

UNITED STATES BANKRUPTCY COURT
Eastern District of California
Honorable René Lastreto
Hearing Date: Wednesday, November 9, 2016
Place: Department B – Courtroom #13
Fresno, California

INSTRUCTIONS FOR PRE-HEARING DISPOSITIONS

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

2. Submission of Orders:

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

3. Matters Resolved Without Opposition:

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

4. Matters Resolved by Stipulation:

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

5. Resubmittal of Denied Matters:

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

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

9:30 A.M.

- | | |
|---|---|
| 1. 14-11606 -B-7 GORDON/CYNTHIA SAITO
THA-1
GORDON SAITO/MV
THOMAS ARMSTRONG/Atty. for dbt. | MOTION TO AVOID LIEN OF FIRST
NATIONAL BANK OF OMAHA
10-3-16 [57] |
|---|---|

This matter will be continued to December 7, 2016, at 9:30 a.m. Additional evidence shall be submitted on or before November 28, 2016. The court will issue a civil minute order. No appearance is necessary.

The debtors shall file a copy of the subject abstract of judgment or other evidence to show that the judgment lien is related to a debt owed by the debtors and that the debtors possessed an interest in the subject property to which the judgment lien could have attached at the time the judgment lien was recorded. *Farrey v. Sanderfoot*, 111 S.Ct. 667 (1991).

2. [16-10706](#)-B-7 ARLEEN MAROZIK
TGM-3
PETER FEAR/MV
DAVID JENKINS/Atty. for dbt.
TRUDI MANFREDO/Atty. for mv.
RESPONSIVE PLEADING

MOTION TO SELL FREE AND CLEAR
OF LIENS
10-12-16 [[37](#)]

The trustee's motion to sell property of the estate will be granted as specified below and will proceed as scheduled for submission of any higher and better bids.

The motion will be granted without oral argument based upon well-pled facts. The trustee shall submit a proposed order that has been approved by Wells Fargo Bank, N.A.

This matter was fully noticed in compliance with the Local Rules of Practice. Wells Fargo Bank, N.A., has filed a limited opposition which will be resolved in the order. No other opposition was filed and the defaults of all other respondents will be entered. Federal Rule of Civil Procedure 55, made applicable by Federal Rule of Bankruptcy Procedure 7055, governs default matters and is applicable to contested matters under Federal Rule of Bankruptcy Procedure 9014(c). Upon default, factual allegations will be taken as true (except those relating to amount of damages). *Televideo Systems, Inc. v. Heidenthal* (826 F.2d 915, 917 (9th Cir., 1987)). Constitutional due process requires that a plaintiff make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here. It appears from the evidence submitted and the record that the trustee may sell the subject property free and clear of the liens of Pascuzzi, Pascuzzi & Stoker, and Capital Collections, LLC, with both liens to attach to the proceeds to the extent that the liens are determined to be valid.

3. [16-12520](#)-B-7 JANNIE YOUNG
UST-1
TRACY DAVIS/MV
ERIC ESCAMILLA/Atty. for dbt.
ROBIN TUBESING/Atty. for mv.

MOTION TO DISMISS CASE PURSUANT
TO 11 U.S.C. SECTION 707(B)
10-4-16 [[29](#)]

The motion will be granted based on well-pled facts without oral argument.
No appearance is necessary.

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 debtor shall have 14 days from the date of this hearing to convert this case to chapter 13. The debtor is authorized to convert the case by ex parte application. The U.S. Trustee shall submit an order dismissing this case if it has not been converted within 14 days.

4. [16-10521](#)-B-7 ALAN ENGLE
FW-4

MOTION FOR COMPENSATION BY THE
LAW OFFICE OF FEAR WADDELL,
P.C. FOR GABRIEL J. WADDELL,
TRUSTEES ATTORNEY(S)
10-5-16 [[88](#)]

PETER BUNTING/Atty. for dbt.
RESPONSIVE PLEADING

This matter will proceed as scheduled.

5. [16-12821](#)-B-7 FRANCESCO SIMONE
JRL-1
FRANCESCO SIMONE/MV

MARIO LANGONE/Atty. for dbt.

MOTION TO AVOID LIEN OF
NATIONWIDE MUTUAL INSURANCE
COMPANY
10-10-16 [[14](#)]

The motion will be denied without prejudice. The court will issue a civil minute order. No appearance is necessary.

The record does not establish that the motion was served on the named respondent in compliance with Roster of Governmental Agencies, EDC 2-785 (Rev. 7/23/15)/ Federal Rule of Bankruptcy Procedure 7004(b) (3) (corporation, partnership or unincorporated association. *In re Villar*, 317 B.R. 88 (9th Cir. BAP 2004).

Although the motion mailed to the entity that serves as the agent for service of process for respondent, the motion was not addressed or otherwise directed to the respondent. Information regarding service on a corporation may be obtained from the California Secretary of State's Internet Website, see <http://kepler.sos.ca.gov/>. Litigants are encouraged to attach a copy of their information source (web page, etc.) to the proof of service to assist the court in evaluating compliance with Rule 7004.

6. [16-13421](#)-B-7 VALERIE SALAS
JHW-1
AMERICREDIT FINANCIAL
SERVICES, INC./MV
JENNIFER WANG/Atty. for mv.

MOTION FOR RELIEF FROM
AUTOMATIC STAY
10-3-16 [[14](#)]

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 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 movant has recovered the vehicle pre-petition and has possession.

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

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

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

7. [14-13430](#)-B-7 STEPHEN/JENNIFER FORD
PFT-5
BRANDON BENNETT/MV
MICHAEL ARNOLD/Atty. for dbt.
RESPONSIVE PLEADING

MOTION FOR ADMINISTRATIVE
EXPENSES
10-3-16 [[99](#)]

**This motion will be denied without prejudice for reasons indicated below.
No appearance is necessary.**

The motion for payment of administrative expenses was fully noticed in compliance with the Local Rules of Practice. The trustee's limited opposition was the only response and the default of other respondents will be entered.

However, the form of the proof of service does not comply with LBR 9014-1(d)(2) and/or 9004-1 (see Local Rules, Appendix II, EDC.002-901, Revised Guidelines for the Preparation of Documents (5)).

In addition, the moving papers do not include an appropriate docket control number as required by LBR 9014-1(c). The docket control number used for this motion, PFT-5, has been previously used for a different motion.

8. [16-12832](#)-B-7 ANDRIETTE MCCRAY

LAYNE HAYDEN/Atty. for dbt.
\$30.00 FILING FEE PAID
10/12/16

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
10-5-16 [[21](#)]

The OSC will be vacated. The record shows that the required fee has been paid in full. No appearance is necessary.

9. [16-12635](#)-B-7 TERRA GAINES
ETL-1
TOYOTA MOTOR CREDIT
CORPORATION/MV
STEVEN STANLEY/Atty. for dbt.
ERICA LOFTIS/Atty. for mv.

MOTION FOR RELIEF FROM
AUTOMATIC STAY
9-30-16 [[15](#)]

This motion for relief from the automatic stay will be denied as moot. No appearance is necessary.

This motion relates to an executory contract or lease of personal property. 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. No attorney fees will be awarded in relation to this motion.

10. [16-13337](#)-B-7 AVELARDO/MARIA PATINO
NLL-1
NATIONSTAR MORTGAGE LLC/MV
THOMAS GILLIS/Atty. for dbt.
NANCY LEE/Atty. for mv.

MOTION FOR RELIEF FROM
AUTOMATIC STAY
9-29-16 [[13](#)]

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

This motion for relief from stay was fully noticed in compliance with the Local Rules of Practice and there was no opposition. The debtors' 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 to the extent that it applies. Waiver of Federal Rule of Bankruptcy Procedure 4001(a)(3) will not be granted. The motion does not state a reason for the waiver.

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

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

11. [15-12948](#)-B-7 RAYMOND RENTERIA
HDN-1
RAYMOND RENTERIA/MV
HENRY NUNEZ/Atty. for dbt.

MOTION TO WITHDRAW DEEMED
ADMISSIONS
9-27-16 [[66](#)]

This matter will proceed as scheduled. The court will inquire as to the FRCP 36(b) two-part test: first, that the presentation of the merits of the case will not be subverted by the withdrawal, and, second, that Antoinette Gutierrez will not be prejudiced in its presentation of the case by the withdrawal. The court will also consider any argument by movant Antoinette Gutierrez regarding an award of attorney fees. See, *Upchurch v. USTNET Inc.*, 160 F.R.D. 131, 133 (D.OR. 1995).

12. [16-12649](#)-B-7 DAE/KYONG PARK
TMT-2
TRUDI MANFREDO/MV
JAENAM COE/Atty. for dbt.
TRUDI MANFREDO/Atty. for mv.
STIPULATION FILED

OBJECTION TO DEBTOR'S CLAIM OF
EXEMPTIONS
9-12-16 [[31](#)]

The hearing will be dropped from calendar. No appearance is necessary. The record shows this matter has been resolved by stipulation of the parties. A proposed order with the stipulation attached shall be submitted within two weeks of the hearing date.

13. [16-12649](#)-B-7 DAE/KYONG PARK
TMT-3
TRUDI MANFREDO/MV
JAENAM COE/Atty. for dbt.
TRUDI MANFREDO/Atty. for mv.

MOTION TO IMPOSE AUTOMATIC STAY
9-12-16 [[36](#)]

This matter will be dropped from calendar. No appearance is necessary. It appears that the matter has been resolved by the stipulation filed in TMT-2, number 12 on the calendar, and that no further relief is required.

14. [16-12252](#)-B-7 ANA PULIDO
TMT-1
TRUDI MANFREDO/MV
GEORGE ALONSO/Atty. for dbt.
TRUDI MANFREDO/Atty. for mv.

MOTION TO SELL
9-6-16 [[9](#)]

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

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

15. [13-16155](#)-B-7 MICHAEL WEILERT AND MOTION TO DISQUALIFY DANIEL B.
MCW-1 GENEVIEVE DE MONTREMARE SPITZER AS SPECIAL COUNSEL
WILD, CARTER & TIPTON/MV 9-26-16 [[478](#)]
MARSHALL WHITNEY/Atty. for mv.

This matter will proceed as scheduled. The court will inquire as to the existence of an actual conflict of interest between the special counsel and the bankruptcy estate.

16. [16-12266](#)-B-7 AVTAR SINGH MOTION TO EMPLOY DONALD J. POOL
TMT-1 AS SPECIAL COUNSEL AND/OR
TRUDI MANFREDO/MV MOTION TO EMPLOY WILD, CARTER &
TIPTON AS SPECIAL COUNSEL
9-15-16 [[20](#)]

MARK ZIMMERMAN/Atty. for dbt.
TRUDI MANFREDO/Atty. for mv.

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

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

17. [16-12266](#)-B-7 AVTAR SINGH
TMT-2
TRUDI MANFREDO/MV

MOTION TO EXTEND DEADLINE TO
FILE A COMPLAINT OBJECTING TO
DISCHARGE OF THE DEBTOR
9-15-16 [[25](#)]

MARK ZIMMERMAN/Atty. for dbt.
TRUDI MANFREDO/Atty. for mv.

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

This matter was fully noticed in compliance with the Local Rules of Practice and there is no opposition. 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 time for the chapter 7 trustee or for the United States Trustee to file an adversary proceeding to object to the debtor's discharge under 11 U.S.C. section 727, currently set for September 23, 2016, will be extended up through and including January 3, 2017.

18. [16-12278](#)-B-7 PEDRO/BLANCA CHAVEZ
TMT-2
TRUDI MANFREDO/MV

MOTION TO COMPROMISE
CONTROVERSY/APPROVE SETTLEMENT
AGREEMENT WITH PEDRO CHAVEZ AND
BLANCA ANGELICA CHAVEZ
9-28-16 [[32](#)]

TRUDI MANFREDO/Atty. for mv.

This matter will be continued to December 14, 2016, at 9:30 a.m. Evidence of the debtors' compliance with the settlement is to be filed and served on or before November 30, 2016. The court will enter a civil minute order. No appearance is necessary.

While the compromise appears to be a reasonable exercise of the trustee's business judgment, and the trustee has considered the factors in *In re A & C Properties*, nothing in the record or moving papers show that the debtors have complied with the terms of the settlement agreement. To wit, the debtors have not yet filed an amended schedule C resolving the trustee's objection, nor is it clear that the debtors have remitted the required payment to the trustee.

19. [16-12278](#)-B-7 PEDRO/BLANCA CHAVEZ
TMT-3
TRUDI MANFREDO/MV
TRUDI MANFREDO/Atty. for mv.

MOTION TO SELL
10-11-16 [[40](#)]

This matter will be continued to December 14, 2016, at 9:30 a.m., to be heard with the trustee's motion to compromise. The court will enter a civil minute order. No appearance is necessary.

20. [13-17082](#)-B-7 RONALD RUSHING
FW-11
TRUDI MANFREDO/MV

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

MOTION FOR COMPENSATION FOR
GOULD AUCTION & APPRAISAL
COMPANY, APPRAISER(S)
10-7-16 [[271](#)]

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

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

21. [13-17082](#)-B-7 RONALD RUSHING
FW-14

MOTION FOR COMPENSATION BY THE
LAW OFFICE OF FEAR WADDELL,
P.C. FOR PETER L. FEAR,
TRUSTEES ATTORNEY(S)
10-11-16 [[278](#)]

SCOTT LYONS/Atty. for dbt.

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

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

22. [16-12885](#)-B-7 AUDREY FLORES

OPPOSITION RE: TRUSTEE'S MOTION
TO DISMISS FOR FAILURE TO
APPEAR AT SEC. 341(A) MEETING
OF CREDITORS
9-19-16 [[15](#)]

No appearance is necessary. The court will issue a civil minute order.

The debtor shall attend the meeting of creditors rescheduled for November 18, 2016, 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.

23. [16-13185](#)-B-7 CLAUDIA SERNA
CLAUDIA SERNA/MV
MARK ZIMMERMAN/Atty. for dbt.

MOTION FOR WAIVER OF THE
CHAPTER 7 FILING FEE OR OTHER
FEE
10-3-16 [[14](#)]

The application for a fee waiver will be granted. The debtor's counsel shall inform the debtor that no appearance is necessary.

This matter was set for a hearing because the debtor's application for the fee waiver was inconsistent with her schedule J regarding the number of the debtor's dependants. However, the record shows that the inconsistency is not material; the debtor qualifies for a fee waiver in either case.

24. [16-11787](#)-B-7 PAUL/CHRISTINA CORTINAS
JHW-1
TD AUTO FINANCE LLC/MV
MARK ZIMMERMAN/Atty. for dbt.
JENNIFER WANG/Atty. for mv.
DISCHARGED

MOTION FOR RELIEF FROM
AUTOMATIC STAY
9-26-16 [[28](#)]

This motion for relief from stay was fully noticed in compliance with the Local Rules of Practice and there was no opposition. The motion will be denied as moot as to the debtors because their discharge has been entered. The motion will be granted for cause shown as to the chapter 7 trustee. No appearance 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 proposed order shall specifically describe the property or action to which the order relates. If the notice and motion requested a waiver of Federal Rule of Bankruptcy Procedure 4001(a)(3), that relief will be granted because the vehicle collateral is depreciating.

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

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

25. [14-14593](#)-B-7 WAYNE HEAD
TGM-7
PETER FEAR/MV

MOTION TO EXTEND DEADLINE TO
FILE A COMPLAINT OBJECTING TO
DISCHARGE OF THE DEBTOR
9-12-16 [[122](#)]

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

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

This matter was fully noticed in compliance with the Local Rules of Practice and there is no opposition. Accordingly, the respondents' defaults will be entered. Federal Rule of Civil Procedure 55, made applicable by Federal Rule of Bankruptcy Procedure 7055, governs default matters and is applicable to contested matters under Federal Rule of Bankruptcy Procedure 9014(c). Upon default, factual allegations will be taken as true (except those relating to amount of damages). *Televideo Systems, Inc. v. Heidenthal* (826 F.2d 915, 917 (9th Cir., 1987)). Constitutional due process requires that a plaintiff make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here. It appears that there is cause to extend the deadline, and the debtor's attorney has executed a stipulation with the chapter 7 trustee to that effect.

Accordingly, the time for the chapter 7 trustee or for the United States Trustee to file an adversary proceeding to object to the debtor's discharge under 11 U.S.C. section 727, currently set for September 15, 2016, will be extended up to and including December 15, 2016.

11:00 A.M.

1. [16-12923](#)-B-7 LARRY MILBURN

REAFFIRMATION AGREEMENT WITH
SNAP-ON CREDIT
9-30-16 [[12](#)]

JEFFREY ROWE/Atty. for dbt.

Approval of the Reaffirmation Agreement will be denied. No appearance is necessary.

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 debtor's attorney executed the agreement, the attorney could not affirm that, (a) the agreement was not a hardship and, (b) the debtor would be able to make the payments.

2. [16-12845](#)-B-7 DANIEL/MARISOL BALDASANO

REAFFIRMATION AGREEMENT WITH
FLAGSHIP CREDIT ACCEPTANCE
9-20-16 [[13](#)]

JEFFREY ROWE/Atty. for dbt.

This hearing to review and approve a reaffirmation agreement will be dropped from calendar. Debtors' counsel shall notify the debtors that no appearance is necessary.

No hearing or order is required. The form of the Reaffirmation Agreement complies with 11 U.S.C. §524(c) and 524(k), and it was signed by the debtors' attorney with the appropriate attestations. Pursuant to 11 U.S.C. §524(d), the court need not approve the agreement.

3. [16-13065](#)-B-7 JERRY/RAQUEL POPPS

REAFFIRMATION AGREEMENT WITH
LES SCHWAB TIRE CENTERS OF
CALIFORNIA, INC.
9-30-16 [[13](#)]

DAVID JENKINS/Atty. for dbt.

Approval of the Reaffirmation Agreement will be denied. No appearance is necessary.

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.

4. [16-12171](#)-B-7 MAHA CROSSLER

REAFFIRMATION AGREEMENT WITH
USAA FEDERAL SAVINGS BANK
9-16-16 [[17](#)]

PETER BUNTING/Atty. for dbt.

The reaffirmation agreement is incomplete and does not meet the requirements of 11 U.S.C. § 524. The court must determine whether a presumption of undue hardship arises from reaffirmation of the subject debt, however the agreement does not include the debtor's financial information. The agreement is therefore not enforceable against the debtors and cannot be approved. *In re Lopez*, 274 B.R. 854, 861-62 (9th Cir. BAP 2002), *aff'd*, 345 F.3d 701 (9th Cir. CA 2003). The debtor shall have until November 23, 2016, to submit a properly completed reaffirmation agreement that includes the required information. Debtor's counsel shall inform the debtor that no appearance is necessary.

5. [16-13490](#)-B-7 PATRICIA FLORES

PRO SE REAFFIRMATION AGREEMENT
WITH GATEWAY ONE LENDING &
FINANCE, LLC
10-20-16 [[13](#)]

1:30 P.M.

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

This matter will proceed as scheduled.

2. [15-10039](#)-B-12 ANGELA PIMENTEL STATUS CONFERENCE RE: COMPLAINT
[16-1086](#) 8-25-16 [[1](#)]
PIMENTEL V. KENNEDY
DAVID JENKINS/Atty. for pl.
RESPONSIVE PLEADING

This matter will proceed as scheduled.

3. [16-10643](#)-B-12 MARK FORREST STATUS CONFERENCE RE: COMPLAINT
[16-1088](#) 8-29-16 [[1](#)]
MADRIGAL V. FORREST
DANIEL STEIN/Atty. for pl.
RESPONSIVE PLEADING

This matter will proceed as scheduled.

4. [16-10866](#)-B-13 MICHELLE YORK CONTINUED STATUS CONFERENCE RE:
[16-1071](#) AMENDED COMPLAINT
PEOPLEASE HOLDINGS LLC ET AL 7-13-16 [[8](#)]
V. YORK
PAUL LAURIN/Atty. for pl.
RESPONSIVE PLEADING

This hearing will be dropped. The record shows that this matter has been resolved by stipulation of the parties. The plaintiff shall submit a proposed order with the stipulation attached.

5. [16-10169](#)-B-13 FRANK/MARY ANNE DORES PRE-TRIAL CONFERENCE RE: MOTION
AMM-2 TO DISMISS CASE
BUNNETT & CO., INC./MV 8-17-16 [[161](#)]
PETER FEAR/Atty. for dbt.
ANDREW MINEAR/Atty. for mv.
VACATED

This matter has been vacated by stipulation of the parties and order of the court. No appearance is necessary.

6. [16-10169](#)-B-13 FRANK/MARY ANNE DORES
AMM-5
BUNNETT & CO., INC./MV
PETER FEAR/Atty. for dbt.
ANDREW MINEAR/Atty. for mv.
RESPONSIVE PLEADING
- CONTINUED MOTION TO COMPEL
10-11-16 [[224](#)]

This matter will proceed as scheduled.

7. [16-10169](#)-B-13 FRANK/MARY ANNE DORES
FW-1
FRANK DORES/MV
PETER FEAR/Atty. for dbt.
VACATED
- PRE-TRIAL CONFERENCE RE: MOTION
FOR CONTEMPT
1-28-16 [[7](#)]

This matter has been vacated by stipulation of the parties and order of the court. No appearance is necessary.

8. [16-10169](#)-B-13 FRANK/MARY ANNE DORES
FW-1
BUNNETT & CO., INC./MV
- PRE-TRIAL CONFERENCE RE:
AMENDED MOTION FOR RELIEF FROM
AUTOMATIC STAY , AND/OR AMENDED
MOTION TO CONFIRM TERMINATION
OR ABSENCE OF STAY
3-15-16 [[73](#)]
- PETER FEAR/Atty. for dbt.
ANDREW MINEAR/Atty. for mv.
VACATED

This matter has been vacated by stipulation of the parties and order of the court. No appearance is necessary.

9. [16-12980](#)-B-7 JOSE LOPEZ
[16-1087](#)
U.S. TRUSTEE V. LOPEZ
GREGORY POWELL/Atty. for pl.
- STATUS CONFERENCE RE: COMPLAINT
8-26-16 [[1](#)]

This matter will proceed as scheduled, unless before the hearing the U.S. Trustee submits a request for entry of default, in which case the status conference will be dropped and no appearance will be necessary.