

UNITED STATES BANKRUPTCY COURT
Eastern District of California
Honorable René Lastreto II
Hearing Date: Wednesday, January 25, 2017
Place: Department B – Courtroom #13
Fresno, California

INSTRUCTIONS FOR PRE-HEARING DISPOSITIONS

1. The following rulings are tentative. The tentative ruling will not become the final ruling until the matter is called at the scheduled hearing. **Pre-disposed matters will generally be called, and the rulings placed on the record at the end of the calendar.** Any party who desires to be heard with regard to a pre-disposed matter may appear at the hearing. If the party wishes to contest the tentative ruling, he/she shall notify the opposing party/counsel of his/her intention to appear. **If no disposition is set forth below, the hearing will take place as scheduled.**

2. Submission of Orders:

Unless the tentative ruling expressly states that the court will prepare a civil minute order, then the tentative ruling will only appear in the minutes. If any party desires an order, then the appropriate form of order, which conforms to the tentative ruling, must be submitted to the court. When the debtor(s) discharge has been entered, proposed orders for relief from stay must reflect that the motion is denied as to the debtor(s) and granted only as to the trustee. Entry of discharge normally is indicated on the calendar.

3. Matters Resolved Without Opposition:

If the tentative ruling states that no opposition was filed, and the moving party is aware of any reason, such as a settlement, why a response may not have been filed, the moving party must advise Vicky McKinney, the Calendar Clerk, at (559) 499-5825 by 4:00 p.m. the day before the scheduled hearing.

4. Matters Resolved by Stipulation:

If the parties resolve a matter by stipulation after the tentative ruling has been posted, but **before the formal order is entered on the docket**, the **moving party** may appear at the hearing and advise the court of the settlement or withdraw the motion. Alternatively, the parties may submit a stipulation and order to modify the tentative ruling together with the proposed order resolving the matter.

5. Resubmittal of Denied Matters:

If the moving party decides to re-file a matter that is denied without prejudice for any reason set forth below, the moving party must file and serve a new set of pleadings with a new docket control number. It may not simply re-notice the original motion.

THE COURT ENDEAVORS TO PUBLISH ITS PREDISPOSITIONS AS SOON AS POSSIBLE, HOWEVER CALENDAR PREPARATION IS ONGOING AND THESE PREDISPOSITIONS MAY BE REVISED OR UPDATED AT ANY TIME PRIOR TO 4:00 P.M. THE DAY BEFORE THE SCHEDULED HEARINGS. PLEASE CHECK AT THAT TIME FOR POSSIBLE UPDATES.

9:30 A.M.

1. [16-14200](#)-B-7 ROHIT YADAV MOTION TO APPROVE STIPULATION
THA-1 FOR RELIEF FROM THE AUTOMATIC
AHMED ALI/MV STAY
1-9-17 [[14](#)]

RILEY WALTER/Atty. for dbt.
THOMAS ARMSTRONG/Atty. for mv.

This motion for approval of the stipulation for relief from the automatic stay as to the lease of the commercial real property will be granted without oral argument for cause shown. Movant shall submit a proposed order as specified below. No appearance is necessary.

This motion for approval of a stipulation for relief from stay was noticed pursuant to LBR 9014-1(f)(2) which provides for parties to appear at the hearing in opposition. However, the stipulation filed in support of the motion has been signed by all parties in interest: the debtor, the movant, and the chapter 7 trustee. Accordingly, the automatic stay is terminated as it applies to the movant's right to enforce its remedies against the subject property under applicable nonbankruptcy law and pursuant to the terms of the stipulation.

The record shows that cause exists to terminate the automatic stay.

The proposed order shall specifically describe the property or action to which the order relates. Waiver of Federal Rule of Bankruptcy Procedure 4001(a)(3) will be granted.

Unless the court expressly orders otherwise, the proposed order shall not include any other relief. If the proposed order includes extraneous or procedurally incorrect relief that is only available in an adversary proceeding then the order will be rejected. See *In re Van Ness*, 399 B.R. 897 (Bankr. E.D. Cal. 2009).

2. [15-12702](#)-B-7 MARTIN STEBBEN
RH-3
PETER FEAR/MV
GLEN GATES/Atty. for dbt.
ROBERT HAWKINS/Atty. for mv.
RESPONSIVE PLEADING

OBJECTION TO CLAIM OF FRANCHISE
TAX BOARD, CLAIM NUMBER 5
12-9-16 [[41](#)]

The hearing on this motion will be called as scheduled and will proceed as a scheduling conference.

Based on the opposition by the debtor to the trustee's objection to this proof of claim, this matter is now deemed to be a contested matter. Pursuant to Federal Rule of Bankruptcy Procedure 9014(c), the federal rules of discovery apply to contested matters. The parties shall be prepared for the court to set an early evidentiary hearing if the matter is not resolved at the hearing.

The court notes the debtor's response references individual liability for deducted or withheld taxes. No legal basis for other taxes or fees being charged to the debtor is included. If the parties are unable to stipulate to all facts, the court intends to inquire as to what facts remain in dispute in order to establish a meaningful schedule.

3. [16-10706](#)-B-7 ARLEEN MAROZIK
TGM-4
PETER FEAR/MV

DAVID JENKINS/Atty. for dbt.
TRUDI MANFREDO/Atty. for mv.

MOTION TO COMPROMISE
CONTROVERSY/APPROVE SETTLEMENT
AGREEMENT WITH PASCUZZI,
PASCUZZI & STOKER
12-23-16 [[59](#)]

The motion will be granted without oral argument based upon well-pled facts. The trustee shall submit a proposed order. No appearance is necessary.

This matter was fully noticed in compliance with the Local Rules of Practice and there is no opposition. Accordingly, the respondents' defaults will be entered. Federal Rule of Civil Procedure 55, made applicable by Federal Rule of Bankruptcy Procedure 7055, governs default matters and is applicable to contested matters under Federal Rule of Bankruptcy Procedure 9014(c). Upon default, factual allegations will be taken as true (except those relating to amount of damages). *Televideo Systems, Inc. v. Heidenthal* (826 F.2d 915, 917 (9th Cir., 1987)). Constitutional due process requires that a plaintiff make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here. It appears from the moving papers that the trustee has considered the standards of *In re A & C Properties*, 784 F.2d 1377, 1381 (9th Cir. 1986), and that the compromise pursuant to FRBP 9019 is a reasonable exercise of the trustee's business judgment.

4. [16-10706](#)-B-7 ARLEEN MAROZIK
TGM-5
PETER FEAR/MV
DAVID JENKINS/Atty. for dbt.
TRUDI MANFREDO/Atty. for mv.

MOTION TO PAY
12-23-16 [[64](#)]

The motion will be granted without oral argument based upon well-pled facts. The moving party shall submit a proposed order. No appearance is necessary.

This matter was fully noticed in compliance with the Local Rules of Practice and there is no opposition. Accordingly, the respondents' defaults will be entered. Federal Rule of Civil Procedure 55, made applicable by Federal Rule of Bankruptcy Procedure 7055, governs default matters and is applicable to contested matters under Federal Rule of Bankruptcy Procedure 9014(c). Upon default, factual allegations will be taken as true (except those relating to amount of damages). *Televideo Systems, Inc. v. Heidenthal* (826 F.2d 915, 917 (9th Cir., 1987)). Constitutional due process requires that a plaintiff make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

5. 16-14206-B-7 MIRNA DONAHUE
APN-1
SANTANDER CONSUMER USA INC./MV
THOMAS GILLIS/Atty. for dbt.
AUSTIN NAGEL/Atty. for mv.

MOTION FOR RELIEF FROM
AUTOMATIC STAY
12-16-16 [12]

The motion will be granted without oral argument for cause shown. Movant shall submit a proposed order as specified below. No appearance is necessary.

This motion for relief from stay was fully noticed in compliance with the Local Rules of Practice and there was no opposition. The debtor's and the trustee's defaults will be entered. The automatic stay is terminated as it applies to the movant's right to enforce its remedies against the subject property under applicable nonbankruptcy law.

The record shows that cause exists to terminate the automatic stay.

The proposed order shall specifically describe the property or action to which the order relates. If the notice and motion requested a waiver of Federal Rule of Bankruptcy Procedure 4001(a)(3), that relief will be granted.

If the prayer for relief includes a request for adequate protection, and/or a request for an award of attorney fees, those requests will be denied without prejudice. The movant has not established that the vehicle has a value in excess of the encumbrance. §506(b).

Unless the court expressly orders otherwise, the proposed order shall not include any other relief. If the proposed order includes extraneous or procedurally incorrect relief that is only available in an adversary proceeding then the order will be rejected. See *In re Van Ness*, 399 B.R. 897 (Bankr. E.D. Cal. 2009).

6. [16-12821](#)-B-7 FRANCESCO SIMONE
JRL-2
FRANCESCO SIMONE/MV

MARIO LANGONE/Atty. for dbt.

CONTINUED MOTION TO AVOID LIEN
OF NATIONWIDE MUTUAL INSURANCE
COMPANY
11-9-16 [[23](#)]

This matter will be continued to February 15, 2017, at 9:30 a.m., for the submission of additional evidence which shall be filed on or before February 1, 2017. No appearance is necessary. The court will enter an order.

This motion was continued to permit the debtor to submit evidence that he owned an interest in the real property sought to be protected at the time the abstract of judgment was recorded. The quit-claim deed filed in response, however, was executed and recorded in 2011, after the subject judgment attached. Based on the addresses to which both the abstract of judgment and the quit-claim deed were mailed, the debtor may have held an interest, however there is no evidence of that in the motion, as required by LBR 9014-1(d)(7). Without an ownership interest impaired by the abstract, the relief requested in this motion cannot be granted.

7. [16-13843](#)-B-7 ABELARDO/JEANALYN TAFOYA MOTION FOR RELIEF FROM
AP-1 AUTOMATIC STAY
WELLS FARGO BANK, N.A./MV 12-14-16 [[14](#)]
R. BELL/Atty. for dbt.
ALEXANDER LEE/Atty. for mv.

This motion has been withdrawn. No appearance is necessary.

8. [16-13843](#)-B-7 ABELARDO/JEANALYN TAFOYA MOTION FOR RELIEF FROM
AP-1 AUTOMATIC STAY
WELLS FARGO BANK, N.A./MV 12-14-16 [[21](#)]
R. BELL/Atty. for dbt.
ALEXANDER LEE/Atty. for mv.
WITHDRAWN

This motion has been withdrawn. No appearance is necessary.

9. [16-14250](#)-B-7 GENARO/JACQUELINE ESPINO OPPOSITION RE: TRUSTEE'S MOTION
TMT-1 TO DISMISS FOR FAILURE TO
APPEAR AT SEC. 341(A) MEETING
OF CREDITORS
12-22-16 [[11](#)]

SCOTT LYONS/Atty. for dbt.

The motion is conditionally denied. Debtor's counsel shall notify his/her client that no appearance is necessary at this hearing. The court will issue an order.

The debtors shall attend the meeting of creditors rescheduled for February 6, 2017, at 10:30 a.m. If the debtors fail to do so, the chapter 7 trustee may file a declaration with a proposed order and the case may be dismissed without a further hearing.

The time prescribed in Rules 1017(e) (1) and 4004(a) for the chapter 7 trustee and the U.S. Trustee to object to the debtors' discharge or to move for dismissal of the case under section 707(b) is extended to 60 days after the conclusion of the meeting of creditors.

10. [16-14152](#)-B-7 FARAMARZ ORDOUBADI
NEA-1
FARAMARZ ORDOUBADI/MV
NICHOLAS ANIOTZBEHERE/Atty. for dbt.

MOTION TO AVOID LIEN OF STELLAR
RECOVERY, INC.
12-12-16 [[9](#)]

The motion will be granted without oral argument based upon well-pled facts. The moving party shall submit a proposed order. No appearance is necessary.

This matter was fully noticed in compliance with the Local Rules of Practice and there is no opposition. Accordingly, the respondents' defaults will be entered. Federal Rule of Civil Procedure 55, made applicable by Federal Rule of Bankruptcy Procedure 7055, governs default matters and is applicable to contested matters under Federal Rule of Bankruptcy Procedure 9014(c). Upon default, factual allegations will be taken as true (except those relating to amount of damages). *Televideo Systems, Inc. v. Heidenthal* (826 F.2d 915, 917 (9th Cir., 1987)). Constitutional due process requires that a plaintiff make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here. It appears from the evidence submitted and the record that the debtor is entitled to avoid this lien that impairs an exemption to which they would otherwise have been entitled.

11. [16-14153](#)-B-7 PRISCILLA RAMIREZ
TMT-1

OPPOSITION RE: TRUSTEE'S MOTION
TO DISMISS FOR FAILURE TO
APPEAR AT SEC. 341(A) MEETING
OF CREDITORS
12-22-16 [[16](#)]

The motion is conditionally denied. No appearance is necessary at this hearing. The court will issue an order.

The debtor shall attend the meeting of creditors rescheduled for February 6, 2017, at 8:30 a.m. If the debtor fails to do so, the chapter 7 trustee may file a declaration with a proposed order and the case may be dismissed without a further hearing.

The time prescribed in Rules 1017(e)(1) and 4004(a) for the chapter 7 trustee and the U.S. Trustee to object to the debtor's discharge or to move for dismissal of the case under section 707(b) is extended to 60 days after the conclusion of the meeting of creditors.

12. [16-14161](#)-B-7 ROBERT CHAVEZ
NLL-1
SELECT PORTFOLIO SERVICING,
INC./MV
MARIO LANGONE/Atty. for dbt.
NANCY LEE/Atty. for mv.

MOTION FOR RELIEF FROM
AUTOMATIC STAY
12-22-16 [[13](#)]

The motion will be granted without oral argument for cause shown. Movant shall submit a proposed order as specified below. No appearance is necessary.

This motion for relief from stay was fully noticed in compliance with the Local Rules of Practice and there was no opposition. The debtor's and the trustee's defaults will be entered. The automatic stay is terminated as it applies to the movant's right to enforce its remedies against the subject property under applicable nonbankruptcy law.

The record shows that cause exists to terminate the automatic stay.

The proposed order shall specifically describe the property or action to which the order relates. If the motion involves a foreclosure of real property in California, then the order shall also provide that the bankruptcy proceeding has been finalized for purposes of California Civil Code § 2923.5 to the extent that it applies. A waiver of Federal Rule of Bankruptcy Procedure 4001(a)(3) will not be granted.

If the prayer for relief includes a request for adequate protection, and/or a request for an award of attorney fees, those requests will be denied without prejudice. Adequate protection is unnecessary in light of the relief granted herein. A motion for attorney fees pursuant to 11 U.S.C. §506(b), or applicable nonbankruptcy law, must be separately noticed and separately briefed with appropriate legal authority and supporting documentation.

Unless the court expressly orders otherwise, the proposed order shall not include any other relief. If the proposed order includes extraneous or procedurally incorrect relief that is only available in an adversary proceeding then the order will be rejected. See *In re Van Ness*, 399 B.R. 897 (Bankr. E.D. Cal. 2009).

13. [16-13665](#)-B-7 CHRISTOPHER/ANGELA
EGS-2 ELLENBURG
GUILD MORTGAGE COMPANY/MV
NEIL SCHWARTZ/Atty. for dbt.
EDWARD SCHLOSS/Atty. for mv.

MOTION FOR RELIEF FROM
AUTOMATIC STAY
1-5-17 [[23](#)]

The motion will be denied without prejudice. The court will enter an order. No appearance is necessary.

The pleadings do not comply with the Local Rules of Practice for the U.S. Bankruptcy Court, Eastern District of California, Appendix III, Section A, and IV. EDC.002-901, E.D. Cal. Bankruptcy Court's Guidelines for the Preparation of Documents (effective August 12, 2016).

14. [16-14472](#)-B-7 SWARAN SINGH
HRH-1
BMO HARRIS BANK N.A./MV
RAFFI KHATCHADOURIAN/Atty. for mv.

MOTION FOR RELIEF FROM
AUTOMATIC STAY
1-11-17 [[13](#)]

This matter will proceed as scheduled. Unless opposition is presented at the hearing, the court intends to enter the debtors' and the trustee's defaults on the grounds of lack of proof of insurance only. If the motion is granted at the hearing then the moving party shall submit an order conforming to this ruling.

The automatic stay will be terminated as it applies to the movant's right to enforce its remedies against the subject property under applicable nonbankruptcy law.

The record shows that cause exists to terminate the automatic stay for lack of proof of insurance.

The movant shall submit a proposed order after hearing that specifically describes the property or action to which the order relates.

If the prayer for relief includes a request for adequate protection, and/or a request for an award of attorney fees, those requests will be denied. Adequate protection is unnecessary in light of the relief granted herein. Attorney fees will be denied. The grounds for granting the motion (in the absence of opposition at the hearing), is lack of proof of insurance. There is no competent evidence of the value of the collateral. The Steel declaration provides hearsay evidence of valuation data; there is nothing that the court can rely upon for a finding under §362(d)(2).

Unless the court expressly orders otherwise, the proposed order shall not include any other relief. If the proposed order includes extraneous or procedurally incorrect relief that is only available in an adversary proceeding then the order will be rejected. See *In re Van Ness*, 399 B.R. 897 (Bankr. E.D. Cal. 2009).

15. [16-13374](#)-B-7 ROSA RIOS
RLM-1
STATE FARM MUTUAL AUTOMOBILE
INSURANCE COMPANY/MV
THOMAS GILLIS/Atty. for dbt.
RICHARD MAHFOUZ/Atty. for mv.
DISCHARGED

MOTION FOR RELIEF FROM
AUTOMATIC STAY
12-28-16 [[14](#)]

This motion for relief from stay was fully noticed in compliance with the Local Rules of Practice and there was no opposition. The motion will be denied as moot as to the debtor because her discharge has been entered. The motion will be granted for cause shown as to the chapter 7 trustee. Movant shall submit a proposed order. No appearance is necessary.

The automatic stay is terminated as it applies to the movant's right to proceed in the state court litigation to enforce its remedies, against the subject insurance policy only, under applicable nonbankruptcy law. The proposed order shall specifically describe the property or action to which the order relates. If the notice and motion requested a waiver of Federal Rule of Bankruptcy Procedure 4001(a)(3), that relief will be granted.

If the prayer for relief includes a request for adequate protection, and/or a request for an award of attorney fees, those requests will be denied without prejudice. Adequate protection is unnecessary in light of the relief granted herein. A motion for attorney fees pursuant to 11 U.S.C. §506(b), or applicable nonbankruptcy law, must be separately noticed and separately briefed with appropriate legal authority and supporting documentation.

Unless the court expressly orders otherwise, the proposed order shall not include any other relief. If the proposed order includes extraneous or procedurally incorrect relief that is only available in an adversary proceeding then the order will be rejected. See *In re Van Ness*, 399 B.R. 897 (Bankr. E.D. Cal. 2009).

16. [10-17476](#)-B-7 MARIA MEJIA
PBB-3
MARIA MEJIA/MV

PETER BUNTING/Atty. for dbt.

MOTION TO CORRECT ORDER AVOID
JUDICIAL LIEN OF VION HOLDINGS
LLC
12-30-16 [[60](#)]

This motion will be denied without prejudice. The court will enter an order. No appearance is necessary.

The motion was served on December 30, 2016, and was not filed in compliance with LBR 9014-1(f)(1), which requires service on 28 days' notice. The language in the notice requires written response within 14 days of the hearing, therefore the motion was also not filed in compliance with LBR 9014-1(f)(2). No order shortening or modifying notice was sought or obtained.

In lieu of filing another motion, movant may submit a proposed order with a stipulation attached, executed by the respondent, correcting the order signed April 14, 2016, that avoids that party's judicial lien on the debtor's exempt property.

17. [13-17082](#)-B-7 RONALD RUSHING
TMT-4
TRUDI MANFREDO/MV

SCOTT LYONS/Atty. for dbt.
PETER FEAR/Atty. for mv.

MOTION FOR COMPENSATION FOR
TRUDI G. MANFREDO, CHAPTER 7
TRUSTEE(S)
11-17-16 [[289](#)]

The motion will be granted without oral argument based upon well-pled facts. The trustee shall submit a proposed order. No appearance is necessary.

This matter was fully noticed in compliance with the Local Rules of Practice and there is no opposition. Accordingly, the respondents' defaults will be entered. Federal Rule of Civil Procedure 55, made applicable by Federal Rule of Bankruptcy Procedure 7055, governs default matters and is applicable to contested matters under Federal Rule of Bankruptcy Procedure 9014(c). Upon default, factual allegations will be taken as true (except those relating to amount of damages). *Televideo Systems, Inc. v. Heidenthal* (826 F.2d 915, 917 (9th Cir., 1987)). Constitutional due process requires that a plaintiff make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

18. [16-14089](#)-B-7 LORENZO/ERICA CARABAY
UST-1
TRACY DAVIS/MV

MOTION FOR DENIAL OF DISCHARGE
OF JOINT DEBTOR UNDER 11 U.S.C.
SECTION 727 (A)
12-21-16 [[18](#)]

MARK ZIMMERMAN/Atty. for dbt.
ROBIN TUBESING/Atty. for mv.
RESPONSIVE PLEADING

The motion will be granted without oral argument based upon well-pled facts. The U.S. Trustee shall submit a proposed order. No appearance is necessary.

This matter was fully noticed in compliance with the Local Rules of Practice. The joint debtor has filed a notice of non-opposition acknowledging a prior discharge that makes her ineligible for a discharge in this case.

19. [14-14593](#)-B-7 WAYNE HEAD
TGM-9
PETER FEAR/MV

MOTION TO APPROVE STIPULATION
TO EXTEND TIME TO FILE AN
OBJECTION TO DISCHARGE (727)
12-14-16 [[137](#)]

DAVID JENKINS/Atty. for dbt.
TRUDI MANFREDO/Atty. for mv.

The motion will be granted without oral argument based upon well-pled facts. The trustee shall submit a proposed order. No appearance is necessary.

This matter was fully noticed in compliance with the Local Rules of Practice and there is no opposition. It appears from the record and the moving papers that there is cause to approve a stipulation to extend the time, up to and including January 31, 2017, for the chapter 7 trustee or the U.S. Trustee to file a complaint objecting to the discharge of the debtor under §727.

20. [16-10293](#)-B-7 EDWIN YEE
JES-2
JAMES SALVEN/MV

MOTION TO EMPLOY BAIRD AUCTIONS
& APPRAISALS AS AUCTIONEER,
AUTHORIZING SALE OF PROPERTY AT
PUBLIC AUCTION AND AUTHORIZING
PAYMENT OF AUCTIONEER FEES AND
EXPENSES
12-27-16 [[35](#)]

The motion will be granted without oral argument based upon well-pled facts. The moving party shall submit a proposed order. No appearance is necessary.

This matter was fully noticed in compliance with the Local Rules of Practice and there is no opposition. Accordingly, the respondents' defaults will be entered. Federal Rule of Civil Procedure 55, made applicable by Federal Rule of Bankruptcy Procedure 7055, governs default matters and is applicable to contested matters under Federal Rule of Bankruptcy Procedure 9014(c). Upon default, factual allegations will be taken as true (except those relating to amount of damages). *Televideo Systems, Inc. v. Heidenthal* (826 F.2d 915, 917 (9th Cir., 1987)). Constitutional due process requires that a plaintiff make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

21. [16-14193](#)-B-7 EARNEST MARTINEZ
TMT-1

OPPOSITION RE: TRUSTEE'S MOTION
TO DISMISS FOR FAILURE TO
APPEAR AT SEC. 341(A) MEETING
OF CREDITORS
12-22-16 [[11](#)]

GEORGE ALONSO/Atty. for dbt.

The motion is conditionally denied. Debtor's counsel shall notify his/her client that no appearance is necessary at this hearing. The court will issue an order.

The debtor shall attend the meeting of creditors rescheduled for February 6, 2017, at 9:30 a.m. If the debtor fails to do so, the chapter 7 trustee may file a declaration with a proposed order and the case may be dismissed without a further hearing.

The time prescribed in Rules 1017(e) (1) and 4004(a) for the chapter 7 trustee and the U.S. Trustee to object to the debtor's discharge or to move for dismissal of the case under section 707(b) is extended to 60 days after the conclusion of the meeting of creditors.

22. [16-14294](#)-B-7 BRIAN WILLIAMS
TJS-1
BELLCO CREDIT UNION/MV
ERIC ESCAMILLA/Atty. for dbt.
TIMOTHY SILVERMAN/Atty. for mv.

MOTION FOR RELIEF FROM
AUTOMATIC STAY
12-21-16 [[11](#)]

The motion will be granted without oral argument for cause shown. Movant shall submit a proposed order as specified below. No appearance is necessary.

This motion for relief from stay was fully noticed in compliance with the Local Rules of Practice and there was no opposition. The debtor's and the trustee's defaults will be entered. The automatic stay is terminated as it applies to the movant's right to enforce its remedies against the subject property under applicable nonbankruptcy law.

The record shows that cause exists to terminate the automatic stay. Based on the debtor's schedules, the Chevrolet Avalanche may not be in the debtor's possession. Furthermore, movant contends there is no equity in the vehicle and the trustee has not opposed the motion.

The proposed order shall specifically describe the property or action to which the order relates. A waiver of Federal Rule of Bankruptcy Procedure 4001(a)(3) will be granted.

If the prayer for relief includes a request for adequate protection, and/or a request for an award of attorney fees, those requests will be denied. The movant has failed to prove there is any equity in the collateral and thus no fees can be awarded pursuant to §506(b). Adequate protection is unnecessary in light of the relief granted herein.

Unless the court expressly orders otherwise, the proposed order shall not include any other relief. If the proposed order includes extraneous or procedurally incorrect relief that is only available in an adversary proceeding then the order will be rejected. See *In re Van Ness*, 399 B.R. 897 (Bankr. E.D. Cal. 2009).

23. [16-14195](#)-B-7 JOHN BOONE
TMT-1

OPPOSITION RE: TRUSTEE'S MOTION
TO DISMISS FOR FAILURE TO
APPEAR AT SEC. 341(A) MEETING
OF CREDITORS
12-22-16 [[16](#)]

The motion is conditionally denied. The court will issue an order.

The debtor shall complete whatever arrangements with the trustee necessary to fulfil his responsibilities under the Bankruptcy Code. The meeting of creditors has been rescheduled for February 6, 2017, at 9:30 a.m. If the debtor fails to fulfil his obligation to appear then the chapter 7 trustee may file a declaration with a proposed order and the case may be dismissed without a further hearing.

The time prescribed in Rules 1017(e)(1) and 4004(a) for the chapter 7 trustee and the U.S. Trustee to object to the debtor's discharge or to move for dismissal of the case under section 707(b) is extended to 60 days after the conclusion of the meeting of creditors.

24. 16-14396-B-7 JESSICA HARMON
AP-1
HSBC BANK USA, NATIONAL
ASSOCIATION/MV
JAMIE HANAWALT/Atty. for mv.
DISMISSED

MOTION FOR RELIEF FROM
AUTOMATIC STAY
12-23-16 [15]

This motion was filed on December 23, 2016, prior to the dismissal of the case for failure to timely file documents, therefore the court retains jurisdiction over the matter under the reasoning of *In re Aheong*, 276 B.R. 233 (9th BAP 2002). The motion will be granted without oral argument for cause shown. Movant shall submit a proposed order as specified below. No appearance is necessary.

This motion for relief from stay was fully noticed in compliance with the Local Rules of Practice and there was no opposition. The debtor's and the trustee's defaults will be entered. The automatic stay is terminated as it applies to the movant's right to enforce its remedies against the subject property under applicable nonbankruptcy law.

The record shows that cause exists to terminate the automatic stay.

The proposed order shall specifically describe the property or action to which the order relates. If the motion involves a foreclosure of real property in California, then the order shall also provide that the bankruptcy proceeding has been finalized for purposes of California Civil Code § 2923.5 to the extent that it applies.

If the prayer for relief includes a request for adequate protection, and/or a request for an award of attorney fees, those requests will be denied. The movant has not established that there is any equity in the property that is the subject of this motion. Therefore no fees can be awarded pursuant to §506(b). Adequate protection is unnecessary in light of the relief granted herein. A motion for attorney fees pursuant to applicable nonbankruptcy law, must be separately noticed and separately briefed with appropriate legal authority and supporting documentation.

The motion for relief under 11 U.S.C. §362(d)(4) is also granted. It appears from the evidence submitted and from the record that the debtor's bankruptcy case was used as part of a scheme to delay, hinder, or defraud creditors that involved transfer of a partial interest of the subject real property without authorization. The proposed order must comply with 362(d)(4).

Unless the court expressly orders otherwise, the proposed order shall not include any other relief. If the proposed order includes extraneous or procedurally incorrect relief that is only available in an adversary proceeding then the order will be rejected. See *In re Van Ness*, 399 B.R. 897 (Bankr. E.D. Cal. 2009).

11:00 A.M.

1. [16-14412](#)-B-7 ALFRED/REBECCA ESCAMILLA PRO SE REAFFIRMATION AGREEMENT
WITH ALLY FINANCIAL
1-4-17 [[15](#)]

This matter will proceed as scheduled.

1:30 P.M.

1. [15-12702](#)-B-7 MARTIN STEBBEN MOTION TO COMPROMISE
[16-1044](#) RH-4 CONTROVERSY/APPROVE SETTLEMENT
FEAR V. CITI/CITIBANK SOUTH AGREEMENT WITH CITIBANK
DAKOTA, N.A. 12-22-16 [[54](#)]
ROBERT HAWKINS/Atty. for mv.

The motion will be granted without oral argument based upon well-pled facts. The trustee shall submit a proposed order. No appearance is necessary.

This matter was fully noticed in compliance with the Local Rules of Practice and there is no opposition. Accordingly, the respondents' defaults will be entered. Federal Rule of Civil Procedure 55, made applicable by Federal Rule of Bankruptcy Procedure 7055, governs default matters and is applicable to contested matters under Federal Rule of Bankruptcy Procedure 9014(c). Upon default, factual allegations will be taken as true (except those relating to amount of damages). *Televideo Systems, Inc. v. Heidenthal* (826 F.2d 915, 917 (9th Cir., 1987)). Constitutional due process requires that a plaintiff make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here. It appears from the moving papers that the trustee has considered the standards of *In re A & C Properties*, 784 F.2d 1377, 1381 (9th Cir. 1986), and that the compromise pursuant to FRBP 9019 is a reasonable exercise of the trustee's business judgment.

2. [16-10003](#)-B-7 MELLANIE RAPOZO CONTINUED MOTION TO STRIKE
[16-1050](#) KJK-3 11-14-16 [[56](#)]
SELLERS V. RAPOZO
KLAUS KOLB/Atty. for mv.
RESPONSIVE PLEADING

This motion has been withdrawn by movant. The court will enter a minute order. No appearance is necessary.

Based on the joint status report filed January 18, 2017, the matter has been settled and the adversary proceeding will be dismissed shortly. All previous deadlines are vacated. The court will set a further status conference for March 9, 2017, at 1:30 p.m. on the Bakersfield calendar. If the adversary proceeding has been dismissed prior to the hearing then the status conference will be dropped from calendar. Telephonic appearances will be permitted if the March 9, 2017, status conference goes forward.

3. [16-11605](#)-B-7 CAROLYN CHARLTON CONTINUED STATUS CONFERENCE RE:
[16-1078](#) COMPLAINT
CHARLTON V. CHARLTON 7-25-16 [[1](#)]
NANETTE BEAUMONT/Atty. for pl.

This matter will proceed as scheduled. The court notes that a first amended complaint was filed on January 17, 2017, however there is nothing in the record to show that the complaint was served on the defendant. In addition, the complaint does not comply with Rule 10(b) of the Federal Rules of Civil Procedure.

4. [16-11855](#)-B-7 HARJOT SINGH AND INDERJIT CONTINUED STATUS CONFERENCE RE:
[16-1096](#) SANDHU COMPLAINT
RATTAN V. SINGH ET AL 9-29-16 [[1](#)]
EDWARD WRIGHT/Atty. for pl.
RESPONSIVE PLEADING

Based on the status report filed by the plaintiff, this matter will proceed as scheduled unless a motion the plaintiff files a motion to substitute a party in interest prior to the hearing, in which case this matter will be continued to be heard with that motion and no appearance will be necessary at this hearing.

If a motion to substitute a party in interest is not filed prior to this hearing, the court will inquire as to the plaintiff's intentions.

5. [16-13368](#)-B-7 REO SALDIVAR CONTINUED STATUS CONFERENCE RE:
[16-1097](#) COMPLAINT
SALDIVAR V. EDUCATIONAL CREDIT 9-30-16 [[1](#)]
MANAGEMENT CORPORATION
REO SALDIVAR/Atty. for pl.
RESPONSIVE PLEADING

This matter will proceed as scheduled. The court will inquire as to the status of the settlement discussions.