

UNITED STATES BANKRUPTCY COURT
Eastern District of California
Honorable René Lastreto II
Hearing Date: Thursday, January 11, 2018
Place: Department B - Courtroom #13
Fresno, California

INSTRUCTIONS FOR PRE-HEARING DISPOSITIONS

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

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

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

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

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

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

9:30 AM

1. [17-10327](#)-B-12 **IN RE: EDWARD/LISA UMADA**

CONTINUED STATUS CONFERENCE RE: CHAPTER 12 VOLUNTARY
PETITION
1-31-2017 [[1](#)]

PETER FEAR

NO RULING.

2. [17-10327](#)-B-12 **IN RE: EDWARD/LISA UMADA**
[FW-10](#)

MOTION TO CONFIRM CHAPTER 12 PLAN
11-29-2017 [[178](#)]

EDWARD UMADA/MV
PETER FEAR
RESPONSIVE PLEADING

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Continued to February 15, 2018 at 9:30 a.m. or
as otherwise ordered by the court.

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

This motion will be set for a continued hearing on February 15, 2018
at 9:30 a.m. or as otherwise ordered.

The trustee has filed a detailed objection to the debtor's fully
noticed motion to confirm a chapter 12 plan. Subject to the court's
rulings as set forth in the next paragraph, unless this case is
voluntarily converted or dismissed or the trustee's opposition to
confirmation has been withdrawn, the debtor(s) shall file and serve
a written response not later than February 1, 2018. The response
shall specifically address each issue raised in the opposition to
confirmation, state whether the issue is disputed or undisputed, and
include admissible evidence to support the debtor's position. If the
debtors elect to withdraw this plan and file a modified plan in lieu

of filing a response, then a confirmable modified plan shall be filed, served, and set for hearing, not later than February 8, 2018. If the debtors do not timely file a modified plan or a written response, the motion to confirm the plan will be denied on the grounds stated in the opposition without a further hearing.

The court will inquire when a motion to dismiss this case under 11 U.S.C. § 1208(c)(1);(5) and (9) will be filed. Alternatively, the parties should be prepared to discuss whether the court should dismiss the case sua sponte under its February 17, 2017 order (Docket #19).

3. [17-11591](#)-B-11 **IN RE: 5 C HOLDINGS, INC.**
[LKW-10](#)

MOTION TO USE CASH COLLATERAL AND/OR MOTION FOR ADEQUATE
PROTECTION
12-20-2017 [[207](#)]

5 C HOLDINGS, INC./MV
LEONARD WELSH
RESPONSIVE PLEADING

NO RULING.

4. [17-13797](#)-B-9 **IN RE: TULARE LOCAL HEALTHCARE DISTRICT**
[WW-9](#)

MOTION TO REJECT LEASE OR EXECUTORY CONTRACT
12-11-2017 [[261](#)]

TULARE LOCAL HEALTHCARE
DISTRICT/MV
RILEY WALTER

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 motion has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The failure of the creditors, the debtor, the U.S. Trustee, and any other party in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014- 1(f)(1)(B) is considered as consent 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 except Dr. Benzeevi, who filed and served a declaration in response to the motion which the court has considered and the reply thereto which the court considered, are entered and the matter will be resolved without oral argument.

In a declaration (Docket #296), Dr. Benzeevi affirmatively states his and Medflow, PC's lack of opposition to this motion. Dr. Benzeevi did raise some disputed factual issues raised by the debtor. However, this motion is not opposed.

The contract between debtor and Medflow, PC may be rejected and any claim resulting from this rejection must be filed by March 12, 2018.

5. [17-12998](#)-B-12 **IN RE: LJB FARMS, LLC**

CONTINUED STATUS CONFERENCE RE: CHAPTER 12 VOLUNTARY
PETITION
8-3-2017 [[1](#)]

JACOB EATON

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

DISPOSITION: Dropped from calendar.

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

The plan having been confirmed December 16, 2017 (Docket #136), there is no need for the status conference and it is dropped from calendar.

6. [17-12998](#)-B-12 **IN RE: LJB FARMS, LLC**
[KDG-3](#)

CONTINUED MOTION TO USE CASH COLLATERAL AND/OR MOTION FOR
ADEQUATE PROTECTION
8-24-2017 [[33](#)]

LJB FARMS, LLC/MV
JACOB EATON
RESPONSIVE PLEADING

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

DISPOSITION: Dropped from calendar.

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

The plan was confirmed on December 16, 2017 (Docket #136). Cash collateral use is therefore not relevant.

7. 17-12857-B-11 IN RE: SAC DEVELOPMENT, INC.
RDW-1

MOTION FOR RELIEF FROM AUTOMATIC STAY
12-27-2017 [[166](#)]

CIVIC HOLDINGS V-N TRUST/MV
JUSTIN HARRIS
REILLY WILKINSON/ATTY. FOR MV.
DISMISSED

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 case has already been entered.

3. [17-13504](#)-B-13 **IN RE: SAMUEL/OLGA NEVAREZ**
[DCW-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY CORNERSTONE FINANCIAL
SERVICES
12-13-2017 [[33](#)]

CORNERSTONE FINANCIAL
SERVICES/MV
THOMAS GILLIS
DENNIS WINTERS/ATTY. FOR MV.
RESPONSIVE PLEADING

NO RULING.

4. [17-12717](#)-B-13 **IN RE: DALJIT SINGH**
[BCV-2](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
12-21-2017 [[81](#)]

CIT GROUP, INC./MV
HANK WALTH
BRIAN VANDERHOOF/ATTY. FOR MV.

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

DISPOSITION: Denied without prejudice.

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

This motion is denied without prejudice for failure to comply with
the Local Rules of Bankruptcy.

This motion was filed on December 21, 2017 and set for hearing on
January 11, 2018. Therefore the motion was set on less than 28 days'
notice. Local Rule 9014-1(f)(2)(C) requires the notice to state that
no party in interest shall be required to file written opposition to
the motion, but may present an opposition at the hearing. The
notice filed by movant not only stated that any opposition would
have to be written and filed, but the number of days prior to the
hearing stated by the notice is ambiguous. In print, the notice
states "seven" days, but in parentheses directly next to the "seven"
the notice states "(14)" days. Therefore, the notice does not
comply with Local Rule 9014-1(f)(2).

Additionally, the motion and supporting documents do not comply with
Local Rule 9004-2(b)(5). That rule requires a caption on the first
page of each document filed, which must include, *inter alia*, the
date, time and location of the hearing. Only the Certificate of
Service complies with this rule. And while the Notice does include
the date, time, and location of the hearing, it is located in the

first paragraph, not in a caption. Therefore, this motion is DENIED WITHOUT PREJUDICE.

5. 17-10318-B-13 IN RE: ALBERT/DEE ANNA KNAUER
TCS-1

CONTINUED OBJECTION TO CLAIM OF COMM 2006-C8 SHAW AVENUE
CLOVIS, CLAIM NUMBER 3
10-6-2017 [36]

ALBERT KNAUER/MV
TIMOTHY SPRINGER
RESPONSIVE PLEADING

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

DISPOSITION: Resolved by stipulation of the parties.

NO ORDER REQUIRED. No appearance is necessary. Resolved by stipulation of the parties.

6. 15-14228-B-13 IN RE: OSCAR GUTIERREZ
GEG-5

MOTION FOR COMPENSATION FOR GLEN E. GATES, DEBTORS
ATTORNEY(S)
12-12-2017 [138]

GLEN GATES
CONTINUED TO 1/25 WITHOUT AN ORDER

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

DISPOSITION: Denied without prejudice.

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

This motion is denied without prejudice. Movant filed an amended notice of hearing on December 21, 2017 (Doc. No. 143) to include the new LBR 9014-1(d)(3)(B) language but failed to comply with LBR 9014-1(j) which provides that a continuance of the originally set court date must be by written application. No order modifying the notice was obtained.

7. [17-12829](#)-B-13 **IN RE: J J VALENCIA- HIGAREDA AND ANA VALENCIA**
[TOG-1](#)

MOTION TO CONFIRM PLAN
11-30-2017 [[63](#)]

J J VALENCIA- HIGAREDA/MV
THOMAS GILLIS
RESPONSIVE PLEADING

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

DISPOSITION: Denied.

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

By prior order of the court on November 17, 2017, the debtors were to have their plan confirmed by January 11, 2018. The court notes that the trustee has filed detailed objections. One objection is that the plan is identical to the July 24, 2017 plan (confirmation of this plan was already denied, Docket #61).

Additionally, the debtors' have not filed amended Schedules I and J showing the ability to make the payments under this plan, and it has been more than four months since the debtors filed the original schedules. At the previous confirmation hearing, the debtors alleged that they would make less towards the end of the year and make less in the future, thereby arguing that their own schedules were no longer accurate. Debtors cannot argue that the schedules are not accurate for liquidation purposes and then rely on them to demonstrate feasibility. This motion is DENIED.

8. [17-13932](#)-B-13 **IN RE: OSCAR HERNANDEZ-SANDOVAL AND NIDIA**
PAYAN
[SEH-3](#)

OBJECTION TO CONFIRMATION OF PLAN BY PROTECTIVE FINANCIAL,
LLC
12-8-2017 [[31](#)]

PROTECTIVE FINANCIAL, LLC/MV
KRISTY HERNANDEZ
SCOTT HARTLEY/ATTY. FOR MV.
RESPONSIVE PLEADING

NO RULING.

9. [17-13932](#)-B-13 **IN RE: OSCAR HERNANDEZ-SANDOVAL AND NIDIA
PAYAN**
[SEH-4](#)

OBJECTION TO CONFIRMATION OF PLAN BY THE PERMANENTE MEDICAL
GROUP
12-8-2017 [[34](#)]

THE PERMANENTE MEDICAL
GROUP/MV
KRISTY HERNANDEZ
SCOTT HARTLEY/ATTY. FOR MV.
RESPONSIVE PLEADING

NO RULING.

10. [15-14133](#)-B-13 **IN RE: EDUARDO EQUIHUA**
[TOG-1](#)

MOTION TO SELL
12-14-2017 [[59](#)]

EDUARDO EQUIHUA/MV
THOMAS GILLIS
RESPONSIVE PLEADING

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

DISPOSITION: Granted.

ORDER: The minutes of the hearing will be the court's
findings and conclusions. The moving party
shall submit a proposed order after the
hearing in conformance with the ruling below.

This motion will proceed as scheduled for submission of higher and
better bids, if any.

The motion was fully noticed in compliance with the Local Rules of
Practice and no opposition was filed. Creditor Bank of America,
N.A. and the trustee both filed limited oppositions. If no higher
and better bids are received at the time of the hearing, then the
sale will be approved. The order shall include that the secured
creditor's lien shall be fully paid off pursuant to a formal payoff
demand and a replacement lien is conferred on the sale proceeds.
The order shall also provide that the trustee is to place a claim
into escrow for the balance of Bank of America's pre-petition
arrears in addition to any and all delinquent mortgage payments on
this claim, and that the trustee sign off on both the estimated
closing statement and escrow instructions.

Both the creditor and trustee shall sign as to the form and content of the order.

11. [17-10236](#)-B-13 **IN RE: PAUL/KATHLEEN LANGSTON**
[FW-6](#)

MOTION TO CONFIRM PLAN
12-7-2017 [[128](#)]

PAUL LANGSTON/MV
PETER FEAR
OST 12/8/17, RESPONSIVE PLEADING

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: No disposition.

ORDER: The minutes of the hearing will be the court's findings and conclusions. Preparation of the order shall be determined at the hearing.

This motion to confirm is scheduled under an order shortening time. The trustee filed a detailed objection to the plan, and the debtor filed a timely response to the trustee's objection.

There are feasibility issues relating to the retirement of a substantial domestic support obligation. Regardless of whether §§ 7.07 or 5.02 of the Plan applies, 11 U.S.C. § 1322(a)(2) requires full payment of the domestic support obligation. This plan does not propose to do so without Ms. Geesman's cooperation or amendment of her claim.

In their response, debtors were amiable to the proposed language to achieve confirmation in trustee's objection. Debtors did however, make a few requests in addition to the trustee's proposed language. If the trustee's language is still agreeable to the debtors, and the feasibility issues resolved, then the plan will be confirmed with the trustee's proposed language to be included in the confirmation order.

12. [17-11338](#)-B-13 **IN RE: ANTHONY/VIRGINIA GONZALES**
[PBB-2](#)

MOTION TO MODIFY PLAN
11-30-2017 [[51](#)]

ANTHONY GONZALES/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.

The modified plan is CONFIRMED.

13. [17-14039](#)-B-13 **IN RE: PETER/ADRIANNA BISACCA**
[BDA-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY EXETER FINANCE LLC
12-7-2017 [[17](#)]

EXETER FINANCE LLC/MV
MARK ZIMMERMAN
BRET ALLEN/ATTY. FOR MV.

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

DISPOSITION: Continued to February 1, 2018 at 1:30 p.m.

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

The trustee has not yet concluded the meeting of creditors and by prior order of the court, the trustee has another 7 days after completion of the creditors' meeting to file his objection to the plan. At the continued hearing, if the § 341 has been concluded and this objection has not been withdrawn, the court will call the matter and set an evidentiary hearing.

14. [17-14339](#)-B-13 **IN RE: SHAWN WILLIAMS**
[AP-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY AND/OR MOTION FOR
RELIEF FROM CO-DEBTOR STAY
12-6-2017 [[29](#)]

WELLS FARGO BANK, N.A./MV
NIMA VOKSHORI
JAMIE HANAWALT/ATTY. FOR MV.

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

DISPOSITION: Continued to February 15, 2018 at 1:30 p.m.

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

Pursuant to the stipulation to continue this hearing (Docket #52)
filed on January 10, 2018, this matter is being continued to
February 15, 2018 at 1:30 p.m.

Counsel is reminded that new Local Rules of Practice in the Eastern
District became effective on September 26, 2017. In particular,
Rule 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.

15. [16-11356](#)-B-13 **IN RE: CHERYL DOEPEL**
[PLG-2](#)

MOTION TO MODIFY PLAN
11-29-2017 [[37](#)]

CHERYL DOEPEL/MV
RABIN POURNAZARIAN

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

DISPOSITION: Denied without prejudice.

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

This motion is denied without prejudice for failure to comply with
Local Bankruptcy Rule 9014-1(d)(3)(B)(iii). New Local Rules of
Practice in the Eastern District became effective on September 26,
2017. In particular, Rule 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.

16. [17-14157](#)-B-13 **IN RE: VICTOR ISLAS AND LORENA GONZALEZ**
[TOG-2](#)

MOTION TO VALUE COLLATERAL OF CITIFINANCIAL SERVICES
12-7-2017 [[25](#)]

VICTOR ISLAS/MV
THOMAS GILLIS

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.

The motion will be granted without oral argument based on well-pled facts. This motion to value respondent's collateral 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 is competent to testify as to the value of the 2000 Isuzu Rodeo. Given the absence of contrary evidence, the debtor's opinion of value may be conclusive. *Enewally v. Washington Mutual Bank (In re Enewally)*, 368 F.3d 1165, 1173 (9th Cir, 2004). The respondent's secured claim will be fixed at \$1,256.00. The proposed order shall specifically identify the collateral, and if applicable, the proof of claim to which it relates. The order will be effective upon confirmation of the chapter 13 plan.

17. [17-11570](#)-B-13 **IN RE: GREGGORY KIRKPATRICK**
[MC-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
12-8-2017 [[119](#)]

CHRISTOPHER CALLISON/MV
MARTIN GAMULIN
ROBERT ABRAMS/ATTY. FOR MV.
RESPONSIVE PLEADING

TENTATIVE RULING: This matter will proceed as a scheduling
 conference.

DISPOSITION: None. Any continued date will be set at the
 hearing.

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

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 house is adequately insured and whether the debtor has any
equity in the home.

18. [17-13674](#)-B-13 **IN RE: DAVID ALANIS**
[MHM-1](#)

CONTINUED MOTION TO DISMISS CASE
11-15-2017 [[23](#)]

MICHAEL MEYER/MV
CHRISTOPHER FISHER
RESPONSIVE PLEADING

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

DISPOSITION: Dropped from calendar.

NO ORDER REQUIRED. No appearance is necessary. The motion
 has been withdrawn.

19. [17-13798](#)-B-13 **IN RE: JASON/MANDY LAWTON**
[SAH-1](#)

MOTION TO VALUE COLLATERAL OF WELLS FARGO BANK, N.A.
11-13-2017 [[19](#)]

JASON LAWTON/MV
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.

The motion will be granted without oral argument based on well-pled facts. This motion to value respondent's collateral 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 is competent to testify as to the value of the 2007 Chevrolet Suburban. Given the absence of contrary evidence, the debtor's opinion of value may be conclusive. *Enewally v. Washington Mutual Bank (In re Enewally)*, 368 F.3d 1165, 1173 (9th Cir, 2004). The respondent's secured claim will be fixed at \$9,600.00. The proposed order shall specifically identify the collateral, and if applicable, the proof of claim to which it relates. The order will be effective upon confirmation of the chapter 13 plan.

20. [17-13798](#)-B-13 IN RE: JASON/MANDY LAWTON
[SAH-2](#)

MOTION TO VALUE COLLATERAL OF TD AUTO FINANCE, LLC
11-13-2017 [24]

JASON LAWTON/MV
SUSAN HEMB
RESPONSIVE PLEADING

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

DISPOSITION: Resolved by stipulation of the parties

NO ORDER REQUIRED. No appearance is necessary. Resolved by stipulation of the parties and order of the court.

21. [17-13798](#)-B-13 IN RE: JASON/MANDY LAWTON
[SAH-3](#)

MOTION TO VALUE COLLATERAL OF BRANDSOURCE/CITI CBNA
11-13-2017 [29]

JASON LAWTON/MV
SUSAN HEMB

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

DISPOSITION: Denied without prejudice.

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

The declaration is ambiguous as to whether it references a vehicle (which would make it irrelevant) or furniture. The declaration is also deficient in not stating the "replacement value," as required by 11 U.S.C. § 506(a)(2). The debtors must also establish a factual basis for their valuation opinion, such as specifying the age of the collateral, condition, what are the items at issue, etc. The motion is DENIED WITHOUT PREJUDICE.

22. [17-13798](#)-B-13 **IN RE: JASON/MANDY LAWTON**
[SAH-4](#)

MOTION TO AVOID LIEN OF CALIFORNIA BUSINESS BUREAU INC.
11-13-2017 [[34](#)]

JASON LAWTON/MV
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.

A judgment was entered against the debtor in favor of California Business Bureau Inc. for the sum of \$39,908.23 on November 2, 2016. The abstract of judgment was recorded with Fresno County on March 9, 2017. That lien attached to the debtor's interest in a residential real property in Fresno, California. The motion will be granted pursuant to 11 U.S.C. § 522(f)(1)(A). The subject real property had an approximate value of \$296,000.00 as of the petition date. Docket 1, Schedule C. The unavoidable liens totaled \$264,419.00 on that same date, consisting of a first deed of trust in favor of Central Loan Administration & Reporting. Docket 34. The debtor claimed an exemption pursuant to Cal. Civ. Proc. Code § 704.730 in the amount of \$100,000.00 in Schedule C. Docket 1.

The respondent holds a judicial lien created by the recordation of an abstract of judgment in the chain of title of the subject real property. 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).