

UNITED STATES BANKRUPTCY COURT
Eastern District of California
Honorable René Lastreto
Hearing Date: Wednesday, June 28, 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 an 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. [17-10903](#)-B-7 JAMES/SUSAN SAWYER MOTION FOR RELIEF FROM
SSW-1 AUTOMATIC STAY
TINKER FEDERAL CREDIT UNION/MV 5-31-17 [[13](#)]
HAROUT BOULDOUKIAN/Atty. for dbt.
SCOTT WELTMAN/Atty. for mv.

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 debtors' 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.

The waiver of Federal Rule of Bankruptcy Procedure 4001(a)(3) will be granted. The moving papers show the collateral is a depreciating asset that the debtors intend to surrender.

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. [17-10903](#)-B-7 JAMES/SUSAN SAWYER
SSW-2
TINKER FEDERAL CREDIT UNION/MV
HAROUT BOULDOUKIAN/Atty. for dbt.
SCOTT WELTMAN/Atty. for mv.

MOTION FOR RELIEF FROM
AUTOMATIC STAY
5-31-17 [[19](#)]

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 debtors' 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.

The waiver of Federal Rule of Bankruptcy Procedure 4001(a)(3) will be granted. The moving papers show the collateral is a depreciating asset that the debtors intend to surrender.

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).

3. [17-10931](#)-B-7 KIRA DIAS
RCO-1
WELLS FARGO BANK, N.A./MV

MOTION FOR RELIEF FROM
AUTOMATIC STAY AND/OR MOTION
FOR ADEQUATE PROTECTION
5-19-17 [[21](#)]

MARK ZIMMERMAN/Atty. for dbt.
JASON KOLBE/Atty. for mv.
NON-OPPOSITION

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. The debtor filed a notice of non-opposition and the trustee's default 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.

If adequate protection is requested, it will be denied without prejudice. Adequate protection is unnecessary in light of the relief granted herein.

If an award of attorney fees has been requested, it will be denied without prejudice. 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.

The waiver of Federal Rule of Bankruptcy Procedure 4001(a)(3) will be granted. The record shows that the property is not the debtor's residence and the debtor has filed a notice of non-opposition.

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. [17-11631](#)-B-7 IRMA BENITEZ
APN-1
SANTANDER CONSUMER USA INC./MV
STEPHEN LABIAK/Atty. for dbt.
AUSTIN NAGEL/Atty. for mv.

MOTION FOR RELIEF FROM
AUTOMATIC STAY
5-30-17 [[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.

The waiver of Federal Rule of Bankruptcy Procedure 4001(a)(3) will be granted. The moving papers show the collateral is a depreciating asset that the debtor intended to surrender 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).

7. [16-12646](#)-B-7 PERRY CROUCH
JES-1
JAMES SALVEN/MV
RABIN POURNAZARIAN/Atty. for dbt.
JAMES SALVEN/Atty. for mv.

MOTION TO SELL
5-31-17 [[60](#)]

The motion will proceed as scheduled for higher and better bids only. The motion will be granted without oral argument based upon well-pled facts. The trustee shall submit a proposed order after hearing as specified below.

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 that the sale is a reasonable exercise of the trustee's business judgment.

8. [16-12646](#)-B-7 PERRY CROUCH
RJP-4
PERRY CROUCH/MV
RABIN POURNAZARIAN/Atty. for dbt.
RESPONSIVE PLEADING

CONTINUED MOTION TO COMPEL
ABANDONMENT
4-17-17 [[47](#)]

Unless the debtor withdraws his motion to compel abandonment before the hearing the matter will proceed as scheduled. In light of the court's ruling above, calendar number 7 (DC# JES-1), the court intends to deny the motion as moot.

9. [17-11747](#)-B-7 NANCY CHRISTENSEN
TJS-1
BMW BANK OF NORTH AMERICA/MV
NEIL SCHWARTZ/Atty. for dbt.
TIMOTHY SILVERMAN/Atty. for mv.

MOTION FOR RELIEF FROM
AUTOMATIC STAY
5-26-17 [[11](#)]

This motion for relief from the automatic stay will be denied without prejudice. No appearance is necessary.

The movant failed to file a separate relief from stay information sheet, Form EDC 3-468, pursuant to LBR 4001-1(a) (3).

10. [13-16155](#)-B-7 MICHAEL WEILERT AND CONTINUED MOTION FOR CONTEMPT
FW-20 GENEVIEVE DE MONTREMARE 4-26-17 [[549](#)]
JAMES SALVEN/MV
PETER FEAR/Atty. for mv.
RESPONSIVE PLEADING

This matter will proceed as scheduled.

11. [17-11457](#)-B-7 SANTOS/MARICELA ROSALES MOTION FOR RELIEF FROM
RLM-1 AUTOMATIC STAY
STATE FARM MUTUAL AUTOMOBILE 5-31-17 [[12](#)]
INSURANCE COMPANY/MV
PETER FEAR/Atty. for dbt.
RICHARD MAHFOUZ/Atty. for mv.

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 debtors' 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 in the subject state court litigation as to recovery from the debtors' auto insurance policy only, under applicable non-bankruptcy law. The record shows that cause exists for this limited relief from the automatic stay.

The proposed order shall specifically describe the 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 litigation will not affect the bankruptcy case.

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).

12. [11-60165](#)-B-7 ANTONIO/CAROL MARCELINO
TPH-4
ANTONIO MARCELINO/MV
THOMAS HOGAN/Atty. for dbt.

MOTION TO AVOID LIEN OF A.L.
GILBERT COMPANY
5-25-17 [[67](#)]

Based on the respondent's opposition, this matter will be continued as a status conference, to August 16, 2017, at 9:30 a.m. For scheduling and trial this matter will be consolidated with the motion calendared at #13, TPH-5. The court will issue an order. No appearance is necessary.

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 debtors shall make the subject property available for inspection on reasonable notice. The parties shall immediately commence formal discovery, exchange appraisals, meet and confer, set deposition dates if necessary, and be prepared for the court to set an early evidentiary hearing if the matter is not resolved by the continued hearing date. A joint or unilateral status conference statement by all parties shall be filed not later than 7 days before the continued hearing.

The exhibits, filed both in support of the opposition to the motion and in support of the response to opposition, were not filed in compliance with Local Rules of Practice for the U.S. Bankruptcy Court, Eastern District of California, Appendix II, EDC.002-901, E.D. Cal. Bankruptcy Court's Guidelines for the Preparation of Documents (effective August 12, 2015), Section IV.B and C, and must be re-filed and served by July 7, 2017.

13. [11-60165](#)-B-7 ANTONIO/CAROL MARCELINO
TPH-5
ANTONIO MARCELINO/MV
THOMAS HOGAN/Atty. for dbt.

MOTION TO AVOID LIEN OF
VETERINARY SERVICE, INC.
5-25-17 [[73](#)]

Based on the respondent's opposition, this matter will be continued as a status conference, to August 16, 2017, at 9:30 a.m. For scheduling and trial this matter will be consolidated with the motion calendared at #12, TPH-4. The court will issue an order. No appearance is necessary.

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 debtors shall make the subject property available for inspection on reasonable notice. The parties shall immediately commence formal discovery, exchange appraisals, meet and confer, set deposition dates if necessary, and be prepared for the court to set an early evidentiary hearing if the matter is not resolved by the continued hearing date. A joint or unilateral status conference statement by all parties shall be filed not later than 7 days before the continued hearing.

The exhibits, filed both in support of the opposition to the motion and in support of the response to opposition, were not filed in compliance with Local Rules of Practice for the U.S. Bankruptcy Court, Eastern District of California, Appendix II, EDC.002-901, E.D. Cal. Bankruptcy Court's Guidelines for the Preparation of Documents (effective August 12, 2015), Section IV.B and C, and must be re-filed and served by July 7, 2017.

14. [15-14470](#)-B-7 RAUL/RAQUEL REYES
TGM-5

MOTION FOR COMPENSATION FOR
TRUDI G. MANFREDO, TRUSTEES
ATTORNEY(S)
5-26-17 [[76](#)]

STEVE FOX/Atty. for dbt.

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

This matter was fully noticed in compliance with the Local Rules of Practice and there is no opposition. 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. Accordingly, the respondents' defaults will be entered.

15. [16-14676](#)-B-7 JOHN/PATRICIA FARINELLI
PBB-1
JOHN FARINELLI/MV
PETER BUNTING/Atty. for dbt.

MOTION TO AVOID LIEN OF WELLS
FARGO BANK NATIONAL ASSOCIATION
6-9-17 [[94](#)]

This matter 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.

It appears from the evidence submitted and the record that the debtors are entitled to avoid this lien that impairs an exemption to which they would otherwise have been entitled.

16. [16-14676](#)-B-7 JOHN/PATRICIA FARINELLI
TGM-4
PETER FEAR/MV

MOTION TO COMPROMISE
CONTROVERSY/APPROVE SETTLEMENT
AGREEMENT WITH JOHN URBANO
FARINELLI AND PATRICIA DAWN
FARINELLI
6-7-17 [[88](#)]

PETER BUNTING/Atty. for dbt.
TRUDI MANFREDO/Atty. for mv.

This motion was noticed pursuant to 9014-1(f)(2) and will proceed as scheduled. The court intends to inquire as to whether the trustee's asset analysis included application of §522(c)(2)(B); In re Pavich, 191 B.R. 838, 847 (Bankr. E.D.Cal. 1996), which provides that the homestead exemption remains liable for properly filed tax liens.

17. [12-13979](#)-B-7 DAVID/LIWLIWA COSTON
TGF-2
DAVID COSTON/MV

MOTION TO AVOID LIEN OF ANCHOR
GENERAL INSURANCE COMPANY AS
SUBROGEE OF YVONNE JACKSON
5-19-17 [[34](#)]

VINCENT GORSKI/Atty. for dbt.

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

This matter was fully noticed in compliance with the Local Rules of Practice and there is no opposition. 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. Accordingly, the respondents' defaults will be entered.

It appears from the evidence submitted and the record that the debtors are entitled to avoid this lien that impairs an exemption to which they would otherwise have been entitled.

18. [16-12687](#)-B-7 LORAIN GOODWIN MILLER
TGM-2
JAMES SALVEN/MV
TRUDI MANFREDO/Atty. for mv.
RESPONSIVE PLEADING

CONTINUED OBJECTION TO DEBTOR'S
CLAIM OF EXEMPTIONS
3-29-17 [[55](#)]

This matter will proceed as scheduled.

19. [17-11294](#)-B-7 MIGUEL/ARACELI RAMIREZ
RCO-1
WELLS FARGO BANK, N.A./MV
THOMAS GILLIS/Atty. for dbt.
JASON KOLBE/Atty. for mv.

MOTION FOR RELIEF FROM
AUTOMATIC STAY
5-17-17 [[18](#)]

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 debtors 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.

If an award of attorney fees has been requested, it will be denied without prejudice. 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. In addition, any future request for an award of attorneys fees will be denied unless the movant can prove there is equity in the collateral. 11 U.S.C.A. §506(b).

A waiver of Federal Rule of Bankruptcy Procedure 4001(a)(3) will not be granted. The movant has shown no exigency.

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).

20. [16-13697](#)-B-7 SCOTT/KELLY ALLRED
JES-2
JAMES SALVEN/MV
PETER BUNTING/Atty. for dbt.
NON-OPPOSITION

MOTION FOR COMPENSATION FOR
JAMES E. SALVEN, ACCOUNTANT(S)
5-30-17 [[69](#)]

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

This matter was fully noticed in compliance with the Local Rules of Practice and there is no opposition. 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. Accordingly, the respondents' defaults will be entered.

21. [13-10699](#)-B-7 CHERI BELT
TCS-2
CHERI BELT/MV
TIMOTHY SPRINGER/Atty. for dbt.

CONTINUED MOTION TO AVOID LIEN
OF CITIBANK, N.A.
5-3-17 [[20](#)]

This motion was continued in order to permit the debtor to serve the chapter 7 trustee with the motion. The record shows that the trustee was served on May 24, 2017.

This matter was fully noticed in compliance with the Local Rules of Practice and there is no opposition. 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. Accordingly, the respondents' defaults will be entered. Accordingly, the motion will be granted without oral argument based upon well-pled facts. The moving party shall submit a proposed order in conformance with the ruling. No appearance is necessary.

22. 13-10699-B-7 CHERI BELT
TCS-3
CHERI BELT/MV
TIMOTHY SPRINGER/Atty. for dbt.

CONTINUED MOTION TO AVOID LIEN
OF CITIBANK, N.A.
5-3-17 [24]

This motion was continued in order to permit the debtor to serve the chapter 7 trustee with the motion. The record shows that the trustee was served on May 24, 2017.

This matter was fully noticed in compliance with the Local Rules of Practice and there is no opposition. 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. Accordingly, the respondents' defaults will be entered. Accordingly, the motion will be granted without oral argument based upon well-pled facts. The moving party shall submit a proposed order in conformance with the ruling. No appearance is necessary.

23. 17-11333-B-7 PENNY JACKSON
JES-1

OPPOSITION RE: TRUSTEE'S MOTION
TO DISMISS FOR FAILURE TO
APPEAR AT SEC. 341(A) MEETING
OF CREDITORS
5-22-17 [15]

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 July 21, 2017, at 9:00 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.

24. 17-11335-B-7 ANGELA LASSWELL
JES-1

OPPOSITION RE: TRUSTEE'S MOTION
TO DISMISS FOR FAILURE TO
APPEAR AT SEC. 341(A) MEETING
OF CREDITORS
5-22-17 [11]

SCOTT LYONS/Atty. for dbt.

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

It appears that the failure of the debtor to appear was due to a misunderstanding and not the debtor's fault.

The debtor shall attend the meeting of creditors rescheduled for July 21, 2017, at 9:00 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.

25. 17-11459-B-7 TRINIDAD MORENO AND
MAT-1 ALICIA MORENO
TRINIDAD MORENO/MV
MARCUS TORIGIAN/Atty. for dbt.

CONTINUED MOTION TO AVOID LIEN
OF CAPITAL ONE BANK
5-15-17 [12]

This matter will be continued to Thursday, July 6, 2017, at 9:30 a.m. The court will enter an order. No appearance is necessary.

The hearing was continued to give the debtors an opportunity to file and serve corrected exhibits in compliance with the Local Rules of Practice for the U.S. Bankruptcy Court, Eastern District of California, Appendix II, EDC.002-901, E.D. Cal. Bankruptcy Court's Guidelines for the Preparation of Documents (effective August 12, 2015), Section II.D. and Section IV.B and C. The debtors filed a Request for Judicial Notice with attached exhibits, however, once again the exhibits were not filed in compliance with Section IV.B and C. This is the last continued hearing. The deficient documents shall be filed and served by July 3, 2017. An order denying the motion will be entered if properly prepared documents are not filed and served.

26. 14-11265-B-7 BETTY BUMGARNER
AED-3
BETTY BUMGARNER/MV

CONTINUED MOTION TO AVOID LIEN
OF PROFESSIONAL COLLECTION
CONSULTANTS
5-14-17 [54]

ASHTON DUNN/Atty. for dbt.

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

This matter was fully noticed in compliance with the Local Rules of Practice and there is no opposition. 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. Accordingly, the respondents' defaults will be entered.

It appears from the evidence submitted and the record that the debtor is entitled to avoid this lien that impairs an exemption to which she would otherwise have been entitled.

27. 14-11265-B-7 BETTY BUMGARNER
AED-3
BETTY BUMGARNER/MV
ASHTON DUNN/Atty. for dbt.

CONTINUED MOTION TO AVOID LIEN
OF CAPITAL ONE BANK (USA), N.A.
5-17-17 [60]

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

This matter was fully noticed in compliance with the Local Rules of Practice and there is no opposition. 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. Accordingly, the respondents' defaults will be entered.

It appears from the evidence submitted and the record that the debtor is entitled to avoid this lien that impairs an exemption to which she would otherwise have been entitled.

11:00 A.M.

1. [17-11014](#)-B-7 KENNETH/TERESA HAYWORTH REAFFIRMATION AGREEMENT WITH
AMERICAN HONDA FINANCE CORP.
5-25-17 [[19](#)]
MARK ZIMMERMAN/Atty. for dbt.

The hearing will be dropped from calendar. Counsel shall inform his clients that no appearance is necessary at this hearing.

The form of the Reaffirmation Agreement does not appear to comply with 11 U.S.C. §524(c) (2) and 524(k). "Part D: Debtor's Statement in Support of Reaffirmation Agreement" was not completed with the debtors' financial information. The debtors' attorney did not affirm that any undue hardship was rebutted, therefore the court cannot make the required finding that the reaffirmation agreement does not present an undue hardship. The court will issue an order deeming the Reaffirmation Agreement to be non-compliant with the Bankruptcy Code and non-binding on the parties.

2. [17-11016](#)-B-7 ERICA PULIDO REAFFIRMATION AGREEMENT WITH
AMERICAN HONDA FINANCE CORP.
6-2-17 [[13](#)]
TIMOTHY SPRINGER/Atty. for dbt.

Approval of the Reaffirmation Agreement will be denied. Counsel shall inform his clients 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 signed the agreement, however affirmatively declined to represent that the agreement did not represent an undue hardship; the record shows that there is a presumption of undue hardship that has not been rebutted. Accordingly, the court will deny approval of the agreement.

3. [17-10728](#)-B-7 LEONEL ARVIZU AND
CONSUELO FIGUEROA

REAFFIRMATION AGREEMENT WITH
WESTLAKE FINANCIAL SERVICES
5-30-17 [[15](#)]

THOMAS GILLIS/Atty. for dbt.

The hearing will be dropped from calendar. Counsel shall inform his clients that no appearance is necessary at this hearing.

Debtors were represented by counsel when they 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 debtors’ attorney affirmatively represented that he could not recommend the reaffirmation agreement. Therefore, the agreement does not meet the requirements of 11 U.S.C. §524(c) and is not enforceable.

4. [17-10453](#)-B-7 ANDREW/DOLORES MORENO

REAFFIRMATION AGREEMENT WITH
LENDMARK FINANCIAL SERVICES,
LLC
5-26-17 [[17](#)]

JEFFREY ROWE/Atty. for dbt.

Approval of the Reaffirmation Agreement will be denied. Counsel shall inform his clients that no appearance is necessary at this hearing.

Both the reaffirmation agreement and the bankruptcy schedules show that reaffirmation of this debt creates a presumption of undue hardship which has not been rebutted in the reaffirmation agreement. Although the debtors’ attorney executed the agreement, the attorney could not affirm that, (a) the agreement was not a hardship and, (b) the debtors would be able to make the payments.

1:30 P.M.

1. [16-11605](#)-B-7 CAROLYN CHARLTON CONTINUED MOTION FOR ENTRY OF
[16-1078](#) NMB-1 DEFAULT JUDGMENT
CHARLTON V. CHARLTON 4-27-17 [[40](#)]
NANETTE BEAUMONT/Atty. for mv.
RESPONSIVE PLEADING

This motion for entry of default judgment will be continued to July 26, 2017, at 1:30 p.m., to be heard with the defendant's Motion to Set Aside Default.

The defendant's Motion to Set Aside Default (JRL-1) was noticed for July 6, 2017, which is insufficient time. The Motion requires 28 days' notice (see LBR 9014-1(f)(2)(A)). The Motion to Set Aside Default will be continued to July 26, 2017, at 1:30 p.m. Opposition to the motion must be filed and served by July 12, 2017. Any reply must be filed and served by July 19, 2017. The court will enter orders on both motions. No appearance is necessary.

2. [17-10310](#)-B-13 TERRI BREST-TAYLOR CONTINUED STATUS CONFERENCE RE:
[17-1009](#) COMPLAINT
U.S. TRUSTEE V. BREST-TAYLOR 2-10-17 [[1](#)]
GREGORY POWELL/Atty. for pl.
RESPONSIVE PLEADING

This matter will proceed as a scheduling conference.

3. [15-14225](#)-B-7 LETICIA CAMACHO CONTINUED MOTION TO COMPROMISE
[16-1084](#) GEG-4 CONTROVERSY/APPROVE SETTLEMENT
CAMACHO V. GARCIA ET AL AGREEMENT WITH ERMA R. RADTKE
4-4-17 [[43](#)]
GLEN GATES/Atty. for mv.

This matter was continued in order to provide the debtor with an opportunity to serve the creditors in the case with the notice of motion to compromise the adversary proceeding. The creditors having now been served, the motion will be granted without oral argument based upon well-pled facts. The movant shall submit a proposed order as specified below. 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.

4. [17-10236](#)-B-13 PAUL/KATHLEEN LANGSTON STATUS CONFERENCE RE: COMPLAINT
[17-1044](#) LANGSTON ET AL V. INTERNAL REVENUE SERVICE
GABRIEL WADDELL/Atty. for pl. 5-3-17 [[1](#)]

This matter will proceed as scheduled.

5. [16-10643](#)-B-12 MARK FORREST PRE-TRIAL CONFERENCE RE:
[16-1088](#) MADRIGAL V. FORREST COMPLAINT
DANIEL STEIN/Atty. for pl. 8-29-16 [[1](#)]

This matter will be dropped from calendar. The court intends to issue an OSC re dismissal and sanctions for failure to comply with the court's scheduling order. No appearance is necessary.

6. [16-14572](#)-B-7 NAVTEJ SINGH AND VEERPAL STATUS CONFERENCE RE: COMPLAINT
[17-1037](#) KAUR 3-24-17 [[1](#)]
VOHRA V. SINGH
THORNTON DAVIDSON/Atty. for pl.
RESPONSIVE PLEADING

This matter will proceed as scheduled.

7. [15-12689](#)-B-7 MARK HANSEN
[17-1042](#) DCN-1
HANSEN V. OCWEN LOAN
SERVICING, LLC ET AL
PETER ISOLA/Atty. for mv.

MOTION TO DISMISS ADVERSARY
PROCEEDING/NOTICE OF REMOVAL
5-17-17 [8]

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

The proof of service fails to comply with Local Rules of Practice for the U.S. Bankruptcy Court, Eastern District of California, 9014-1(e)(3), and Appendix II, EDC.002-901, E.D. Cal. Bankruptcy Court's Guidelines for the Preparation of Documents (effective August 12, 2015), Section V., A and B.

In addition, the moving papers were not filed in compliance with LBR 9014-1(e)(3).

Finally, the Request for Judicial Notice and that document's supporting exhibits were not filed in compliance with LBR Appendix II, EDC.002-901, E.D. Cal. Bankruptcy Court's Guidelines for the Preparation of Documents, Section IV. A., B., and C.

The court will grant leave to amend the complaint pursuant to the debtor's ex parte request filed June 14, 2017 (doc.# 10). The amended complaint must be filed and served on or before July 12, 2017.

The plaintiff is proceeding *pro se* and it appears that in the interest of justice plaintiff should have leave to amend. FRCP 15(a)(2).

8. 15-12689-B-7 MARK HANSEN
17-1042
HANSEN V. OCWEN LOAN
SERVICING, LLC ET AL
MARK HANSEN/Atty. for pl.

CONTINUED STATUS CONFERENCE RE:
COMPLAINT
4-17-17 [1]

This matter will be continued to July 26, 2017, at 1:30 p.m., subject to further continuances. The court will enter an order. No appearance is necessary.