

UNITED STATES BANKRUPTCY COURT
Eastern District of California
Honorable René Lastreto II
Hearing Date: Wednesday, November 15, 2017
Place: Department B - Courtroom #13
Fresno, California

INSTRUCTIONS FOR PRE-HEARING DISPOSITIONS

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

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

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

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

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

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

9:30 AM

1. [17-13414](#)-B-7 IN RE: JOHN/ELVIRA LOPES
[BMJ-2](#)

MOTION FOR ORDER RELEASING AUCTION PROCEEDS
10-17-2017 [[27](#)]

CLIENT, LLC/MV
RILEY WALTER
ALEX LOZADA/ATTY. FOR MV.

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 shall submit a proposed order after hearing.

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

This matter is now deemed to be a contested matter. Pursuant to Federal Rule of Bankruptcy Procedure 9014(c), the federal rules of discovery apply to contested matters. The parties shall be prepared for the court to set an early evidentiary hearing.

Based on the record, the factual issues appear to include: whether the movants had a perfected security interest in the titled trucks.

As to the issue on the alleged lapse of the security interest, the court believes that the trustee's interpretation of the law is incorrect. California Commercial Code § 9515(d) states that a continuation statement may *only* be filed within the six months preceding the expiration date of the security interest, which is five years after the initial financing statement is filed (emphasis added). California Commercial Code § 9515(e) states that "upon timely filing of a continuation statement, the effectiveness of the initial financing statement continues for a period of five years commencing on the day on which the financing statement would have become ineffective in the absence of the filing."

As applied to the facts of this case, the court believes that the security interest did not lapse. The initial financing statement was filed on November 21, 2005. According to § 9515(d), the first date

on which a continuation statement could have been filed would have been May 5, 2010. The first continuation statement was filed on June 3, 2010 - almost a month after the continuation statement filing period began. Had the continuation statement not been filed, the security interest would have lapsed on November 21, 2010. Therefore, according to § 9515(e), the effectiveness of that initial financing statement (filed on November 21, 2005) continues for another five years, commencing on the day on which the financing statement would have become ineffective in the absence of the filing (November 21, 2010). Therefore, the date by which the potential lapse of a security interest should be measured is the date on which the initial financing statement was filed, NOT the date on which the continuation statement was filed. A second continuation statement was filed on June 24, 2015 - again within the continuation statement filing period under § 9515(d).

The court concludes that the security interest did not lapse because the two continuation statements were filed correctly pursuant to California Commercial Code § 9515(d).

2. [17-13716](#)-B-7 **IN RE: BREEONNA HANEY**
[BPC-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
11-1-2017 [9]

THE GOLDEN 1 CREDIT UNION/MV
BENNY BARCO
JEANNIE KIM/ATTY. FOR MV.

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 shall submit a proposed order after hearing.

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

The automatic stay is terminated as it applies to the movant's right to enforce its remedies against the subject property under applicable nonbankruptcy law. The record shows that cause exists to terminate the automatic stay.

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

The waiver of Federal Rule of Bankruptcy Procedure 4001(a)(3) will be granted. The moving papers show the collateral will be surrendered and is a depreciating asset.

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. [16-10521](#)-B-7 **IN RE: ALAN ENGLE**
[FW-7](#)

MOTION FOR COMPENSATION BY THE LAW OFFICE OF FEAR WADDELL,
P.C. FOR GABRIEL J. WADDELL, TRUSTEES ATTORNEY(S)
10-6-2017 [[227](#)]

SUSAN HEMB

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

DISPOSITION: Granted.

ORDER: No appearance is necessary. The Moving Party shall submit a proposed order in conformance with the ruling below.

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. The fees shall be payable at the trustee's discretion. Accordingly, the respondents' defaults will be entered.

4. [16-10521](#)-B-7 **IN RE: ALAN ENGLE**
[FW-8](#)

MOTION TO PAY
10-6-2017 [[235](#)]

TRUDI MANFREDO/MV
SUSAN HEMB
GABRIEL WADDELL/ATTY. FOR MV.

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

DISPOSITION: Granted.

ORDER: No appearance is necessary. The Moving Party shall submit a proposed order in conformance with the ruling below.

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.

5. [17-11521](#)-B-7 **IN RE: RYAN FRANCO**
[JES-4](#)

MOTION FOR COMPENSATION FOR JAMES SALVEN, ACCOUNTANT(S)
10-10-2017 [[41](#)]

JAMES SALVEN/MV
PETER BUNTING

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

DISPOSITION: Granted.

ORDER: No appearance is necessary. The Moving Party shall submit a proposed order in conformance with the ruling below.

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.

6. [17-13723](#)-B-7 **IN RE: CHRIS RAMIREZ**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES
10-30-2017 [[25](#)]

LAYNE HAYDEN

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 required fee has been paid in full.

7. [17-13826](#)-B-7 **IN RE: BILLIE GRAY**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES
10-18-2017 [[17](#)]

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Case Dismissed.

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

The court intends to dismiss this case for cause on the grounds stated in the OSC, including failure to pay the chapter 7 filing fee as set forth in the order to show cause. The debtor is excused from appearing unless the debtor has grounds, supported by evidence, to oppose dismissal and wishes to be heard.

8. [17-13728](#)-B-7 **IN RE: SABRINA MORALES**
[DJP-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
11-1-2017 [[11](#)]

EDUCATIONAL EMPLOYEES CREDIT
UNION/MV
PAUL JAMES
DON POOL/ATTY. FOR MV.

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 shall submit a proposed order after hearing.

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

The automatic stay is terminated as it applies to the movant's right to enforce its remedies against the subject property under applicable nonbankruptcy law. The record shows that cause exists to terminate the automatic stay.

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

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

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).

9. [17-13928](#)-B-7 **IN RE: ISRAEL PEREZ**
[BPC-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
10-20-2017 [[10](#)]

THE GOLDEN 1 CREDIT UNION/MV
REBECCA TOMILOWITZ
JEANNIE KIM/ATTY. FOR MV.

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 shall submit a proposed order after hearing.

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

The automatic stay is terminated as it applies to the movant's right to enforce its remedies against the subject property under applicable nonbankruptcy law. The record shows that cause exists to terminate the automatic stay.

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

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

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).

10. [17-14130](#)-B-7 **IN RE: MARCO GONZALEZ AND BEATRIZ DEL CAMPO**
[GT-1](#)

MOTION TO COMPEL ABANDONMENT
10-31-2017 [[14](#)]

MARCO GONZALEZ/MV
GRISELDA TORRES
OST SIGNED 11/5/17

NO RULING.

11. [17-13636](#)-B-7 **IN RE: JOSEPH CROTWELL**
[RCO-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY AND/OR MOTION FOR
ADEQUATE PROTECTION
10-9-2017 [[13](#)]

WELLS FARGO BANK, N.A./MV
R. BELL
JASON KOLBE/ATTY. FOR MV.

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

DISPOSITION: Granted. No attorney's fees will be awarded.

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

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

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

If the motion involves a foreclosure of real property in California, then the order shall also provide that the bankruptcy proceeding has been finalized for purposes of California Civil Code § 2923.5.

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. Movant's evidence shows there is no

equity in the collateral. Thus, attorney's fees will be DENIED under 11 U.S.C. § 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).

Counsel is reminded that new Local Rules became effective September 26, 2017. New Rule 9014-1(d)(3)(B) in particular requires the moving party to include more information in Notices than the old Rule 9014-1(d)(3) did. The court urges counsel to review the new rules in order to be compliant in future matters. The new rules can be accessed on the court's website at <http://www.caeb.circ9.dcn/LocalRules.aspx>.

12. 17-13237-B-7 **IN RE: YOLANDA ORTEGA**

CONTINUED MOTION FOR WAIVER OF THE CHAPTER 7 FILING FEE OR
OTHER FEE
8-22-2017 [5]

YOLANDA ORTEGA/MV
YOLANDA ORTEGA/ATTY. FOR MV.

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

DISPOSITION: Case will be dismissed.

ORDER: No appearance is necessary. The court will issue an order.

This motion was continued in order to give the debtor an opportunity to pay the next installment of the filing fee on October 30, 2017. That installment was not paid, so the case will be dismissed.

13. [15-10039](#)-B-12 **IN RE: ANGELA PIMENTEL**
[WW-1](#)

CONTINUED MOTION FOR RELIEF FROM AUTOMATIC STAY
8-1-2017 [[146](#)]

LUIS OLIVEIRA/MV
G. WILLIAMS
RILEY WALTER/ATTY. FOR MV.

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Denied.

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

The October 21, 2017 order, pursuant to the stipulation, required the debtor to file their documents no later than November 1, 2017. No documents have been filed by the debtor by that time or thereafter. Additionally, the movants have not met their burden of proof as set forth in the court's previous ruling (Doc. #175). Accordingly, the court intends to deny this motion.

14. [17-13853](#)-B-7 **IN RE: OCTAVIO DUARTE**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES
10-18-2017 [[11](#)]

ROSALINA NUNEZ
\$335.00 FILING FEE PAID 10/18/17

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 required fee has been paid in full.

15. [13-16155](#)-B-7 **IN RE: MICHAEL WEILERT AND GENEVIEVE DE MONTREMARE**
[FW-21](#)

MOTION TO PAY
10-31-2017 [[606](#)]

JAMES SALVEN/MV
PETER FEAR/ATTY. FOR MV.

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 shall submit a proposed order after hearing.

This motion was filed and served pursuant to LRB 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.

16. [17-13155](#)-B-7 **IN RE: BRIAN/MELINDA HOLLAND**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES
10-24-2017 [[31](#)]

MARK ZIMMERMAN
\$31.00 FILING FEE PAID 10/24/17

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 required fee has been paid in full.

17. [14-15861](#)-B-7 **IN RE: MANUEL/GUILLERMINA COSSIO**
[JHW-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
10-18-2017 [[97](#)]

FIRST INVESTORS FINANCIAL
SERVICES/MV
SCOTT SAGARIA
JENNIFER WANG/ATTY. FOR MV.

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

DISPOSITION: Granted in part and denied as moot in part.

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

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 denied and the automatic stay has already terminated by operation of law pursuant to 11 U.S.C. § 362(c)(2)(C). The motion will be granted for cause shown as to the chapter 7 trustee.

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.

The waiver of Federal Rule of Bankruptcy Procedure 4001(a)(3) will be granted. The moving papers show the collateral is a depreciating asset and the discharge has been denied.

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).

Counsel is reminded that new Local Rules became effective September 26, 2017. New Rule 9014-1(d)(3)(B) in particular requires the moving party to include more information in Notices than the old Rule 9014-1(d)(3) did. The court urges counsel to review the new rules in order to be compliant in future matters. The new rules can be accessed on the court's website at <http://www.caeb.circ9.dcn/LocalRules.aspx>.

18. [17-12662](#)-B-7 **IN RE: JEFFERY LUNA**
[TMT-1](#)

OPPOSITION RE: TRUSTEE'S MOTION TO DISMISS FOR FAILURE TO
APPEAR AT SEC. 341(A) MEETING OF CREDITORS
9-27-2017 [[12](#)]

JANINE ESQUIVEL

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

DISPOSITION: Continued to November 29, 2017 at 9:30 a.m..

ORDER: No appearance is necessary. The court will issue an
order.

This motion is being continued in order to allow debtor to appear at
the continued meeting of creditors scheduled for November 27, 2017
at 8:30 a.m. If the debtor fails to appear, without explanation,
the case will be dismissed without further hearing. If debtor does
appear, trustee will withdraw this motion.

The deadline to object to debtor's discharge under 11 U.S.C. § 727
and to file motions for abuse, other than presumed abuse, under 11
U.S.C. § 707 will be extended to January 26, 2018.

19. [17-13272](#)-B-7 **IN RE: LIAM EVANS**
[DWE-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
10-3-2017 [[23](#)]

WELLS FARGO BANK, N.A./MV
DANE EXNOWSKI/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 stay was fully noticed in compliance
with the Local Rules of Practice and there was no opposition. The
debtor(s) and the trustee's defaults will be entered. The automatic
stay is terminated as it applies to the movant's right to enforce
its remedies against the subject property under applicable
nonbankruptcy law. The record shows that cause exists to terminate
the automatic stay.

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

If the motion involves a foreclosure of real property in California, then the order shall also provide that the bankruptcy proceeding has been finalized for purposes of California Civil Code § 2923.5.

A waiver of Federal Rule of Bankruptcy Procedure 4001(a)(3) will be granted. The movant has shown an exigency.

The motion for relief under 11 U.S.C. §362(d)(4) is granted. It appears from the evidence submitted and from the record that the debtor(s)' bankruptcy case was used as part of a scheme to delay, hinder, or defraud creditors that involved transfer of an interest in the subject real property and/or multiple bankruptcy filings affecting such real property.

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. [17-11381](#)-B-7 **IN RE: VERNON SILVA**
[APN-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
10-4-2017 [[18](#)]

SANTANDER CONSUMER USA,
INC./MV
MARK ZIMMERMAN
AUSTIN NAGEL/ATTY. FOR MV.
DISCHARGED, RESPONSIVE PLEADING

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

DISPOSITION: Granted in part and denied as moot in part.

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

This motion for relief from stay was fully noticed in compliance with the Local Rules of Practice and the debtor has filed a non-opposition. The motion will be denied as moot as to the debtor because his discharge has been entered. 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). The motion will be granted for cause shown as to the chapter 7 trustee.

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.

The request for attorney's fees denied. 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. Movant's evidence shows there is no equity in the collateral. Thus, attorney's fees will be DENIED under 11 U.S.C. § 506(b).

The waiver of Federal Rule of Bankruptcy Procedure 4001(a)(3) will be granted. The moving papers show the collateral is uninsured and the discharge has been entered.

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).

Counsel is reminded that new Local Rules became effective September 26, 2017. New Rule 9014-1(d)(3)(B) in particular requires the moving party to include more information in Notices than the old Rule 9014-1(d)(3) did. The court urges counsel to review the new rules in order to be compliant in future matters. The new rules can be accessed on the court's website at <http://www.caeb.circ9.dcn/LocalRules.aspx>.

11:00 AM

1. [17-13225](#)-B-7 **IN RE: RAMON/IRIE ESCARSEGA**

PRO SE REAFFIRMATION AGREEMENT WITH MERRICK BANK CORPORATION
10-23-2017 [[21](#)]

MARK ZIMMERMAN

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

DISPOSITION: Dropped from calendar.

ORDER: The court will issue an order.

The court is not approving or denying approval of the reaffirmation agreement. 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). The reaffirmation agreement, in the absence of a declaration by debtors' counsel, does not meet the requirements of 11 U.S.C. §524(c) and is not enforceable. The debtors shall have 14 days to refile the reaffirmation agreement properly signed and endorsed by the attorney.

2. [17-13644](#)-B-7 **IN RE: DEBORAH WEAVER**

REAFFIRMATION AGREEMENT WITH FORD MOTOR CREDIT COMPANY
10-26-2017 [[14](#)]

PETER BUNTING

FINAL RULING: There will be no hearing on this.

DISPOSITION: Dropped from calendar.

NO ORDER REQUIRED.

Debtor's counsel shall notify the debtor that no appearance is necessary.

The form of the Reaffirmation Agreement complies with 11 U.S.C. §524(c) and 524(k), and it was signed by the debtor(s)' attorney with the appropriate attestations. Pursuant to 11 U.S.C. §524(d), the court need not approve the agreement.

3. [17-13647](#)-B-7 **IN RE: KIMBERLY WALKER**

PRO SE REAFFIRMATION AGREEMENT WITH BENEFICIAL STATE BANK
10-27-2017 [[11](#)]

NO RULING.

4. [17-13078](#)-B-7 **IN RE: GERALD/LINDA TAILLON**

REAFFIRMATION AGREEMENT WITH ALLY BANK
10-10-2017 [[18](#)]

GLEN GATES

FINAL RULING: There will be no hearing on this matter. Debtors'
 counsel shall notify the debtors that no appearance
 is necessary.

DISPOSITION: Dropped from calendar.

ORDER: No 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.

5. [17-13586](#)-B-7 **IN RE: KRISTIE MARTINEZ**

CONTINUED REAFFIRMATION AGREEMENT WITH NOBLE CREDIT UNION
10-4-2017 [[17](#)]

NO RULING.

6. [17-13392](#)-B-7 **IN RE: RAJBIR/SHINDERPALK SANDHU**

REAFFIRMATION AGREEMENT WITH ONEMAIN FINANCIAL GROUP, LLC
10-25-2017 [[19](#)]

LAYNE HAYDEN

NO RULING.

1:30 PM

1. [15-14225](#)-B-7 **IN RE: LETICIA CAMACHO**
[16-1084](#) [GEG-5](#)

MOTION FOR AWARD OF ATTORNEY'S FEES AND COSTS
9-28-2017 [[56](#)]

CAMACHO V. GARCIA ET AL

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

DISPOSITION: Granted.

ORDER: No appearance is necessary. The Moving Party shall submit a proposed order in conformance with the ruling below.

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.

No attorney's fees will be awarded against defendants Erma R. Radtke or WT Capital Lender Services. Both of these defendants have previously settled with the plaintiff.

This adversary proceedings has not been consolidated with the companion proceeding, which has the same motion for fees and costs pending (16-1085, GEG-5). The court will award a total of \$32,818 in fees and \$1,917 in costs for both actions. See Federal Rules of Civil Procedure 42(a)(1), (3) [Federal Rules of Bankruptcy Procedure 7042].

Counsel is reminded that new Local Rules became effective September 26, 2017. New Rule 9014-1(d)(3)(B) in particular requires the moving party to include more information in Notices than the old Rule 9014-1(d)(3) did. The court urges counsel to review the new rules in order to be compliant in future matters. The new rules can be accessed on the court's website at <http://www.caeb.circ9.dcn/LocalRules.aspx>.

2. [15-14228](#)-B-13 **IN RE: OSCAR GUTIERREZ**
[16-1085](#) [GEG-5](#)

MOTION FOR COMPENSATION FOR GLEN E. GATES, PLAINTIFFS
ATTORNEY(S)
9-28-2017 [[48](#)]

GUTIERREZ V. GARCIA ET AL

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

DISPOSITION: Granted.

ORDER: No appearance is necessary. The Moving Party shall submit a proposed order in conformance with the ruling below.

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.

No attorney's fees will be awarded against defendants Erma R. Radtke or WT Capital Lender Services. Both of these defendants have previously settled with the plaintiff.

This adversary proceeding has not been consolidated with the companion proceeding, which has the same motion for fees and costs pending (16-1084, GEG-5). The court will award a total of \$32,818 in fees and \$1,917 in costs for both actions. See Federal Rules of Civil Procedure 42(a)(1), (3) [Federal Rules of Bankruptcy Procedure 7042].

Counsel is reminded that new Local Rules became effective September 26, 2017. New Rule 9014-1(d)(3)(B) in particular requires the moving party to include more information in Notices than the old Rule 9014-1(d)(3) did. The court urges counsel to review the new rules in order to be compliant in future matters. The new rules can be accessed on the court's website at <http://www.caeb.circ9.dcn/LocalRules.aspx>.

3. [17-12846](#)-B-7 **IN RE: OSCAR MERCADO AND GENESIS NAVA-ROJO**
[17-1080](#)

STATUS CONFERENCE RE: COMPLAINT
9-13-2017 [[1](#)]

MERCADO V. CALIFORNIA
EMPLOYMENT DEVELOPMENT
TIMOTHY SPRINGER/ATTY. FOR PL.
DISMISSED , CLOSED

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

DISPOSITION: Dropped from calendar.

NO ORDER REQUIRED: No appearance is necessary. An order
 dismissing the adversary proceeding has
 already been entered.

4. [14-13880](#)-B-7 **IN RE: JUAN GONZALES**
[17-1045](#)

CONTINUED STATUS CONFERENCE RE: COMPLAINT
5-5-2017 [[1](#)]

SALVEN V. GONZALEZ ET AL
DAVID JENKINS/ATTY. FOR PL.

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

DISPOSITION: Continued to December 20, 2017 at 1:30 p.m.

ORDER: No appearance is necessary. The Moving Party shall
 submit a proposed order in conformance with the
 ruling below.

This matter will be continued to allow the plaintiff 30 days to file
and serve a motion to approve the settlement.