent. Grp.*, 292 B.R. 415, 421 (9th Cir. BAP 2003)).

A court generally gives deference to a trustee's business judgment in deciding whether to settle a matter. *See In re Mickey Thompson Entertainment Group, Inc.*, 292 B.R. at 420.

As will be discussed below, the Debtor's analysis here suffers from the conclusory nature in which it has been drafted. The Court has little in the way of analysis outside of conclusory statements from which to draw.

Probability of Success in Litigation

The Debtor contends that "it is difficult to determine the probability of success litigating the matters and issues that will arise." *See* Docket No. 142, p. 6, lines 25-28. The Debtor provides the Court with little to no understanding of the Debtor's probability of successfully litigating the Adversary, the Eligibility Objection, or the Exemption Objection.

As such, without additional information, the Court is unable to determine the probability of success in further litigation.

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Difficulties with Collection

This factor is not applicable here.

Complexity of the Litigation and Expense, Inconvenience, and Delay
Necessarily Attending It

The Debtor asserts that continued litigation would cause delay and involve many complex issues of facts and law requiring expert testimony which would all be expensive. The Debtor also asserts that continued litigation would cause significant briefing and potentially appeals further adding to the cost of litigation.

Has the Court not closed the briefing on the Eligibility Objection and the Exemption Objection, and have these objections not been pending for over a year? What additional work has to be done on these objections? Is not the only remaining action the holding of an evidentiary hearing? While additional litigation and evidentiary hearings would certainly cause further delay and costs, the Court has not been apprised of the cost benefit analysis regarding the Agreement as compared to further litigation.

The Paramount Interest of the Creditors

The Debtor asserts that the Agreement resolves his disputes with the Judgment Creditors, the largest creditors. The Debtor cursorily states that this provides a path forward to exit bankruptcy with all other creditors receiving the same percentages from available funds. However, the Court does not know what percentage of their claims the Judgment Creditors are being paid, nor does the Debtor provide any evidence that he will be able to pay all other creditors the same pro-rata share.

The Court finds it difficult to appreciate how the Agreement is in the interest of creditors. The Judgment Creditors are general unsecured, non-priority creditors, and yet they are being paid immediately almost the entirety of their claims before all administrative, priority, secured, and general unsecured claims. They are also being paid prior to a plan being confirmed. The Court, then, asks, what benefits run to the other creditors – especially other general unsecured creditors – from the Agreement? The non-settling creditors receive no guarantees or even a clear description of what is

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next or how the Debtor plans on exiting bankruptcy.

In fact, the Court is uncertain how the Debtor will pay a single dollar to other general unsecured creditors. The Debtor's net monthly income is less than the monthly payment that will be owed on the Loan. The Debtor's schedules show net monthly income of \$1,368.79. *See* Docket No. 1, p. 34, *Schedule J: Your Expenses*. The Plan shows net monthly income of \$1,872.79. *See* Docket No. 40, *Exhibit 4*, p. 31. The Loan would add a monthly payment of \$3,696.19. *See* Docket No. 140, p. 17. It is unclear how the Debtor can propose a feasible plan with negative net income of \$2,327.40, excluding payments to any unsecured creditors outside of the Loan.

In balancing the *A & C Props.* factors, the Court has little placed in front of it to complete the analysis. What facts the Court does have in front of it appear to spell out financial ruin for the Debtor, and in short order.

The DIP Loan Motion

11 U.S.C. § 364(a)

Pursuant to 11 U.S.C. § 364(a) [FN3], a debtor-in-possession "may obtain unsecured credit and incur unsecured debt in the ordinary course of business allowable under section 503(b)(1) of this title as an administrative expense."

Generally, there are two test to determine whether a transaction is in the ordinary course of business, and both must be satisfied: vertical and horizontal tests. *See In re Azevedo*, 485 B.R. 596, 601 (Bankr. Id. 2013) (citing *In re Straightline Investments, Inc.*, 525 F.3d 870, 879 (9th Cir. 2008); and *In re Dant & Russell, Inc.*, 853 F.2d 700, 704-705 (9th Cir. 1988)).

The "vertical dimensions, or creditor's expectations, test [] weights the subject transaction from the point of view of a hypothetical creditor asking whether the deal with the debtor 'subject a creditor to economic risks or a nature different from those he accepted when he decided to extend credit [... This is done by comparing] the debtor's prepetition business practices to its post-bankruptcy practices." *In re Azevedo, surpa*, at 601.

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The horizontal dimensions test "is whether the postpetition transaction is of a type that other similar businesses would engage in as ordinary business. [] The purpose of the horizontal test is to assure that neither the debtor nor the creditor did anything abnormal to gain an advantage over other creditors." *In re Straightline Investments, Inc.*, 525 F.3d 870, 880-81 (9th Cir. 2008) (cleaned up, and quotations and citations omitted).

Here, the Debtor has offered no proof nor alleged that the DIP Loan is the type of transaction that the Debtor engaged in as part of his normal business practices. Nor has the Debtor demonstrated that other similar individuals regularly engage in such transactions. Rather, the Loan appears to be a substantial departure from the Debtor's prepetition practices.

11 U.S.C. § 364(b)

Pursuant to 11 U.S.C. § 364(b), "[t]he court, after notice and a hearing, may authorize the trustee to obtain unsecured credit or incur unsecured debt other than under subsection (a) of this section, allowable under section 503(b)(1) of this title as an administrative expense."

Here, it is unclear why the Loan is appropriate. It does not appear that the Debtor has the ability to repay the Loan. The Loan allows a priming of some unsecured creditors over other similarly situated unsecured creditors. And, the Debtor provides no understanding of what non-settling unsecured creditors would receive from the transaction, or how they may be harmed.

[FN1] Unless otherwise noted, all subsequent citations to the docket refer to Case 9:24-bk-10090-RC.

[FN2] In addition to the Debtor and the Judgment Creditors, Esther Li (the Debtor's wife), LFC Group, Inc. (a company of the Debtor), and Ching-Yan Li and Virginia Su-Chen Li (the Debtor's parents)) are parties to the Agreement.

[FN3] "Section 364 allows bankruptcy courts to authorize postpetition financing for a

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Chapter 11 debtor in possession and expressly allows courts to authorize certain protections designed to assure repayment of postpetition lenders. Bankruptcy courts, however, have regularly authorized postpetition financing arrangements containing lender incentives beyond the explicit priorities and liens specified in section 364. Although section 364 does not specifically refer to the payment of interest on postpetition debt, courts have implicitly held that section 364 authorizes interest on postpetition debt, courts have implicitly held that section 364 authorizes interest on postpetition loans as compensation for the use of the lender's money and for the risk of nonpayment. Bankruptcy courts have also authorized postpetition credit arrangements containing cross collateralization provisions in certain circumstances..." *In re DFENDER DRUG STORES*, 145 B.R. 312, 316 (9th Cir. BAP 1992).

Party Information

Debtor(s):

Edward Ned Li

Represented By
Stella A Havkin

Movant(s):

Edward Ned Li

Represented By
Stella A Havkin

Trustee(s):

Mark M Sharf (TR)

Pro Se

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9:24-10090 Edward Ned Li

Chapter 11

#22.00 Hearing re: [140] Debtor's amended motion for an order: (1) authorizing debtor to enter proposed unsecured financing pursuant to Section 363 and Sections 364(a) and (b) of the bankruptcy code; (2) granting related relief

Docket 140

Tentative Ruling:

June 17, 2025

See Calendar Item 21.

Party Information

Debtor(s):

Edward Ned Li

Represented By
Stella A Havkin

Movant(s):

Edward Ned Li

Represented By
Stella A Havkin

Trustee(s):

Mark M Sharf (TR)

Pro Se

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9:23-10672 S&W Blue Jay Way, LLC

Chapter 11

#23.00 CONT'D Hearing re: [284] Motion for order compelling Eleda Cohen
to appear at deposition

fr. 5-20-25,

Docket 284

Tentative Ruling:

May 20, 2025

Appearances waived.

This matter is continued to June 3, 2025, at 1:00 p.m.

Party Information

Debtor(s):

S&W Blue Jay Way, LLC

Represented By
Roye Zur
Lauren N Gans

Movant(s):

S&W Blue Jay Way, LLC

Represented By
Roye Zur
Lauren N Gans

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9:23-10672 S&W Blue Jay Way, LLC

Chapter 11

#24.00 CONT'D Hearing re: [286] Motion for order compelling Michelle Lerman to appear at a continued deposition and to produce responsive documents

fr. 5-20-25,

Docket 286

Tentative Ruling:

May 20, 2025

Appearances waived.

This matter is continued to June 3, 2025, at 1:00 p.m.

Party Information

Debtor(s):

S&W Blue Jay Way, LLC

Represented By
Roye Zur
Lauren N Gans

Movant(s):

S&W Blue Jay Way, LLC

Represented By
Roye Zur
Lauren N Gans

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9:22-10673 Carole D King

Chapter 7

#25.00 CONT'D Evidentiary hearing re: [170] motion for damages pursuant to 11 U.S.C. 303(i)

fr. 5-7-24, 5-21-24, 9-19-24, 10-9-24, 11-20-24, 2-27-25, 3-19-25, 5-6-25,

Docket 170

Tentative Ruling:

June 17, 2025

Appearances waived.

The hearing on this matter is continued to July 15, 2025, at 1:00 p.m.

May 6, 2025

Appearances waived.

The hearing on this matter is continued to June 17, 2025, at 1:00 p.m.

November 20, 2024

Appearances required. Appearances may be made remotely.

The Court has reviewed that *Status Report re Evidentiary Hearing*. See Docket No. 229. The Court will inquire about whether the BAP judgment will be appealed to the Ninth Circuit.

May 7, 2024

In-person appearances required. No remote appearances will be allowed.

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CONT... Carole D King

Chapter 7

Debtor(s):

Carole D King

Represented By
William C Beall
Carissa N Horowitz

Movant(s):

Carole D King

Represented By
William C Beall
Carissa N Horowitz

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9:24-10717 Joe Angus McKenna and Ruth Allison McKenna

Chapter 13

#26.00 CONT'D Evidentiary Hearing re: [30] Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 317 East Prune Avenue Lompoc CA 93436

fr. 4-22-25,

Docket 30

Tentative Ruling:

June 17, 2025

Appearances required, in-person for all parties and witnesses.

April 22, 2025

Appearances required.

Party Information

Debtor(s):

Joe Angus McKenna

Pro Se

Joint Debtor(s):

Ruth Allison McKenna

Pro Se

Movant(s):

Hollyvale Rental Holdings, LLC

Represented By
Sam Chandra

Trustee(s):

Elizabeth (ND) F Rojas (TR)

Pro Se