

<p>Attorney or Party Name, Address, Telephone & FAX Nos., State Bar No. & Email Address</p> <p>COURT PREPARED ORDER</p> <p><input type="checkbox"/> Individual appearing without attorney <input type="checkbox"/> Attorney for:</p>	<p>FOR COURT USE ONLY</p> <div data-bbox="1047 262 1432 535"><p>FILED & ENTERED</p><p>JUL 14 2017</p><p>CLERK U.S. BANKRUPTCY COURT Central District of California BY tatum DEPUTY CLERK</p></div>
<p><u>NOT FOR PUBLICATION</u></p> <p>UNITED STATES BANKRUPTCY COURT CENTRAL DISTRICT OF CALIFORNIA – <u>LOS ANGELES</u> DIVISION</p>	
<p>In re:</p> <p>CURTIS C. MAGLEBY,</p> <p>Debtor(s).</p>	<p>CASE NO.: 2:16-bk-15322-RK CHAPTER: 11</p> <p>ORDER:</p> <p><input type="checkbox"/> GRANTING APPLICATION AND SETTING HEARING ON SHORTENED NOTICE</p> <p><input checked="" type="checkbox"/> DENYING APPLICATION FOR ORDER SETTING HEARING ON SHORTENED NOTICE</p> <p>[LBR 9075-1(b)]</p>
<p>Movant (name): Debtor Curtis C. Magleby by Illyssa I. Fogel, of the law offices of Illyssa I. Fogel and Associates.</p>	

1. Movant filed the following motion together with supporting declarations and (if any) supporting documents:
 - a. *Title of motion:* Ex Parte Application for Authority to Pay Post-Petition
Administrative Support Claim of Cindy Magleby
 - b. *Date of filing of motion:* July 14, 2017
2. Pursuant to LBR 9075-1(b), movant also filed an Application for Order Setting Hearing on Shortened Notice (Application) together with supporting declaration(s):

Date of filing of Application: July 14, 2017
3. Based upon the court's review of the application, it is ordered that:
 - a. ☒ The Application is denied. The motion may be brought on regular notice pursuant to LBRs.

Administrative expenses incurred in the ordinary course of business may be paid without a court order, but those not in the ordinary course of business need an order from this court, meeting the appropriate legal standard for "immediate payment." 11 U.S.C. § 363(b) and (c)(1); *see also, e.g., In re Cardinal Industries, Inc.*, 109 B.R. 738, 742-743 (Bankr. S.D. Ohio 1989) and *In re Western Farmers Association*, 13 B.R. 132, 135 (Bankr. W.D. Wash. 1981), *cited in*, 3 March, Ahart and Shapiro, *California Practice Guide: Bankruptcy*, ¶ 17:730 at 17-92 – 17-93 (2016); *accord, In re St. Luke Baptist Church*, 2016 WL 5922289 (Bankr. C.D. Cal. 2016), slip op. at *5.

The circumstances described in the motion did not warrant an emergency hearing or a hearing on shortened notice pursuant to Local Bankruptcy 9075-1. There were no exigent circumstances that required shortened notice of hearing to the affected parties, including all creditors, as required by Federal Rules of Bankruptcy Procedure 2002(a)(2) and 9013 and Local Bankruptcy Rule 9013-1, for a distribution of property of the estate, debtor's post-petition earnings, to a particular creditor for postpetition domestic support obligations. That debtor now acknowledges that this creditor should be paid as ordered by the state family law court is not an exigent circumstance that warrants shortened notice to all creditors, and the matter can be expeditiously heard on regular 21-days notice under these circumstances to all creditors. Moreover, it is inappropriate for the court (or for debtor and his counsel, Ms. Fogel, to give lip service to the rules, then ignoring what they require, to request the court) to consider a motion to distribute estate funds out of the ordinary course on an ex parte basis as debtor as the moving party himself and his counsel recognize in the motion that service of notice of hearing on the motion on all creditors is required under Federal Rule of Bankruptcy Procedure 2002(a) and Local Bankruptcy Rule 9013-1 (Motion at 5), and the motion is also procedurally defective because the proof of service of the motion requesting shortened notice does not show that all creditors were served with the motion requesting shortened notice as required by Local Bankruptcy Rule 9075-1.

b. ☐ The Application is granted, and it is further ordered that:

(1) ☐ A hearing on the motion will take place as follows:

Hearing date:	Place:
Time:	<input type="checkbox"/> 255 East Temple Street, Los Angeles, CA 90012
Courtroom:	<input type="checkbox"/> 21041 Burbank Boulevard, Woodland Hills, CA 91367
	<input type="checkbox"/> 3420 Twelfth Street, Riverside, CA 92501
	<input type="checkbox"/> 411 West Fourth Street, Santa Ana, CA 92701
	<input type="checkbox"/> 1415 State Street, Santa Barbara, CA 93101

(2) ☐ No later than the deadlines given, **telephonic notice** of the hearing must be provided to all persons/entities listed:

(A) <u>Deadlines:</u>	(B) <u>Persons/entities to be provided with telephonic notice:</u>
Date:	
Time:	
	<input type="checkbox"/> See attached page
	(C) <u>Telephonic notice is also required upon</u> the United States trustee

(3) ☐ No later than the deadlines given, **written notice of the hearing** and a **copy of this order** must be served upon all persons/entities listed using: ☐ one of the methods checked ☐ all of the methods checked

(A) ☐ Personal Delivery ☐ Overnight Mail ☐ First class mail ☐ Facsimile* ☐ Email*

(B) Deadlines:

Date:

Time:

(C) Persons/entities to be served with written notice and a copy of this order:

☐ See attached page

(D) Service is also required upon:

-- United States trustee (*electronic service is not permitted*)

-- Judge's copy personally delivered to chambers
(see Court Manual for address)

- (4) ☐ No later than the deadlines given, a copy of the motion, declarations, and supporting documents (if any), must be served on all persons/entities listed using: ☐ one of the methods checked ☐ all of the methods checked

(A) ☐ Personal Delivery ☐ Overnight Mail ☐ First Class Mail ☐ Facsimile* ☐ Email*

(B) Deadlines:

Date:

Time:

(C) Persons/entities to be served with motion, declarations, supporting documents:

☐ See attached page

(D) Service is also required upon:

-- United States trustee (*no electronic service permitted*)

-- Judge's copy personally delivered to chambers
(see Court Manual for address)

- (5) ☐ Regarding **opposition to the motion**

☐ opposition to the motion may be made **orally** at the hearing

☐ no later than the deadlines given, **written opposition to the motion** must be filed with the court and served upon all persons/entities listed using: ☐ one of the methods checked ☐ all of the methods checked

(A) ☐ Personal Delivery ☐ Overnight Mail ☐ First Class Mail ☐ Facsimile* ☐ Email*

(B) Deadlines:

Date:

Time:

(C) Persons/entities to be served with written opposition to the motion:

-- movant's attorney (or movant, if movant is not represented by an attorney)

(D) Service is also required upon:

-- United States trustee (*electronic service is not permitted*)

-- Judge's copy personally delivered to chambers
(see Court Manual for address)

(6) ☐ Regarding a **reply to an opposition**:

☐ a reply to opposition may be made **orally** at the hearing.

☐ no later than the deadlines given, a **written reply to an opposition** must be filed with the court and served on all persons/entities listed using: ☐ one of the methods checked ☐ all of the methods checked

(A) ☐ Personal Delivery ☐ Overnight Mail ☐ First Class Mail ☐ Facsimile* ☐ Email*

(B) Deadlines:

Date:

Time:

(C) Persons/entities to be served with written reply to opposition:

-- All persons/entities who filed a written opposition

(D) Service is also required upon:

-- United States trustee (*electronic service is not permitted*)

-- Judge's Copy personally delivered to chambers
(see Court Manual for address)

(7) ☐ Other requirements:

(8) ☐ No later than the deadlines given, movant must file a **Declaration of Notice and Service** establishing that telephonic notice, written notice, and service of the motion and this order was completed as set forth above, and a **judge's copy** of the Declaration of Notice and Service must be personally delivered to the judge's chambers:

☐ at least 2 days before the hearing.

☐ no later than:

Date:

Time:

* Service by electronic means (facsimile or email) requires compliance with F.R.Civ.P. 5(b)(2)(E).

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Date: July 14, 2017



Robert Kwan
United States Bankruptcy Judge