



UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA
LOS ANGELES DIVISION

In re

MARIA DEL SOCORRO PRADO, aka
MARIA DEL SOCORRO PRADO-
ANAYA,

Debtor.

Case No. 2:12-bk-25221-RK

Chapter 7

**ORDER ON TRUSTEE'S MOTION TO
APPROVE COMPROMISE OR SELL
ESTATE ASSETS**

Pending before the court is the Motion of the Chapter 7 Trustee ("Trustee") to Approve Compromise or Sell Estate Assets. ECF 24. As discussed herein, because the court concludes that a competitive sales process would maximize the value of the assets, which are the subject of the pending motion to the bankruptcy estate and that Debtor may purchase the estate property at issue here, the court will grant Trustee's motion. In granting the motion, the court will treat the Debtor's offer as a qualified overbid, subject to better bids.

1. Factual History and Procedural History

Maria Del Socorro Prado, also known as Maria Del Socorro Prado-Anaya ("Debtor") filed a voluntary petition for relief under Chapter 7 of the Bankruptcy Code, 11

1 U.S.C., on April 30, 2012. Debtor did not disclose the existence of a possible
2 employment law claim against her former employer, Rite Aid Corp., as an asset on her
3 bankruptcy schedules as part of her bankruptcy petition. The Chapter 7 Trustee filed a
4 no distribution report on June 8, 2012, after which a discharge of Debtor was entered on
5 August 13, 2012, and this bankruptcy case was closed on August 16, 2012.

6 On December 6, 2013, Debtor filed a wrongful termination lawsuit in the Superior
7 Court of California against her former employer, Rite Aid Corp., and her former manager,
8 Michael Rodriguez (these parties referred to together as "Rite Aid") (the lawsuit is
9 referred to as "State Court Suit"). The State Court Suit is based on claims for
10 discrimination, harassment, and wrongful discharge arising out of events that occurred
11 before Debtor's bankruptcy petition was filed. The Chapter 7 Trustee became aware of
12 the State Court Suit as an undisclosed prepetition asset belonging to the bankruptcy
13 estate, filed a motion to reopen the bankruptcy case, and began negotiations with
14 Debtor's counsel representing her in the State Court Suit ("Debtor's counsel") about
15 Debtor's counsel continuing to prosecute the State Court Suit on behalf of the bankruptcy
16 estate. *Declaration of Richard K. Diamond, Trustee in Support of Trustee's Reply to*
17 *Debtor's Objection*, ECF 28, ¶¶ 3-8. The Chapter 7 Trustee and Debtor and her state
18 court counsel apparently could not come to an agreement about control over the State
19 Court Suit, and the Chapter 7 Trustee began negotiating directly with Rite Aid to settle
20 the State Court Suit in order to realize the value of the lawsuit as an asset of the
21 bankruptcy estate. *Id.*

22 On August 29, 2014, Trustee filed a Motion to Approve Compromise pursuant to
23 Federal Rule of Bankruptcy Procedure 9019, asking the court to approve a compromise
24 with Rite Aid which would transfer the rights to the State Court Suit to Rite Aid for a
25 payment of \$48,000. *Declaration of Richard K. Diamond in Support of Motion to Approve*
26 *Compromise*, ECF 24, ¶ 7.

27 Debtor filed an opposition to Trustee's Motion to Approve Compromise, arguing
28 that the State Court Suit was worth significantly more than \$48,000. ECF 27. Both Rite

1 Aid and the Trustee filed replies to Debtor's opposition, arguing that the Motion to
2 Approve Compromise should be granted because Rite Aid possessed a counterclaim
3 against Debtor and that the State Court Suit was unlikely to succeed on the merits. ECF
4 28 and 29. Debtor filed an "Objection and Sur-Reply" to Rite Aid's reply, arguing that Rite
5 Aid did not have standing to file a reply and continuing to argue that the State Court Suit
6 was likely to succeed on the merits. ECF 34.

7 In order to give all parties an opportunity to be fully heard on Trustee's
8 compromise motion, the court granted the parties leave to file additional briefing. *Order*
9 *Continuing Hearing on Trustee's Motion to Approve Compromise with Rite Aid*
10 *Corporation, Thrifty Payless, Inc., and Michael Rodriguez and Granting Leave to Filed*
11 *Supplemental Briefing and Evidence*, ECF 35. Debtor, Trustee and Rite Aid all filed
12 supplemental briefing in support of their respective positions on the motion. ECF 37, 38
13 and 39.

14 The court conducted a hearing on Trustee's Motion to Approve Compromise on
15 October 28, 2014. At this hearing, Debtor raised the possibility that Debtor with the
16 assistance of counsel might put forward money to outbid Rite Aid's settlement offer.
17 *Hearing on October 28, 2014*, 3:25- 3:35 p.m. In order to allow Trustee to maximize
18 value of the State Court Suit as an asset of the bankruptcy estate, the court continued the
19 hearing to November 18, 2014, to allow Debtor and the Trustee to negotiate possible
20 terms of sale and to allow Debtor's counsel to verify that such a proposal would be
21 allowed pursuant to California's attorneys' rules of ethics. *Id.* at 4:15-4:18 p.m.

22 At the November 18, 2014 hearing, Trustee represented that he had received a
23 cashier's check from Debtor, and that he would treat this, along with Debtor's agreement
24 to waive her \$26,000 wildcard exemption, as a qualified overbid for \$76,000. *Transcript of*
25 *November 18, 2014, Hearing*, ECF 45, at 6:1-11. Because Rite Aid did not have
26 adequate notice of Debtor's qualified overbid, the court continued the hearing to
27 December 11, 2014, to allow Rite Aid to file a response to Debtor's qualified overbid,
28 including objections, and to allow Trustee to file a declaration in support of a finding that

1 the purchaser of the asset would be a good faith purchaser under 11 U.S.C. § 363(m).
2 *Id.* at 20:2-21:3.¹

3 **2. The Chapter 7 Trustee Must Entertain Valid Overbids In Response to a**
4 **Settlement Under Fed. R. Bankr. P. 9019.**

5 In furtherance of a bankruptcy trustee's duty to maximize value of assets of the
6 estate, the trustee must consider offers to purchase claims that exceed outstanding
7 settlement offers. The Ninth Circuit Bankruptcy Appellate Panel in *In re Mickey*
8 *Thompson Entertainment Group, Inc.*, 292 B.R. 415, (9th Cir. BAP 2003), addressed a
9 similar situation described as follows:

10 A Chapter 7 trustee sought approval of a compromise between the
11 bankruptcy estate and certain parties against whom the estate held
12 potential fraudulent transfer claims. A creditor opposed the
13 compromise and a third party offered to purchase the claims for an
14 amount higher than the settlement offer. In response, the trustee
15 changed his strategy, treating his intended action as it really was: a
16 sale of an asset of the bankruptcy estate. At the hearing, however, he
renounced that strategy and sought approval of what he once again
maintained was a compromise of a controversy. The bankruptcy
court agreed with the trustee and approved the compromise.

17 *Id.* at 417. In *Mickey Thompson Entertainment Group*, the Bankruptcy Appellate Panel
18 reversed the bankruptcy court's order approving a settlement and held that in evaluating
19 a motion to approve settlement under Fed. R. Bankr. P. 9019, the bankruptcy court must
20 consider other offers that "might draw a higher price through a competitive process and
21 be the proper subject of a section 363 sale." *Id.* at 421-422. Similarly, in the case at bar,
22 the court, finding itself with an offer of a nonsettling party which exceeds the settlement
23 amount, determines that consistent with *Mickey Thompson Entertainment Group*, the
24 value of the subject assets would be maximized through a competitive auction sale and
25

26 ¹ The court has considered the objection of Debtor that the Rite Aid parties do not have standing to
27 oppose any sale to her and overrules such objection. "Party in interest" is generally construed broadly
28 under the Bankruptcy Code and has been held to be "one who has an actual pecuniary interest in the
case." *In re Sobczak*, 369 B.R. 512, 517-518 (9th Cir. BAP 2007) (citation omitted).

1 that it has discretion to hold that the causes of action in the State Court Suit are the
2 proper subject of a section 363 sale. *Id.*

3 **3. Counsel for Debtor May Loan Money to Debtor to Purchase the Claim**
4 **Without Violating Applicable Ethical Rules.**

5 Rite Aid cites California Business & Professions Code § 6129 as prohibiting
6 Debtor's attorneys from loaning her money to assist her in purchasing the rights in the
7 State Court Suit from Trustee. *Rite Aid Corporation and Michael Rodriguez's Brief Re:*
8 *Objections to 11 U.S.C. § 363 Sale of Debtor's Claims against Them*, ECF 46, at 3:6-11.
9 That statute provides: "Every attorney who, either directly or indirectly, buys or is
10 interested in buying any evidence of debt or thing in action, with intent to bring suit
11 thereon, is guilty of a misdemeanor." California Business & Professions Code § 6129.

12 In response, Debtor argues that this transaction would not violate this statute
13 because her attorneys are not buying anything, but rather, they are merely loaning her
14 money for her purchase of the rights, which they can do if they comply with Rule 3-300 of
15 the California Rules of Professional Conduct. *Debtor's Opposition and Objection to Rite*
16 *Aid's Objection to 11 U.S.C. § 363 Sale of Debtor's Claims against Them*, ECF 47 at
17 4:12-5:15.

18 For his part, Trustee argues that Debtor's purchase of the asset would not be
19 prohibited by California Business and Professional Code § 6129 because that provision
20 was intended to prevent litigation that would otherwise not exist. *Trustee's Response to*
21 *Rite Aid Corporation and Michael Rodriguez's Brief re Objection to 11 U.S.C. § 363 Sale*
22 *of Debtor's Claims against Them*, ECF 48, at 5:17-6:13.

23 The court determines that Debtor's argument that there would be no violation of
24 California Business & Professions Code § 6129 is correct because her attorneys are not
25 purchasing the rights to the State Court Suit. As Debtor's attorney, Ebby S. Baktiar, in
26 his declaration states that the transaction provides that Debtor will gain ownership of the
27 rights in the State Court Suit if her bid is chosen by the Trustee as the best bid.
28 *Declaration of Ebby S. Bakhtiar*, ECF 47 at ¶ 5-6. This means that Debtor could, if she

1 chooses, retain different counsel to pursue the State Court Suit in the future. This would
2 rebut Rite Aid's argument that Debtor is merely a "straw man" purchaser and that her
3 attorneys are the true purchasers of the asset.

4 For the foregoing reasons, the court concludes that Debtor's counsel is not
5 prohibited from lending Debtor the funds to purchase the rights to the State Court Suit
6 against Rite Aid from the bankruptcy estate under California Business & Professions
7 Code § 6129.

8 **4. California Law Does Not Prohibit the Assignment of a Personal Tort Cause**
9 **of Action from the Estate to the Debtor.**

10 Rite Aid argues that California law prohibits the assignment of the types of claims
11 that the Chapter 7 Trustee intends to assign in this case. *Rite Aid Corp. & Rodriguez's*
12 *Brief re: Objection to 11 U.S.C. § 363*, ECF 46 at 3:14-23. It is true that California law
13 does not generally allow the assignment of personal tort causes of action. California Civil
14 Code §§ 953 and 954; *Essex Insurance Co. v. Five Star Dye House, Inc.*, 38 Cal. 4th
15 1252, 1257-1263 (2006), *citing inter alia*, *Reichert v. General Insurance Co.*, 68 Cal. 2d
16 822, 834 (1968). As the California Supreme Court noted in *Essex Insurance Co.*, citing
17 California Civil Code § 954,² an assignment is a commonly used method of transferring a
18 cause of action or claim, and that assignability of claims is the general rule, but excepted
19 from that general rule are tort causes of action "founded upon wrongs of a purely
20 personal nature." 38 Cal. 4th at 1263, *citing inter alia*, *Reichert v. General Insurance*
21 *Co.*, 68 Cal. 2d at 834.

22 In support of its position that the assignment of the subject tort claims is prohibited,
23 Rite Aid specifically cites *Baum v. Duckor, Spradling & Metzger*, 72 Cal. App. 4th 54, 71
24 (1999). In that case, legal malpractice claims had accrued to the bankruptcy estate of
25 two Chapter 7 bankruptcy debtors against their bankruptcy counsel during the bankruptcy

26 _____
27 ² California Civil Code § 954 states: "A thing in action, arising out of a violation of a right of property, or out
28 of an obligation, may be transferred by the owner." See also, *Essex Insurance Co. v. Five Star Dye House,*
Inc., 38 Cal. 4th 1259-1262.

1 proceedings. *Id* at 58-59. The Chapter 7 bankruptcy trustee assigned those claims to
2 one of the creditors of the bankruptcy debtors, pursuant to an agreement approved by the
3 bankruptcy court. *Id*. The state appellate court affirmed the trial court's sustaining a
4 demurrer to the creditor's complaint on the grounds that "(1) the causes of action, though
5 assets of the bankruptcy estates of BIC and PRTC, are claims for legal malpractice,
6 which are personal torts that are not assignable under California law; (2) no bankruptcy
7 or other federal law authorizes such assignment of legal malpractice claims. . . ." *Id*. at
8 59.

9 Debtor argues that a transfer of the causes of action by the bankruptcy estate to
10 her would not be an "assignment" in the same sense as the cases cited by Rite Aid
11 because those cases involve assignment to a third party because this situation would
12 involve the transfer of personal tort causes of action back to her as the real party in
13 interest. *Debtor's Opposition and Objection to Rite Aid's Objection to 11 U.S.C. § 363*
14 *Sale of Debtor's Claims Against Them*, ECF 47, at 5:26-8:4.

15 California case law supports Debtor's interpretation of the assignability of personal
16 tort causes of action to her as the real party in interest with standing to pursue such
17 claims. For example, in *Amstone v. Peninsular Fire Insurance Co.*, 226 Cal. App. 3d
18 1019 (1991), the court considered the question "do appellants [debtors] have standing to
19 pursue claims for refusal to pay insurance proceeds for the loss of their personal property
20 even though they filed bankruptcy petitions?" and held that they did. The *Amstone* court
21 analyzed instances where a bankruptcy debtor has standing to bring a suit personally
22 despite the cause of action belonging to the bankruptcy estate as follows:

23 Persons have standing to sue when they are real parties in interest.
24 (Code Civ. Proc., § 367.) Usually properties and causes of action
25 existing at the time bankruptcy petitions are filed pass to the
26 bankruptcy estate (11 U.S.C. § 541(a)(1); *Reichert v. General Ins.*
27 *Co.* (1968) 68 Cal.2d 822, 829-837, 69 Cal.Rptr. 321, 442 P.2d
28 377; *People v. Kings Point Corp.* (1986) 188 Cal.App.3d 544, 548,
233 Cal.Rptr. 227) and only the trustee has standing to bring
actions related thereto. (*Reichert v. General Ins. Co.*, *supra*, 68

1 Cal.2d at p. 830, 69 Cal.Rptr. 321, 442 P.2d 377; see 4 Collier on
2 Bankruptcy (15th ed. 1985) § 541.12, p. 541–75.) However, there
3 are situations in which the bankrupt debtor may also be a party in a
4 state civil action. For example, if the trustee abandons property the
5 bankrupt may bring suit with regard to that property. (*Estate of*
6 *Aldrich* (1950) 35 Cal.2d 20, 23, 215 P.2d 724; for further
7 discussions see *Wood v. Lowe* (1974) 39 Cal.App.3d 296, 114
8 Cal.Rptr. 69; *Highlanders, Inc. v. Olson* (1978) 77 Cal.App.3d 690,
9 697–701, 143 Cal.Rptr. 679; *Danielson v. ITT Industrial Credit Co.*
10 (1988) 199 Cal.App.3d 645, 655–658, 245 Cal.Rptr. 126.) Further,
11 if a plaintiff has a pending suit and subsequently files for
12 bankruptcy, the debtor is not automatically foreclosed from
13 continuing to prosecute the action. (Code Civ.Proc., § 385; *Kaley v.*
14 *Catalina Yachts* (1986) 187 Cal.App.3d 1187, 1193–1196, 232
15 Cal.Rptr. 384; *Robinson v. McGinn* (1987) 195 Cal.App.3d 66, 78–
16 80, 240 Cal.Rptr. 423; *ABA Recovery Services, Inc. v. Konold*
17 (1988) 198 Cal.App.3d 720, 726, 244 Cal.Rptr. 27.) Debtors may
18 also be authorized by the bankruptcy court to file state civil actions.
19 (Cf. *Tarr v. Merco Constr. Engineers, Inc.* (1978) 84 Cal.App.3d
20 707, 713–716, 148 Cal.Rptr. 813.)

21 *Id.* at 1023-1024. Although the discussion in *Amstone* involved the assignment of a
22 cause of action based on tort against personal property and does not address the exact
23 situation here of a Chapter 7 bankruptcy trustee seeking to assign a personal tort cause
24 of action to the bankruptcy debtor, it does hold in a similar situation that a debtor has
25 standing to bring a cause of action that previously belonged to the estate once that cause
26 of action has been abandoned by the trustee. *Id.* Furthermore, the *Amstone* court's
27 statement that "persons have standing to sue when they are the real parties in interest,"
28 is directly applicable here, where Debtor is the real party in interest in the State Court
Suit. *Id.* at 1023, *citing*, California Code of Civil Procedure § 367 ("Every action must be
prosecuted in the name of the real party in interest, except as provided by statute.").

In this court's view, personal tort causes of action should be assignable by a
bankruptcy trustee to a debtor as the real party in interest because the public policy
against assignability of such claims is not implicated where the debtor as the assignee is
the real party in interest in being the party allegedly injured by the allegedly tortious

1 conduct. In support of this view, Trustee cites *In re Brown*, 354 B.R. 100 (Bankr. N.D. W.
2 Va. 2006), in which a Chapter 7 bankruptcy trustee sought court approval to release a
3 debtor's prepetition cause of action against a mortgage lender in exchange for \$40,000.
4 The mortgage lender objected to the release of the cause of action to the debtor partially
5 based on the grounds that the cause of action was not assignable under applicable state
6 law (i.e., West Virginia law). *Id.* at 104. The court in *Brown* noted that there was no
7 public policy reason to prevent the assignment of the cause of action "[b]ecause the
8 Trustee is transferring the Debtors' own interest in the lawsuit back to the Debtors, any
9 concern relating to the trading in personal injury tort claims is vitiated." *Id.* at 106.
10 Although *Brown* involved West Virginia state law, the same logic applies here, and there
11 is no good reason to prevent the transfer of Debtor's personal tort claim back to her as
12 she is the real party in interest as the allegedly injured party.

13 The cases cited by Rite Aid to show that personal tort claims are not assignable
14 are distinguishable; *Baum v. Duckor, Spradling & Metzger*, 72 Cal. App. 4th at 71, and
15 *Integrated Solutions v. Service Support Specialties*, 124 F.3d 487 (3d Cir. 1997) were
16 cases which involved an assignment of personal tort claims from a bankruptcy estate to a
17 third party and not the debtor. In contrast, the assignee of the claims in this case would
18 not be a third party, but would be the real party in interest – the debtor.

19 Likewise, the various cases cited by Rite Aid to show that these types of pre-
20 petition employment-related causes of action belong to the bankruptcy estate are
21 distinguishable because none of those cases involved an attempt by the trustee to assign
22 the cause of action back to the debtor, as is the case here. *Sierra Switchboard Co. v.*
23 *Westinghouse Electric Corp.*, 789 F.2d 705, 706, 708-710 and n. 3 (9th Cir. 1986)(debtor
24 and bankruptcy trustee signed stipulation for dismissal of state court action with personal
25 tort claim not deemed abandonment of such claim to debtor; issue of assignability of the
26 claim under state law expressly not decided); *M & M Foods, Inc., v. Pacific American Fish*
27 *Co.*, 196 Cal. App. 4th 554, 561-564 (2011)(accounts receivable claim as asset
28 undisclosed on bankruptcy schedules did not revert to debtor upon abandonment by

1 bankruptcy trustee under 11 U.S.C. § 554(a)); *Harris v. St. Louis University*, 114 B.R.
2 647, 648-649 (E.D. Mo. 1990)(same); *Williams v. Kaiser Permanente*, 2000 WL 1262657
3 at *3-4 (N.D. Cal. 2000)(same).

4 Rite Aid's argument, that Trustee may not assign a personal tort cause of action
5 back to the aggrieved party who suffered the alleged wrong of a personal nature is
6 inconsistent with the purpose of California law governing assignability of claims. As the
7 California Supreme Court stated in *Reichert*, "the only causes or rights of action which
8 are not transferable or assignable in any sense are those which are founded upon
9 wrongs of a purely personal nature, such as slander, assault and battery ... and others of
10 like nature. All other demands, claims and rights of action whatever are generally held to
11 be transferable." 68 Cal. 2d at 834. In other words, California law allows transfer and
12 assignment of all claims or rights of action other than personal torts – those it keeps in
13 the hands of the actual party in interest. *Id.*; see also, California Civil Code § 954; *Essex*
14 *Insurance Co. v. Five Star Dye House, Inc.*, 38 Cal. 4th at 1257-1263. To accept Rite
15 Aid's argument and prevent the Trustee from assigning the claims of a "purely personal
16 nature" back to Debtor as party whose rights of a "purely personal nature" were affected
17 by the alleged wrongs the would elevate form over substance and would not further the
18 purposes of the California law relating to the assignability of causes of action or claims.

19 **5. Debtor Is Not Estopped From Purchasing the State Court Suit**

20 In reply to Debtor's original opposition to the Motion, Trustee had argued that
21 Debtor should be estopped from opposing the settlement with Rite Aid due to Debtor's
22 failure to schedule the prepetition claims against Rite Aid in her bankruptcy petition.
23 *Trustee's Reply to Debtor's Objection and Opposition to Motion for Order Approving*
24 *Compromise*, ECF 28, at 6:8-8:3. It seems to the court that this is a factual issue that
25 would be best raised as a defense in the State Court Suit. In *Amstone v. Peninsular Fire*
26 *Insurance Co.*, the appellate court reversed the trial court's grant of summary judgment to
27 defendant insurance company in a bad faith action on grounds that the debtors did not
28 schedule the potential prepetition bad faith claim against defendant on the bankruptcy

1 petitions. *Id.* The appellate court reversed the grant of summary judgment because
2 “[t]here are numerous reasons, not amounting to fraud, which could explain why
3 appellants failed to list the policy as an asset on the bankruptcy petitions...” and thus
4 there was a triable issue of fact precluding summary judgment. *Id.* The Ninth Circuit has
5 also recently held that failure to schedule a potential claim does not automatically estop a
6 debtor from later pursuing that action, but requires factual inquiry into whether the
7 omission was mistaken or inadvertent. See *Ah Quin v. County of Kauai Department of*
8 *Transportation*, 733 F.3d 267, 279 (9th Cir. 2013).

9 **6. Both Rite Aid and Debtor Would Appear to Be Good Faith Purchasers for**
10 **Purposes of 11 U.S.C. §363(m).**

11 The Chapter 7 Trustee asks the court to find that whichever party ends up
12 purchasing the claim is a good faith purchaser under 11 U.S.C. § 363(m). A good faith
13 purchaser is one who buys “in good faith” and “for value.” *In re Ewell*, 958 F.2d 276, 281
14 (9th Cir. 1992)(citation omitted). “The price achieved by an auction is ordinarily assumed
15 to approximate market value when there is competition by an appropriate number of
16 bidders.” *In re Fitzgerald*, 428 B.R. 872, 883 (9th Cir. BAP 2010)(citation omitted). Here,
17 Trustee has included a declaration that the original compromise agreement between Rite
18 Aid and the Trustee was the result of good faith, arms-length negotiations with no
19 collusion. *Declaration of Richard K. Diamond, Trustee*, ECF 48 at 11. In light of
20 Trustee’s subsequent support of Debtor’s attempt to outbid Rite Aid’s offer, Trustee’s
21 declaration is highly credible. Based on the bidding efforts of all parties in this
22 transaction, the court can find that whoever ultimately purchases the claim, whether it is
23 Rite Aid or Debtor, would be a good faith purchaser under 11 U.S.C. § 363(m) because
24 the bidding has been free of collusion and any auction with Rite Aid and Debtor as
25 bidders should yield the market value for the claim. The court reserves its actual ruling
26 on the good faith of a purchaser until the actual outcome of an auction to be conducted
27 by Trustee.

1 By separate order, the court has continued the further hearing on the motion
2 scheduled for December 17, 2014 at 2:30 p.m. to December 19, 2014 at 10:30 a.m. At
3 the December 19 hearing, the court will discuss the scheduling of the auction to be
4 conducted by Trustee for the sale of the causes of action, which are estate's assets. In
5 this regard, the court agrees with the Trustee that the sale should be conducted pursuant
6 to the terms and conditions outlined in his response to Rite Aid's supplemental briefing.
7 *Trustee's Response to Rite Aid Corporation and Michael Rodriguez's Brief re Objection*
8 *to 11 U.S.C. § 363 Sale of Debtor's Claims against Them*, ECF 48, at 9:25-10:14.

9 Accordingly, for the foregoing reasons, the court grants Trustee's motion on the
10 terms and conditions set forth in his response to the Rite Aid parties' supplemental
11 briefing. *Id.* Trustee is ordered to submit a proposed final order granting his motion
12 within seven days of entry of this order, which among other things, sets forth the terms
13 and conditions of the sale.

14 IT IS SO ORDERED.

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23 Date: December 19, 2014



Robert Kwan
United States Bankruptcy Judge