

UNITED STATES BANKRUPTCY COURT
Eastern District of California
Honorable René Lastreto II
Hearing Date: Wednesday July 31 2019
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.

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. [19-12604](#)-B-7 **IN RE: TANYA ALVARADO**
[SL-1](#)

MOTION TO COMPEL ABANDONMENT
6-20-2019 [\[10\]](#)

TANYA ALVARADO/MV
STEPHEN LABIAK

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").

First, LBR 9014-1(e)(2) requires a proof of service, in the form of a certificate of service, to be filed with the Clerk of the court concurrently with the pleadings or documents served, or not more than three days after the papers are filed.

In this case, the proof of service was filed, but without a date reference even though the declaration was signed. The declaration states service occurred "on the date of execution hereof." See doc. #13. The court cannot determine when the papers were served since there is no "date of execution" mentioned. Because the court cannot know when the papers were served, the court does not know if the noticing language in the notice is correct, or if the papers were served at all.

Second, LBR 9004-2(c)(1) requires that declarations, exhibits, *inter alia*, to be filed as separate documents. Here, the declaration and exhibits were combined into one document and not filed separately. Failure to comply with this rule in the future will result in the motion being denied without prejudice.

Therefore, this motion is DENIED WITHOUT PREJUDICE.

2. [19-12307](#)-B-7 **IN RE: ADELA AGUNDEZ**

MOTION FOR WAIVER OF THE CHAPTER 7 FILING FEE
5-31-2019 [[6](#)]

ADELA AGUNDEZ/MV
ADELA AGUNDEZ/ATTY. FOR MV.

NO RULING.

The waiver application shows that movant is over the guidelines for a waiver. Debtor's schedules show a much lower income. There is no explanation for the difference.

Debtor must appear at the hearing and explain the difference to the court.

3. [19-11708](#)-B-7 **IN RE: HEATHER HOLDING**
[DRJ-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
7-2-2019 [[17](#)]

MARYERIE BERRIOS/MV
JERRY LOWE
DAVID JENKINS/ATTY. FOR MV.

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

DISPOSITION: Continued to August 28, 2019 at 9:30 a.m.

NO ORDER REQUIRED: An order continuing the matter has already been entered. Doc. #27.

4. [19-12517](#)-B-7 **IN RE: ALEXA JOY**
[JEB-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
7-15-2019 [[20](#)]

HUGO RODARTE/MV
JOHN BOUZANE/ATTY. FOR MV.

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").

First, the notice did not contain the language required under LBR 9014-1(d)(3)(B)(iii). LBR 9014-1(d)(3)(B), which is about noticing requirements, requires movants to notify respondents that they can determine whether the matter has been resolved without oral argument or if the court has issued a tentative ruling by checking the Court's website at www.caeb.uscourts.gov after 4:00 p.m. the day before the hearing.

Second, the notice did not comply with LBR 9014-1(f)(2)(C). LBR 9014-1(f)(2)(C) states that motions filed on less than 28 days' notice, but at least 14 days' notice, require the movant to notify the respondent or respondents that no party in interest shall be required to file written opposition to the motion. Opposition, if any, shall be presented at the hearing on the motion. If opposition is presented, or if there is other good cause, the Court may continue the hearing to permit the filing of evidence and briefs.

This motion was filed on July 15, 2019, served on July 12, 2019 (doc. #21) and set for hearing on July 31, 2019. July 31, 2019 is less than 28 days after July 12, 2019, and therefore this hearing was set on less than 28 days' notice under LBR 9014-1(f)(2). The notice stated that "any opposition must be filed by the day of the hearing." Doc. #21. That is incorrect. Because the hearing was set on less than 28 days' notice, the notice should have stated that no written opposition was required. Because this motion was filed, served, and noticed on less than 28 days' notice, the language of LBR 9014-1(f)(2)(C) needed to have been included in the notice.

Third, LBR 9004-2(c)(1) requires that proofs of service, notices, *inter alia*, to be filed as separate documents. Here, the notice and proof of service were combined into one document and not filed separately.

5. [18-13224](#)-B-7 **IN RE: ANTHONY CORRAL**
[JCW-1](#)

CONTINUED MOTION FOR RELIEF FROM AUTOMATIC STAY
8-29-2018 [[11](#)]

JPMORGAN CHASE BANK, NATIONAL ASSOCIATION/MV
DAVID JENKINS
JENNIFER WONG/ATTY. FOR MV.
RESPONSIVE PLEADING; DISCHARGED 4/16/19

NO RULING.

6. [19-12738](#)-B-7 **IN RE: MAX HERNANDEZ RENTERIA AND DANA NACRUR**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES
7-10-2019 [\[17\]](#)

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: The minutes of the hearing will be the court's findings and conclusions.

ORDER: The court will issue an order.

This matter will proceed as scheduled. If the fees due at the time of the hearing have not been paid prior to the hearing, the case will be dismissed on the grounds stated in the OSC.

7. [19-10839](#)-B-7 **IN RE: REGINA DAVALOS**
[GT-1](#)

MOTION TO AVOID LIEN OF CITIBANK N.A.
6-28-2019 [\[29\]](#)

REGINA DAVALOS/MV
GRISELDA TORRES

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 was 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. 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.

This motion is GRANTED. In order to avoid a lien under 11 U.S.C. § 522(f)(1) the movant must establish four elements: (1) there must be an exemption to which the debtor would be entitled under § 522(b); (2) the property must be listed on the debtor's schedules

as exempt; (3) the lien must impair the exemption; and (4) the lien must be either a judicial lien or a non-possessory, non-purchase money security interest in personal property listed in § 522(f)(1)(B). § 522(f)(1); Goswami v. MTC Distrib. (In re Goswami), 304 B.R. 386, 390-91 (9th Cir. BAP 2003), quoting In re Mohring, 142 B.R. 389, 392 (Bankr. E.D. Cal. 1992), aff'd 24 F.3d 247 (9th Cir. 1994).

A judgment was entered against the debtor in favor of Citibank, N.A. in the sum of \$6,494.70 on March 26, 2018. Doc. #31. The abstract of judgment was recorded with Fresno County on August 24, 2018. Id. That lien attached to the debtor's interest in a residential real property in Fresno, CA. The motion will be granted pursuant to 11 U.S.C. § 522(f)(1)(A). The subject real property had an approximate value of \$220,924.00 as of the petition date. Doc. #20. The unavoidable liens totaled \$212,822.60 on that same date, consisting of a first deed of trust in favor of US Bank Home Mortgage. Doc. #15. The debtor owns a 50% interest in the home, equaling \$110,462.00. Doc. #20. The debtor claimed an exemption pursuant to Cal. Civ. Proc. Code § 703.140(b)(5) in the amount of \$4,050.70, half the total equity left in the home. Doc. #20.

Movant has established the four elements necessary to avoid a lien under § 522(f)(1). After application of the arithmetical formula required by 11 U.S.C. § 522(f)(2)(A), there is no equity to support the judicial lien. Therefore, the fixing of this judicial lien impairs the debtor's exemption of the real property and its fixing will be avoided subject to 11 U.S.C. § 349(b)(1)(B).

8. [18-13758](#)-B-7 **IN RE: DONNIE/KELLY BROOKS**
[FW-3](#)

MOTION FOR COMPENSATION FOR PETER L. FEAR, TRUSTEES ATTORNEY(S)
6-27-2019 [\[76\]](#)

STEPHEN LABIAK

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 was 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. 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.

The motion will be GRANTED. Trustee's counsel, Peter L. Fear, requests fees of \$3,201.00 and costs of \$166.75 for a total of \$3,367.75 for services rendered from January 22, 2019 through June 20, 2019.

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 non-exempt equity in debtor's residence back to debtor, and (3) Administering claims against the estate. The court finds the services reasonable and necessary and the expenses requested actual and necessary.

Movant shall be awarded \$3,201.00 in fees and \$166.75 in costs.

9. [19-11266](#)-B-7 **IN RE: GLORIA GARCIA**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES
7-11-2019 [\[21\]](#)

MARK ZIMMERMAN
FEE PAID \$31.00 7/16/19

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

DISPOSITION: The OSC will be vacated.

ORDER: The court will issue an order.

The record shows that the amendment fee now due was paid on July 16, 2019.

10. [19-12666](#)-B-7 **IN RE: JESUS RIVERA MENDOZA**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES
7-8-2019 [[11](#)]

GREGORY LOWE

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: The minutes of the hearing will be the court's findings and conclusions.

ORDER: The court will issue an order.

This matter will proceed as scheduled. If the fees due at the time of the hearing have not been paid prior to the hearing, the case will be dismissed on the grounds stated in the OSC.

11. [19-11167](#)-B-7 **IN RE: ROSA RODRIGUEZ**
[RLF-1](#)

MOTION TO AVOID LIEN OF DISCOVER BANK
6-5-2019 [[14](#)]

ROSA RODRIGUEZ/MV
SHANE REICH

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").

The notice did not contain the language required under LBR 9014-1(d)(3)(B)(iii). LBR 9014-1(d)(3)(B), which is about noticing requirements, requires movants to notify respondents that they can determine whether the matter has been resolved without oral argument or if the court has issued a tentative ruling by checking the Court's website at www.caeb.uscourts.gov after 4:00 p.m. the day before the hearing.

12. [19-12370](#)-B-7 **IN RE: TANYA BROOKS**

MOTION FOR WAIVER OF THE CHAPTER 7 FILING FEE
6-3-2019 [5]

TANYA BROOKS/MV
TANYA BROOKS/ATTY. FOR MV.

NO RULING.

In the application for the fee waiver, Debtor claims to have four dependents. However, Debtor lists no dependents in the schedules filed with the bankruptcy petition. Debtor must appear at the hearing and explain the discrepancy.

13. [19-11280](#)-B-7 **IN RE: DONOO HOCKETT**
[EPE-2](#)

MOTION TO EXTEND TIME AND/OR MOTION FOR ORDER DEFERRING ENTRY OF
DISCHARGE
7-8-2019 [23]

DONOO HOCKETT/MV
ERIC ESCAMILLA

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Granted.

ORDER: The minutes of the hearing will be the court's findings and conclusions. The Moving Party will 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 is GRANTED. Federal Rule of Bankruptcy Procedure 4008 requires reaffirmation agreements to be filed not later than 60 days after the first § 341 meeting of creditors. The rule allows the court to enlarge the time to file a reaffirmation agreement "at any time and in [the court's discretion]"

The § 341 meeting was held on May 9, 2019, and no reaffirmation agreement was filed with the court within the 60 day deadline.

Debtors' declaration that his attorney "has been working with [his] mortgage lender and negotiating a reaffirmation agreement, but that additional time is needed to finalize these agreements." Doc. #25.

Debtor asks to extend the deadline to file a reaffirmation agreement to August 7, 2019, and that debtor's discharge be deferred until a time after August 7, 2019. Id.

The court, in its discretion, GRANTS the motion. Unless opposition is presented at the hearing, the court finds that no prejudice shall occur to any party in the granting in this motion. The order does not approve the reaffirmation agreement. That must be the subject of a separate hearing.

14. [18-13784](#)-B-7 **IN RE: BERNADETTE GARCIA-DAR**
[CAS-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
6-24-2019 [[54](#)]

FINANCIAL SERVICES VEHICLE TRUST/MV
PETER BUNTING
CHERYL SKIGIN/ATTY. FOR MV.

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 for relief from the automatic stay will be granted without oral argument based upon well-pled facts.

This motion relates to an executory contract or lease of personal property. The time prescribed in 11 U.S.C. § 365(d)(1) for the lease to be assumed by the chapter 7 trustee has not yet run and, pursuant to § 365(p)(1), the leased property is still property of the estate and protected by the automatic stay under § 362(a).

This matter was fully noticed in compliance with the Local Rules of Practice and there is no opposition. Accordingly, the respondent's default 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. The trustee has not moved to assume the subject lease.

The proposed order shall specifically describe the property or action to which the order relates. The leased property is a 2016 BMW 5 Series 535i Sedan 4D. Doc. #58.

The request for attorney's fees will be denied pursuant to 11 U.S.C. §506(b). Debtor has no equity in the property since the debtor has possession of the collateral under a lease.

15. [18-15195](#)-B-7 **IN RE: CHRISTOPHER BENINCOSA**
[APN-3](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
6-25-2019 [[46](#)]

CAB WEST LLC/MV
PETER BUNTING
AUSTIN NAGEL/ATTY. FOR MV.

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

DISPOSITION: Denied as moot.

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

This motion relates to an executory contract or lease of personal property. The case was filed on December 31, 2018 and the lease was not assumed by the chapter 7 trustee within the time prescribed in 11 U.S.C. § 365(d) (1). Pursuant to § 365 (p) (1), the leased property is no longer property of the estate and the automatic stay under § 362(a) has already terminated by operation of law.

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

16. [19-12397](#)-B-7 **IN RE: JEFFERY CASH**
[PLG-1](#)

MOTION TO AVOID LIEN OF THE BEST SERVICE CO., INC.
6-28-2019 [[15](#)]

JEFFERY CASH/MV
RABIN POURNAZARIAN

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

DISPOSITION: Denied without prejudice.

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

The motion fails because the motion and declaration explicitly reference several exhibits, including the abstract of judgment, yet no exhibits were filed with the court. Without that evidence, the court cannot make the requisite findings to grant the relief requested. The motion is DENIED WITHOUT PREJUDICE.

17. [19-11920](#)-B-7 **IN RE: MATILDE VELEZ-NEGRON**
[EPE-2](#)

MOTION TO EXTEND TIME AND/OR MOTION TO DELAY DISCHARGE
7-22-2019 [22]

MATILDE VELEZ-NEGRON/MV
ERIC ESCAMILLA
OST 7/19/19

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Conditionally granted.

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

This motion was filed and served pursuant to Local Rule of Practice ("LBR") 9014-1(f)(3) and an order shortening time (doc. #21) 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 is CONDITIONALLY GRANTED. Federal Rule of Bankruptcy Procedure 4008 requires reaffirmation agreements to be filed not later than 60 days after the first § 341 meeting of creditors. The rule also "at any time and in [the court's discretion]" allows the court to enlarge the time to file a reaffirmation agreement.

The § 341 meeting was held on June 13, 2019. The 60-day deadline will expire on August 12, 2019. Debtor will be unable to file the proposed reaffirmation agreement and is therefore asking for an extension of time. Doc. #24. Debtor's attorney is working with debtor's mortgage lender but needs additional time to finalize the agreement.

The court, in its discretion, CONDITIONALLY GRANTS the motion. The certificate of service included with the motion is incomplete - only the first page appears to have been filed with the court. Doc. #25. The court therefore does not know who the moving papers were served

on. Debtor must re-file the complete certificate of service with the court within seven days of the entry of this order. If debtor complies, the time to file a reaffirmation agreement will be extended to September 12, 2019.

Unless opposition is presented at the hearing, the court finds that no prejudice shall occur to any party in the granting in this motion. The order does not approve the reaffirmation agreement. That must be the subject of a separate hearing.

11:00 AM

1. [19-12448](#)-B-7 **IN RE: RUBEN/MARIA ANDRADE**

PRO SE REAFFIRMATION AGREEMENT WITH FORD MOTOR CREDIT
COMPANY
7-3-2019 [[17](#)]

NO RULING.

1:30 PM

1. [19-11115](#)-B-7 **IN RE: ROMAN NORIEGA**
[19-1053](#)

STATUS CONFERENCE RE: COMPLAINT
5-31-2019 [[1](#)]

OSUNA V. NORIEGA
JEFF REICH/ATTY. FOR PL.
RESPONSIVE PLEADING

NO RULING.

2. [19-10516](#)-B-13 **IN RE: FRANK CRUZ**
[19-1034](#)

CONTINUED STATUS CONFERENCE RE: COMPLAINT
3-11-2019 [[1](#)]

CRUZ V. ABDELAZIZ
FRANK CRUZ/ATTY. FOR PL.

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

DISPOSITION: The status conference will be vacated.

NO ORDER REQUIRED.

The adversary proceeding is dismissed pursuant to matter #3 below,
NEA-3.

3. [19-10516](#)-B-13 **IN RE: FRANK CRUZ**
[19-1034](#) [NEA-3](#)

MOTION TO DISMISS ADVERSARY PROCEEDING/NOTICE OF REMOVAL
6-25-2019 [[36](#)]

CRUZ V. ABDELAZIZ
UNKNOWN TIME OF FILING/ATTY. FOR MV.

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 was 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

5. [19-10516](#)-B-13 **IN RE: FRANK CRUZ**
[19-1035](#) [NEA-3](#)

MOTION TO DISMISS ADVERSARY PROCEEDING/NOTICE OF REMOVAL
6-25-2019 [\[37\]](#)

CRUZ V. ABDELAZIZ
UNKNOWN TIME OF FILING/ATTY. FOR MV.

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 was 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. 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.

This motion is GRANTED. Federal Rule of Civil Procedure 41(b) (made applicable in bankruptcy adversary proceedings by Federal Rule of Bankruptcy Procedure 7041) states that if "the plaintiff fails to prosecute or to comply with these rules or a court order, a defendant may move to dismiss the action" A dismissal under this section operates as an adjudication on the merits.

Plaintiff's claims were dismissed with leave to amend on May 31, 2019. Doc. #31. Plaintiff was given 14 days to file and serve an amended complaint. Id. No amended complaint was filed within that time.

Debtor has not opposed this motion. Therefore the motion is GRANTED and the adversary proceeding is dismissed.

6. [18-15027](#)-B-7 **IN RE: MARI SULUKYAN**
[19-1016](#) [TCS-1](#)

MOTION FOR ENTRY OF DEFAULT JUDGMENT
6-17-2019 [[19](#)]

SULUKYAN V. TARGET NATIONAL BANK
TIMOTHY SPRINGER/ATTY. FOR MV.
DISMISSED 7/12/19

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

DISPOSITION: Dropped from calendar.

NO ORDER REQUIRED: An order dismissing the case has already been
entered. Doc. #30.

7. [18-13238](#)-B-7 **IN RE: DENISE DAWSON**
[18-1085](#)

CONTINUED STATUS CONFERENCE RE: AMENDED COMPLAINT
2-18-2019 [[16](#)]

DAWSON V. VILLANUEVA ET AL
JEFFREY ROWE/ATTY. FOR PL.
DISMISSED 6/11/19

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

DISPOSITION: Dropped from calendar.

NO ORDER REQUIRED: An order dismissing the case has already been
entered. Doc. #26.

8. [17-13797](#)-B-9 **IN RE: TULARE LOCAL HEALTHCARE DISTRICT**
[19-1048](#)

CONTINUED STATUS CONFERENCE RE: COMPLAINT
5-3-2019 [[1](#)]

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

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

DISPOSITION: Dropped from calendar.

ORDER: The court will issue an order.

Plaintiff's motion for entry of default judgment is granted. See
matter #9 below, WW-1.

9. [17-13797](#)-B-9 **IN RE: TULARE LOCAL HEALTHCARE DISTRICT**
[19-1048](#) [WW-1](#)

MOTION FOR ENTRY OF DEFAULT JUDGMENT
6-21-2019 [\[10\]](#)

TULARE LOCAL HEALTHCARE DISTRICT V. TALYST INC.
RILEY WALTER/ATTY. FOR MV.

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 was 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. 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.

This motion is GRANTED. The court granted plaintiff's request for entry of default judgment against defendant on June 7, 2019. Doc. #9. Pursuant to Federal Rules of Bankruptcy Procedure 7054, 7055, and 7058, judgment is entered against defendant for \$73,300.60 plus interest at 1% per month from March 30, 2012 to the date of the judgment, plus post judgment interest at the statutory rate.

10. [17-13797](#)-B-9 **IN RE: TULARE LOCAL HEALTHCARE DISTRICT**
[19-1052](#)

STATUS CONFERENCE RE: CROSSCLAIM
6-4-2019 [7]

TULARE LOCAL HEALTH CARE DISTRICT V. GREENE ET AL
UNKNOWN TIME OF FILING/ATTY. FOR PL.
RESPONSIVE PLEADING

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

DISPOSITION: Continued to August 15, 2019 at 9:30 a.m.

ORDER: The court will issue an order.

This matter is continued to August 15, 2019 at 9:30 a.m. to be heard in conjunction with WW-1, the amended motion for remand. The court will issue an order.

11. [17-13797](#)-B-9 **IN RE: TULARE LOCAL HEALTHCARE DISTRICT**
[19-1052](#)

STATUS CONFERENCE RE: NOTICE OF REMOVAL
5-28-2019 [1]

TULARE LOCAL HEALTH CARE DISTRICT V. GREENE ET AL
UNKNOWN TIME OF FILING/ATTY. FOR PL.
RESPONSIVE PLEADING

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

DISPOSITION: Continued to August 15, 2019 at 9:30 a.m.

ORDER: The court will issue an order.

This matter is continued to August 15, 2019 at 9:30 a.m. to be heard in conjunction with WW-1, the amended motion for remand. The court will issue an order.

12. [17-13797](#)-B-9 **IN RE: TULARE LOCAL HEALTHCARE DISTRICT**
[19-1052](#) [WW-1](#)

CONTINUED AMENDED MOTION FOR REMAND
6-17-2019 [17]

TULARE LOCAL HEALTH CARE DISTRICT V. GREENE ET AL
UNKNOWN TIME OF FILING/ATTY. FOR MV.

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

DISPOSITION: Continued to August 15, 2019 at 9:30 a.m.

NO ORDER REQUIRED: The court already issued an order. Doc. #31.

13. [19-10297](#)-B-7 **IN RE: RICHARD/ANGELA MARINO**
[19-1054](#)

STATUS CONFERENCE RE: COMPLAINT
6-3-2019 [[1](#)]

STRATEGIC FUNDING SOURCE, INC. V. MARINO
JARRETT OSBORNE-REVIS/ATTY. FOR PL.
RESPONSIVE PLEADING

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

DISPOSITION: Continued to August 28, 2019 at 1:30 p.m.

ORDER: The court will issue an order.

Defendant has until August 12, 2019 to respond to the complaint.
Therefore this matter is continued to August 28, 2019 at 1:30 p.m.