

UNITED STATES BANKRUPTCY COURT
Eastern District of California
Honorable René Lastreto II
Hearing Date: Tuesday, April 10, 2018
Place: Department B - Courtroom #13
Fresno, California

INSTRUCTIONS FOR PRE-HEARING DISPOSITIONS

Each matter on this calendar will have one of three possible designations: No Ruling, Tentative Ruling, or Final Ruling. These instructions apply to those designations.

No Ruling: All parties will need to appear at the hearing unless otherwise ordered.

Tentative Ruling: If a matter has been designated as a tentative ruling it will be called. The court may continue the hearing on the matter, set a briefing schedule or enter other orders appropriate for efficient and proper resolution of the matter. The original moving or objecting party shall give notice of the continued hearing date and the deadlines. The minutes of the hearing will be the court's findings and conclusions.

Final Ruling: Unless otherwise ordered, there will be no hearing on these matters. The final disposition of the matter is set forth in the ruling and it will appear in the minutes. The final ruling may or may not finally adjudicate the matter. If it is finally adjudicated, the minutes constitute the court's findings and conclusions. If the parties stipulate to continue the hearing on the matter or agree to resolve the matter in a way inconsistent with the final ruling, then the court will consider vacating the final ruling only if the moving party notifies chambers before 4:00 p.m. (Pacific time) at least one business day before the hearing date: Department A-Kathy Torres (559)499-5860; Department B-Jennifer Dauer (559)499-5870. If a party has grounds to contest a final ruling under FRCP 60(a)(FRBP 9024) because of the court's error ["a clerical mistake (by the court) or a mistake arising from (the court's) oversight or omission"] the party shall notify chambers (contact information above) and any other party affected by the final ruling by 4:00 p.m. (Pacific time) one business day before the hearing.

Orders: Unless the court specifies in the tentative or final ruling that it will issue an order, the prevailing party shall lodge an order within 14 days of the final hearing on the matter.

THE COURT ENDEAVORS TO PUBLISH ITS RULINGS AS SOON AS POSSIBLE. HOWEVER, CALENDAR PREPARATION IS ONGOING AND THESE RULINGS 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 AM

1. [18-10807](#)-B-7 **IN RE: NANCY MC FADIN**
[GHW-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
3-13-2018 [[11](#)]

FEDERAL NATIONAL MORTGAGE
ASSOCIATION/MV
GLENN WECHSLER/ATTY. FOR MV.

FINAL RULING: There will be no hearing on this matter.

DISPOSITION: Denied without prejudice.

ORDER: The court will issue an order.

The motion was DENIED WITHOUT PREJUDICE. The notice does not comply with LBR 9014-1(d)(3)(B)(iii).

Counsel is reminded that new Local Rules became effective September 26, 2017. New Rule 9014-1(d)(3)(B) in particular requires the moving party to include more information in Notices than the old Rule 9014-1(d)(3) did. Neither the original notice of this motion (docket #12) nor the amended notice (docket #18) complies with this requirement. The court urges counsel to review the new rules in order to be compliant in future matters. The new rules can be accessed on the court's website at <http://www.caeb.circ9.dcn/LocalRules.aspx>.

2. [12-16409](#)-B-7 **IN RE: AURELIO RODRIGUEZ**
[IER-4](#)

MOTION TO AVOID LIEN OF BANK OF STOCKTON
3-2-2018 [[41](#)]

AURELIO RODRIGUEZ/MV
ISMAEL RODRIGUEZ

FINAL RULING: There will be no hearing on this matter.

DISPOSITION: Denied without prejudice.

ORDER: The court will issue an order.

This motion is DENIED WITHOUT PREJUDICE. Constitutional due process requires that the movant make a *prima facie* showing that they are entitled to the relief sought. Here, the moving papers do not present "sufficient factual matter, accepted as true, to 'state a claim to relief that is plausible on its face.'" In re Tracht Gut, LLC, 503 B.R. 804, 811 (9th Cir. BAP, 2014), citing Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009), and Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 570 (2007).

Debtor's current Schedule C shows an exemption amount on the subject property of "\$0.00." Docket #1. In this motion, debtor stated that were "concurrently filing an amended Schedule C, showing an exemption of \$1.00 on the property." Docket #41. Yet no amended Schedule C has been filed. What appears to be an amended Schedule C was included in the exhibits (exhibit F), but was not filed with the court. Because debtor currently has not exempted any amount of the subject property, the lien of Bank of Stockton does not impair the debtor's exemption. 11 U.S.C. § 522(f).

Even if debtor were to file the amended Schedule C before this hearing, Federal Rule of Bankruptcy Procedure 4003(b)(1) gives parties in interest 30 days after an amended Schedule C is filed to object. Therefore this motion would still be denied without prejudice for being premature.

For the above reasons, this motion is DENIED WITHOUT PREJUDICE.

3. [18-10317](#)-B-7 **IN RE: CARLOS/MISTY TRUJILLO**
[MET-2](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
3-27-2018 [[27](#)]

BANK OF THE WEST/MV
MARK ZIMMERMAN
MARY TANG/ATTY. FOR MV.

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Granted unless opposed at the hearing.

ORDER: The minutes of the hearing will be the court's findings and conclusions. The Moving Party shall submit a proposed order after hearing.

This motion for relief from stay was noticed pursuant to LBR 9014-1(f)(2) and written opposition was not required. The court notes that the debtors filed a non-opposition to the motion on April 3, 2018 (Document No. 35). Unless the trustee presents opposition at the hearing, the court intends to enter the trustee's default and enter the following ruling granting the motion for relief from stay. If opposition is presented at the hearing, the court will consider the opposition and whether further hearing is proper pursuant to LBR 9014-1(f)(2). The court will issue an order if a further hearing is necessary.

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. Also, the debtor has filed a non-opposition to granting the motion on April 3, 2018. Docket #35.

The proposed order shall specifically describe the property or action to which the order relates.

The waiver of Federal Rule of Bankruptcy Procedure 4001(a)(3) will be granted. The moving papers show the collateral has been surrendered and is in movant's possession.

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).

4. [18-10419](#)-B-7 **IN RE: JARED NEIDLINGER**
[APN-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
3-2-2018 [[21](#)]

TOYOTA MOTOR CREDIT
CORPORATION/MV
ERIC ESCAMILLA
AUSTIN NAGEL/ATTY. FOR MV.

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Granted unless the trustee assumes the lease by April 10, 2018. If the trustee assumes the lease by April 10, 2018, this motion will be denied as moot.

ORDER: The minutes of the hearing will be the court's findings and conclusions. The Moving Party shall submit a proposed order after hearing.

This motion was filed and served pursuant to Local Rule of Practice ("LBR") 9014-1(f)(2) and will proceed as scheduled. Unless opposition is presented at the hearing, the court intends to enter the respondents' defaults and grant the motion. If opposition is presented at the hearing, the court will consider the opposition and whether further hearing is proper pursuant to LBR 9014-1(f)(2). The court will issue an order if a further hearing is necessary.

This motion relates to a lease of personal property, a 2015 Lexus IS 350. The case was filed on February 9, 2018. The time prescribed in 11 U.S.C. § 365(d)(1) for the chapter 7 trustee to assume the lease will expire on April 10, 2018, the date of this hearing. Under 11

U.S.C. § 365(d)(1), if the trustee does not assume the lease during the 60 day period after the petition for relief is filed, the lease will be deemed rejected. Pursuant to 11 U.S.C. § 365(p)(1), if the lease is not timely assumed by the trustee, the leased property is no longer property of the estate and the automatic stay is automatically terminated.

Movant may submit an order denying the motion, and confirm that the automatic stay has already terminated on the grounds set forth above. No other relief is granted.

5. [18-10020](#)-B-7 **IN RE: ANDREA REYES**
[TMT-1](#)

OPPOSITION RE: TRUSTEE'S MOTION TO DISMISS FOR FAILURE TO
APPEAR AT SEC. 341(A) MEETING OF CREDITORS
3-3-2018 [\[17\]](#)

SCOTT LYONS

FINAL RULING: There will be no hearing on this matter.

DISPOSITION: Conditionally denied.

ORDER: The court will issue the order.

Trustee's motion to dismiss is CONDITIONALLY DENIED.

The debtors shall attend the meeting of creditors rescheduled for April 23, 2018 at 8:30 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 file motions for abuse, other than presumed abuse, under § 707, is extended to 60 days after the conclusion of the meeting of creditors.

6. [12-18624](#)-B-7 **IN RE: MIGUEL/DANNIELLE RODRIGUEZ**
[SAH-1](#)

MOTION TO AVOID LIEN OF DISCOVER BANK
3-9-2018 [\[52\]](#)

MIGUEL RODRIGUEZ/MV
SUSAN HEMB

FINAL RULING: There will be no hearing on this matter.

DISPOSITION: Denied without prejudice.

ORDER: The court will issue an order.

This motion is DENIED WITHOUT PREJUDICE for failure to comply with the Local Rules of Practice ("LBR").

LBR 9014-1(f)(1)(B) requires the movant to notify the respondents that opposition must be in writing and must be filed with the court at least fourteen (14) days preceding the date or continued date of the hearing. Written opposition is not required on motions set on less than 28 days' notice, but at least 14 days' notice, pursuant to LBR 9014-1(f)(2).

This motion was filed on March 9, 2018 and set for hearing on April 10, 2018. Docket #s 52 & 53. March 9, 2018 is 32 days before April 10, 2018, therefore this hearing was set on at least 28 days' notice under LBR 9014-1(f)(1). The language in the notice did not state that written opposition was required and must be filed at least 14 days preceding the date of the hearing, but instead informed the respondent that no written opposition was required. Docket #53. In fact the notice incorrectly states: "...this is an expedited motion." Because this motion was filed, served, and noticed on at least 28 days' notice, the language of LBR 9014-1(f)(1)(B) needed to have been included in the notice. Because it was not, this motion is DENIED WITHOUT PREJUDICE.

7. [09-13444](#)-B-7 **IN RE: JEANA HERRON**
[PBB-2](#)

MOTION TO AVOID LIEN OF PACIFIC SERVICE CREDIT UNION
3-12-2018 [\[23\]](#)

JEANA HERRON/MV
PETER BUNTING

FINAL RULING: There will be no hearing on this matter.

DISPOSITION: Denied without prejudice.

ORDER: The court will issue an order.

This motion is DENIED WITHOUT PREJUDICE for failure to comply with the Federal Rules of Bankruptcy Procedure.

Fed. R. Bankr. P. 4003(b)(1) allows a party in interest to file an objection to an amended Schedule C within 30 days after filing the amended schedule. An amended Schedule C was filed on March 12, 2018. Docket #21. The 30 day period will not end until April 11, 2018. Therefore this hearing is premature and this motion is DENIED WITHOUT PREJUDICE.

8. [18-10044](#)-B-7 **IN RE: DAMIEN/NICOLE JUAREZ**
[UST-1](#)

MOTION TO DISMISS CASE PURSUANT TO 11 U.S.C. SECTION 707(B)
3-8-2018 [[21](#)]

TRACY DAVIS/MV
MARK ZIMMERMAN
ROBIN TUBESING/ATTY. FOR MV.

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Granted unless debtor and trustee consent to
conversion to chapter 13.

ORDER: The minutes of the hearing will be the court's
findings and conclusions. The Moving Party
will submit a proposed order after hearing.

Under 11 U.S.C. § 707(b)(1), the court, after notice and a hearing, may dismiss a case filed by an individual debtor under chapter 7 whose debts are primarily consumer debts, if the court finds that the granting of relief would be an abuse of the provisions of chapter 7.

In this case, the debtor is an individual whose debts are primarily consumer debts. Docket #1. A presumption of abuse arises if the debtor's current monthly income ("CMI") reduced by [certain numbers] and multiplied by 60 is not less than the lesser of 25% of the debtor's nonpriority unsecured claims in the case or \$7,700, whichever is greater, or \$12,850. 11 U.S.C. § 707(b)(2)(A)(i).

The debtors' CMI for purposes of 11 U.S.C. § 707(b)(2)(A) is \$10,356.00. After deducting the debtors' allowable expenses as defined under 11 U.S.C. § 707(b)(2), the debtors have monthly disposable income of not less than \$1,737.00, enough to pay 100% of their unsecured creditors. The debtors have the ability to pay more than the \$12,850.00 threshold which establishes the presumption of abuse under 11 U.S.C. § 707(b)(2)(A)(i).

Debtors have not rebutted this presumption of abuse. Unless the debtors' and trustee consent to the debtors' voluntarily converting this case to chapter 13 on or before the hearing date, this motion is GRANTED.

9. [18-10650](#)-B-7 **IN RE: MARIO OJEDA**
[PPR-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
3-12-2018 [\[15\]](#)

THE BANK OF NEW YORK MELLON/MV
SYLVIA BLUME/ATTY. FOR MV.
DISMISSED

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Denied as moot.

ORDER: The minutes of the hearing will be the court's findings and conclusions. The court will issue the order.

This motion is DENIED AS MOOT.

Under 11 U.S.C. § 362(c)(2)(B), the automatic stay is no longer effective because the case has been dismissed. Doc. # 23. Because the automatic stay has been terminated, this motion is DENIED AS MOOT.

Movant also requests this court for 11 U.S.C. § 362(d)(4) relief. Section (d)(4) relief requires this court to find that "the filing of the petition was part of a scheme to delay, hinder, or defraud creditors that involved either transfer of all or part ownership or, or other interest in, such real property without the consent of the secured creditor or court approval or multiple bankruptcy filings affecting such real property."

The court is unable to make such findings. Debtor has filed two bankruptcies in the past year. The first on January 23, 2018, which was dismissed on February 5, 2018, (case no. 18-10180) and the second, this instant case, on February 27, 2018, which was dismissed on March 19, 2018. In both cases, debtor was pro se, only barebones petitions were filed, and the cases were dismissed for failure to timely file documents. Doc. #s 10, 23 respectively. Therefore the court is unable to determine what property, if any, the debtor claimed an ownership interest in and who, if anyone, had a valid lien on the property.

Not only is this court unable to make the necessary findings under 11 U.S.C. § 362(d)(4), and even though the stay is not in effect under § 362(c)(2)(B), § 362(c)(4)(A)(i) provides additional reason to deny this motion as moot. Even if debtor does file bankruptcy again, pursuant to 11 U.S.C. § 362(c)(4)(A)(i), the stay would only go in to effect if the debtor made a timely motion to this court AND the debtor was able to rebut the presumption of bad faith.

For the above reasons, this motion is DENIED AS MOOT.

10. [17-13275](#)-B-7 **IN RE: PHOENIX COATINGS, INC.**
[SW-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
3-27-2018 [\[36\]](#)

ALLY BANK/MV
JOEL WINTER
ADAM BARASCH/ATTY. FOR MV.

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Granted unless opposed at the hearing.

ORDER: The minutes of the hearing will be the court's
findings and conclusions. The Moving Party
shall submit a proposed order after hearing.

This motion for relief from stay was noticed pursuant to LBR 9014-1(f)(2) and written opposition was not required. Unless opposition is presented at the hearing, the court intends to enter the debtor's and the trustee's defaults and enter the following ruling granting the motion for relief from stay. If opposition is presented at the hearing, the court will consider the opposition and whether further hearing is proper pursuant to LBR 9014-1(f)(2). The court will issue an order if a further hearing is necessary.

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.

The waiver of Federal Rule of Bankruptcy Procedure 4001(a)(3) will be granted. The moving papers show the collateral has been surrendered and is in movant's possession.

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. [16-14676](#)-B-7 **IN RE: JOHN/PATRICIA FARINELLI**
[TGM-8](#)

MOTION FOR COMPENSATION FOR TRUDI G. MANFREDO, TRUSTEES
ATTORNEY(S)
3-13-2018 [[161](#)]

PETER BUNTING

FINAL RULING: There will be no hearing on this matter.

DISPOSITION: Granted.

ORDER: The Moving Party shall submit a proposed order in
conformance with the ruling below.

This motion has been set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of the creditors, the debtor, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014- 1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument.

The motion will be GRANTED. Trustee's counsel, Trudi G. Manfredo, requests fees of \$22,567.50 and costs of \$1,385.39 for a total of \$23,952.89 for services rendered as trustee's counsel from February 10, 2017 through February 9, 2018.

11 U.S.C. § 330 (a)(1) (A) & (B) permits approval of "reasonable compensation for actual necessary services rendered by . . .[a] professional person" and "reimbursement for actual, necessary expenses." Movant's services included, without limitation: (1) Preparation of employment and fee applications for various professionals, (2) Selling the debtor's residence, which was encumbered by two deeds of trust, an IRS tax lien, a judgment abstract filed by Wells Fargo, and the equity was subject to the debtor's homestead exemption, (3) Negotiating two relief from stay motions, and (4) Administering claims against the estate. The court finds the services reasonable and necessary and the expenses requested actual and necessary.

Movant shall be awarded \$22,567.50 in fees and \$1,385.39 in costs.

12. [17-14883](#)-B-7 **IN RE: MANUEL/ELISA BARRAZA**
[UST-1](#)

MOTION TO DISMISS CASE PURSUANT TO 11 U.S.C. SECTION 707(B)
3-8-2018 [[18](#)]

TRACY DAVIS/MV
DAVID JENKINS
ROBIN TUBESING/ATTY. FOR MV.

FINAL RULING: There will be no hearing on this matter.

DISPOSITION: Continued to April 25, 2018 at 9:30 a.m.

ORDER: The court will issue an order.

Pursuant to a stipulation and court order, this matter is continued
to April 25, 2018 at 9:30 a.m.

13. [18-10185](#)-B-7 **IN RE: ZONIA GOMEZ**
[JES-1](#)

OBJECTION TO DEBTOR'S CLAIM OF EXEMPTIONS
3-7-2018 [[29](#)]

JAMES SALVEN/MV
ERIC ESCAMILLA

FINAL RULING: There will be no hearing on this matter.

DISPOSITION: Overruled as moot.

ORDER: The court will issue an order.

This objection is OVERRULED AS MOOT.

The grounds for trustee's objection was that the debtor exempted
interests in property of the estate under California Code of Civil
Procedure ("CCP") § 703.140(b) without filing the waiver described
in CCP 703.140(a)(2). However, the debtor did file the required
waiver. Therefore, this objection is OVERRULED AS MOOT.

The court reminds movant that Local Bankruptcy Rules 9004-2(c)(1)
and 9014-1(d)(4) require that exhibits, inter alia, filed in a
motion "shall be filed as separate documents." Here, the exhibits
were attached to the objection, and not filed separately.

14. [17-12691](#)-B-7 **IN RE: DARA PIROZZI**
[DLF-1](#)

CONTINUED MOTION TO DISMISS CASE
10-6-2017 [\[19\]](#)

DIAS LAW FIRM, INC./MV
MARK ZIMMERMAN
JONETTE MONTGOMERY/ATTY. FOR MV.
RESPONSIVE PLEADING

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Continued to May 30, 2018 at 9:30 a.m. for
final pre-trial hearing.

ORDER: The court will issue an order.

The court will continue this matter to May 30, 2018 at 9:30 a.m.,
and that hearing will be the final pre-trial hearing.

15. [18-10097](#)-B-7 **IN RE: JAEGER PHOTO CORP.**
[JES-1](#)

MOTION TO SELL
3-7-2018 [\[20\]](#)

JAMES SALVEN/MV
HAGOP BEDOYAN

TENTATIVE RULING: This matter will proceed for higher and better
bids only.

DISPOSITION: Granted.

ORDER: The minutes of the hearing will be the court's
findings and conclusions. The Moving Party
shall submit a proposed order after hearing.

The motion was fully noticed in compliance with the Local Rules of Practice and no opposition was filed. 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 that the sale is a reasonable exercise of the trustee's business judgment. The trustee shall submit a proposed order after the hearing.

16. [17-14498](#)-B-7 **IN RE: PRISILIANO/NELIDA ZAVALA**
[SL-2](#)

MOTION TO AVOID LIEN OF MIDLAND FUNDING LLC
3-15-2018 [\[34\]](#)

PRISILIANO ZAVALA/MV
SCOTT LYONS

FINAL RULING: There will be no hearing on this matter.

DISPOSITION: Denied without prejudice.

ORDER: The court will issue an order.

This motion is DENIED WITHOUT PREJUDICE for failure to comply with the Federal Rules of Bankruptcy Procedure.

First, Fed. R. Bankr. P. 4003(b)(1) allows a party in interest to file an objection to an amended Schedule C within 30 days after filing the amended schedule. An amended Schedule C was filed on March 14, 2018. Docket #32. The 30 day period will not end until April 13, 2018, 2 days after the date of this hearing. Therefore this hearing is premature.

Second, Fed. R. Bankr. P. 1009(a) states that the debtor "shall give notice [of the amended schedule] to the trustee and to any entity affected thereby." Docket #33, the proof of service for the amended Schedule C, does not show that the amended Schedule C was served on Midland Funding LLC ("Creditor"), clearly "an entity affected thereby." The debtor had the ability to serve Creditor because debtor properly served the motion, notice, and both declarations on Creditor. Docket #38.

Third, the notice was ambiguous. The caption of both the first notice (docket #35) and amended notice (docket #40) included the correct hearing date, but the bodies of both notices stated that the hearing date was March 9, 2018. Because the language of the notices was ambiguous, this motion is DENIED WITHOUT PREJUDICE.

The court reminds counsel that Local Bankruptcy Rules 9004-2(c)(1) and 9014-1(d)(4) require that exhibits, inter alia, filed in a motion "shall be filed as separate documents." Here, the exhibits were attached to the declaration of Nelida Zavala (docket #36), and not filed separately.

11:00 AM

1. [17-14829](#)-B-7 **IN RE: ADRIANA HERRERA**

REAFFIRMATION AGREEMENT WITH WELLS FARGO BANK, N.A.
3-9-2018 [[17](#)]

THOMAS GILLIS

FINAL RULING: There will be no hearing on this matter.

DISPOSITION: Denied.

ORDER: The court will issue an order.

Counsel shall inform his client that no appearance is necessary at this hearing.

Debtor was represented by counsel when she entered into the reaffirmation agreement. Pursuant to 11 U.S.C. § 524(c)(3), "if the debtor is represented by counsel, the agreement *must* be accompanied by an affidavit of the debtor's attorney' attesting to the referenced items before the agreement will have legal effect." *In re Minardi*, 399 B.R. 841, 846 (Bankr. N.D. Ok. 2009) (emphasis in original). In this case, the debtor's attorney affirmatively represented that the agreement established a presumption of undue hardship and that his opinion the debtors were not able to make the required payments. Therefore, the agreement does not meet the requirements of 11 U.S.C. § 524(c) and is not enforceable.

1:30 PM

1. [17-13797](#)-B-9 **IN RE: TULARE LOCAL HEALTHCARE DISTRICT**
[18-1005](#)

CONTINUED STATUS CONFERENCE RE: COMPLAINT
1-23-2018 [[1](#)]

TULARE LOCAL HEALTHCARE
DISTRICT V. HEALTHCARE
RILEY WALTER/ATTY. FOR PL.

NO RULING.

2. [17-13797](#)-B-9 **IN RE: TULARE LOCAL HEALTHCARE DISTRICT**
[18-1008](#)

STATUS CONFERENCE RE: COMPLAINT
2-7-2018 [[1](#)]

TULARE LOCAL HEALTHCARE
DISTRICT V. CELTIC LEASING
RILEY WALTER/ATTY. FOR PL.

NO RULING.