

UNITED STATES BANKRUPTCY COURT  
Eastern District of California  
Honorable René Lastreto II  
Hearing Date: Wednesday, January 16, 2019  
Place: Department B – Courtroom #13  
Fresno, California

**INSTRUCTIONS FOR PRE-HEARING DISPOSITIONS**

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

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

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

**Final Ruling:** Unless otherwise ordered, there will be no hearing on these matters. The final disposition of the matter is set forth in the ruling and it will appear in the minutes. The final ruling may or may not finally adjudicate the matter. If it is finally adjudicated, the minutes constitute the court's findings and conclusions.

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

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

9:30 AM

1. [18-14502](#)-B-7     **IN RE: ROBERTO VARELA**  
[AP-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY  
12-18-2018    [\[19\]](#)

NATIONSTAR MORTGAGE LLC/MV  
THOMAS GILLIS  
WENDY LOCKE/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. The collateral is a parcel of real property commonly known as 5181 East Olive Avenue, Unit 117, Fresno, California 93727. Doc. #22. The collateral has a value of \$69,232.00 and the amount owed is \$62,382.91. Doc. #21.

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 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).

2. [11-19905](#)-B-7     **IN RE: RICHARD MCINTYRE**  
[FW-6](#)

MOTION FOR COMPENSATION BY THE LAW OFFICE OF FEAR WADDELL,  
PC FOR PETER A. SAUER, TRUSTEES ATTORNEY(S)  
12-19-2018    [\[85\]](#)

TIMOTHY SPRINGER

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 has been set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of the creditors, the debtor, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014- 1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument.

The motion will be GRANTED. Trustee's special counsel, The Law Office of Fear Waddell, PC requests fees of \$22,375.50 and costs of \$220.84 for a total of \$22,596.34 for services rendered from April 5, 2017 through December 18, 2018.

11 U.S.C. § 330(a)(1)(A) & (B) permits approval of "reasonable compensation for actual necessary services rendered by . . .[a] professional person" and "reimbursement for actual, necessary expenses." Movant's services included, without limitation: (1) Asset analysis and recovery, (2) Asset disposition, including prosecuting a wrongful death claim, (3) Filing and prosecuting fee and employment applications, and (4) Administering claims and objections against the estate. The court finds the services reasonable and necessary and the expenses requested actual and necessary.

Movant shall be awarded \$22,375.50 in fees and \$220.84 in costs.

3. [10-62908](#)-B-7      **IN RE: DANIEL/DIANE MULLER**  
[BDB-2](#)

MOTION TO AVOID LIEN OF AMERICAN EXPRESS BANK, FSB  
12-17-2018    [\[32\]](#)

DANIEL MULLER/MV  
BENNY BARCO

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

DISPOSITION:      Granted.

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

This motion was set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of the creditors, the debtor, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014- 1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument. Upon default, factual allegations will be taken as true (except those relating to amount of damages). Televideo Systems, Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires that a plaintiff make a prima facie showing that they are entitled to the relief sought, which the movant has done here.

In order to avoid a lien under 11 U.S.C. § 522(f)(1) the movant must establish four elements: (1) there must be an exemption to which the debtor would be entitled under § 522(b); (2) the property must be listed on the debtor's schedules as exempt; (3) the lien must impair the exemption; and (4) the lien must be either a judicial lien or a non-possessory, non-purchase money security interest in personal property listed in § 522(f)(1)(B). § 522(f)(1); Goswami v. MTC Distrib. (In re Goswami), 304 B.R. 386, 390-91 (9th Cir. BAP 2003), quoting In re Mohring, 142 B.R. 389, 392 (Bankr. E.D. Cal. 1992), aff'd 24 F.3d 247 (9th Cir. 1994).

A judgment was entered against the debtor in favor of American Express Bank, FSB in the sum of \$23,768.15 on August 4, 2010. Doc. #35. The abstract of judgment was recorded with Fresno County on September 16, 2010. *Id.* That lien attached to the debtor's interest in a residential real property in Fresno, CA. The motion will be granted pursuant to 11 U.S.C. § 522(f)(1)(A). The subject real property had an approximate value of \$190,000.00 as of the petition date. Doc. #14. The unavoidable liens totaled \$342,110.68 on that same date, consisting of a first and second deed of trust in favor of Wells Fargo Bank. *Id.* The debtor claimed an exemption pursuant to

Cal. Civ. Proc. Code § 703.140(b) (5) in the amount of \$1.00. Doc. #37.

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

4. [17-14619](#)-B-7      **IN RE: AMANDA/CALVIN HAMM**  
[PFT-1](#)

MOTION TO COMPEL AND/OR MOTION TO REDUCE TIME ALLOWED TO  
AMEND EXEMPTIONS  
12-18-2018    [\[26\]](#)

PETER FEAR/MV  
PETER FEAR/ATTY. FOR MV.

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

DISPOSITION:      Granted.

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

This motion was set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f) (1). The failure of the creditors, the debtor, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f) (1) (B) may be deemed a waiver of any opposition to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument. Upon default, factual allegations will be taken as true (except those relating to amount of damages). Televideo Systems, Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires that a plaintiff make a prima facie showing that they are entitled to the relief sought, which the movant has done here.

This motion is GRANTED. 11 U.S.C. § 541(a) (1) defines property of the estate as "all legal or equitable interests of the debtor in property as of the commencement of the case." In the Ninth Circuit, "[T]he right to receive a tax refund constitutes an interest in property." Nichols v. Birdsell, 491 F.3d 987, 990 (9th Cir. 2007).

On the bankruptcy petition date, debtor had a right to 2017 Federal and State tax refunds. Debtor's Schedules also showed substantial equity in real property located at 8752 E Kahn Street in Selma, CA 93662 and a 2007 Chevrolet Tahoe. 11 U.S.C. § 542(a) requires debtor

to turn over property of the estate that was in their possession, custody or control during the case or its value.

The trustee has continued the § 341 meeting of creditors ten times, with an eleventh meeting scheduled approximately one week after this hearing. All of those continuances were provided in order to allow debtors an opportunity to turn over the tax refund and other property to the trustee. Debtors appeared at some, but failed to appear at the majority due to illness.

Federal Rule of Bankruptcy Procedure ("Rule") 1009(a) gives the debtor the right to amend their schedules at any time before the case is closed.

Rule 9006(c) allows the court, for cause, in its discretion, to order a time period reduced when "an act is . . . allowed to be done at or within a specified time by" the Rules.

The court finds cause to reduce the specified time by which debtors may further amend their Schedule C. This case was filed on December 4, 2017. The case has been pending for over a year and after numerous opportunities from the Trustee to turn over property, the debtors have failed to do so. The trustee has a duty to expeditiously liquidate and dispose of estate property in order to pay debtor's creditors. The debtors have not opposed this motion, and have not given the court any justifiable excuse or reason for their inability to turn over the property.

Therefore, debtors shall immediately turn over to the trustee the real property located at 8752 E Kahn Street in Selma, CA 93662, the 2007 Chevrolet Tahoe, and the 2017 tax returns and tax refunds within 14 days of the date this order is issued. If debtors fail to do so, they may face sanctions.

Debtors shall have until February 15, 2019 to amend their exemptions on Schedule C.

5. [18-14720](#)-B-7      **IN RE: TERESA GARNICA**

MOTION FOR WAIVER OF THE CHAPTER 7 FILING FEE  
11-26-2018    [\[6\]](#)

TERESA GARNICA/MV  
RESPONSIVE PLEADING, DISMISSED 12/14/18, CLOSED 1/2/19

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

DISPOSITION:                      Dropped from calendar.

NO ORDER REQUIRED:              An order dismissing the case has already been entered. Doc. #19.

6. [18-11222](#)-B-7      **IN RE: SAMUEL/CRYSTAL M. FLORES**  
[FW-2](#)

MOTION TO EMPLOY RISSA STUART AS SPECIAL COUNSEL  
12-19-2018    [\[33\]](#)

TRUDI MANFREDO/MV  
MARK ZIMMERMAN  
PETER SAUER/ATTY. FOR MV.

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

DISPOSITION:      Granted.

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

This motion was set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of the creditors, the debtor, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014- 1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument. Upon default, factual allegations will be taken as true (except those relating to amount of damages). Televideo Systems, Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires that a plaintiff make a prima facie showing that they are entitled to the relief sought, which the movant has done here.

This motion is GRANTED. 11 U.S.C. § 328(a) permits employment of "professional persons" on "reasonable terms and conditions" including "contingent fee basis."

Trustee is authorized to employ Rissa Stuart of the Kahn Soares Conway, LLP law firm ("Special Counsel") as special purpose counsel to advise, and potentially litigate or settle on behalf of the estate, a personal injury claim of the estate.

The trustee proposes to compensate Special Counsel on a percentage collected basis. The percentage is 33.3% of any recovery, plus the reimbursement of costs, contingent upon actual recovery on behalf of the estate. Doc. #33.

The trustee proposes that Attorney Stuart be retained retroactively to the date of the petition - March 30, 2018. The Ninth Circuit has a two prong standard for the retroactive employment of estate professionals. Courts require: (1) satisfactory explanation for the failure of the estate to obtain prior court approval; and (2) a showing that the professional has benefitted the estate. In re The Fin. Corp., 837 F.2d 389, 392 (9th Cir. 1988). In deciding whether

there is a satisfactory explanation for the failure of the estate to obtain prior court approval exists, the court may consider not just the reason for the delay but also prejudice, or lack thereof, to the estate resulting from the delay. In re Gutterman, 239 B.R. 828, 831 (Bankr. N.D. Cal. 1999); see also Atkins v. Wain, 69 F.3d 970, 974 (9th Cir. 1995). The decision to grant retroactive approval is subject to the discretion of the court. Gutterman, 239 B.R. at 831.

First, the trustee states that the claim at issue was not listed on the schedules until they were amended on June 15, 2018. Nothing in the declarations establish if Attorney Stuart knew of the bankruptcy case before this motion was filed six months later. The court assumes Attorney Stuart did not since there is no opposition to this application. The delay after the schedule amendment is troubling but the Stuart declaration states that discovery in the underlying action is just beginning. There appears to be no prejudice. The court finds there is a satisfactory explanation for the delay.

Second, the prosecution of the action by Attorney Stuart has protected the rights of the estate in the claim. The complaint was filed before the bankruptcy petition and Attorney Stuart has been attending to the action. The monetary benefit to the estate is unknown at this time. But, there would be no potential benefit without the services. The court finds that Attorney Stuart's services have, so far, benefitted the estate.

The court finds the proposed arrangement reasonable in this instance. The application shall be effect nunc pro tunc from the date of the petition (March 30, 2018). If the fee arrangement proves improvident, the court may allow different compensation under 11 U.S.C. § 328(a).

7. [18-13824](#)-B-7     **IN RE: JEFFREY/ALYSHA GRAHAM**  
[AP-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY  
12-18-2018    [\[21\]](#)

WELLS FARGO BANK, N.A./MV  
JERRY LOWE  
WENDY LOCKE/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 debtors' and the trustee's defaults will be entered. The automatic stay is terminated as it applies to the movant's right to enforce its remedies against the subject property under applicable nonbankruptcy law. The record shows that cause exists to terminate the automatic stay.



The proposed order shall specifically describe the property or action to which the order relates. The collateral is a parcel of real property commonly known as 4288 N. Greenwood Ave., Sanger, California 93657. Doc. #24. The collateral has a value of \$450,000.00 and the amount owed is \$374,788.03. Doc. #23.

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

If an award of attorney fees has been requested, it will be denied without prejudice. A motion for attorney fees pursuant to 11 U.S.C. §506(b), or applicable nonbankruptcy law, must be separately noticed and separately briefed with appropriate legal authority and supporting documentation. In addition, any future request for an award of attorney's fees will be denied unless the movant can prove there is equity in the collateral. 11 U.S.C. §506(b).

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).

8. [18-14432](#)-B-7      **IN RE: MICHAEL SAN MIGUEL AND JUANITA CRUZ**  
[RPZ-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY  
12-6-2018    [\[18\]](#)

PENNYMAC LOAN SERVICES, LLC/MV  
MARK ZIMMERMAN  
ROBERT ZAHRADKA/ATTY. FOR MV.

TENTATIVE RULING:            This matter will proceed as scheduled.

DISPOSITION:                Denied without prejudice unless movant can submit a stipulation signed by the current chapter 7 trustee.

ORDER:                        The court will issue an order.

The motion will be DENIED WITHOUT PREJUDICE. The record does not show that this motion was served on the Chapter 7 Trustee, Peter L. Fear. The default of the debtor and all other interested parties shall be entered since no opposition was timely served and filed pursuant to Local Rule of Practice 9014-1(f)(1).

The record reflects that Chapter 7 Trustee, Trudi Manfredo resigned as the appointed Trustee in this case. Doc. #13. A successor trustee, Peter L. Fear, was appointed on December 4, 2018. Doc. #15. A Notice of Amendment to 341 Notice was served on December 6, 2018 to all parties. Doc. #25. The court notes that this motion was filed on December 6, 2018, the same date as service of the Notice of Amendment to 341 Notice. As of the date the court reviewed this

matter, no proof of service has been filed to indicate proper service on the successor Trustee.

In lieu of denial, the creditor may file a stipulation to relief from the automatic stay signed by the current Chapter 7 Trustee, Peter L. Fear.

9. [18-13642](#)-B-7     **IN RE: ANDRE COBBS**  
[UST-1](#)

MOTION FOR DENIAL OF DISCHARGE OF DEBTOR UNDER 11 U.S.C.  
SECTION 727(A)  
12-11-2018    [\[28\]](#)

TRACY DAVIS/MV  
ROBIN TUBESING/ATTY. FOR MV.

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

DISPOSITION:        Continued to February 13, 2019 9:30 a.m.

ORDER:                The court will issue an order.

Due to the lapse in funding caused by the partial government shutdown, the United States Trustee ("UST") is unable to prosecute the motion at this time. The court notes the UST's motion for stay of hearing. Doc. #35. Therefore, for good cause, this motion is continued to February 13, 2019 at 9:30 a.m. If UST still does not have funding at that point, the court may again continue the motion.

10. [18-14459](#)-B-7     **IN RE: STEPHEN/JULIE KNIGHT**  
[MAZ-1](#)

MOTION TO CONVERT CASE FROM CHAPTER 7 TO CHAPTER 13  
12-13-2018    [\[19\]](#)

MARK ZIMMERMAN

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 court will issue the order.

This motion is DENIED WITHOUT PREJUDICE. Constitutional due process requires that the movant make a *prima facie* showing that they are entitled to the relief sought. Here, the moving papers do not present "sufficient factual matter, accepted as true, to 'state a claim to relief that is plausible on its face.'" In re Tracht Gut, LLC, 503 B.R. 804, 811 (9th Cir. BAP, 2014), citing Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009), and Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 570 (2007).

11 U.S.C. § 706(a) plainly states that a chapter 7 debtor may convert their case to chapter 13 "at any time" if the case was not previously converted.

11 U.S.C. § 706(d) states that "a case may not be converted to a case under another chapter of this title unless the debtor may be a debtor under such chapter."

Courts must also find that the debtor is eligible to be a debtor in chapter 13 pursuant to the Supreme Court's decision Marrama v. Citizens Bank, 549 U.S. 365, 371-72 (2007). The Court held that a debtor does not have an absolute right to convert to chapter 13 under 11 U.S.C. § 706(a), but must also be eligible to a debtor under that chapter. The Supreme Court held that "[i]n practical effect, a ruling that an individual's Chapter 13 case should be dismissed or converted to Chapter 7 because of prepetition bad-faith conduct, including fraudulent acts committed in an earlier Chapter 7 proceeding, is tantamount to a ruling that the individual does not qualify as a debtor under Chapter 13." Therefore, this court must find that the debtors are eligible to be debtors under chapter 13 in conformance with 11 U.S.C. § 1307(c).

The court finds that debtors are not eligible under chapter 13. Debtors' Schedules I and J show a current monthly net income of negative \$204.69. Doc. #1. Therefore debtors do not have any income to fund a chapter 13 plan. See also 11 U.S.C. §§ 101(30), 109(e).

While income may be regular, 11 U.S.C. § 101(30) "requires an individual with regular income" to be an individual with stable and regular income to make payments under a plan under chapter 13. The schedules show that debtors cannot.

11. [18-12972](#)-B-7     **IN RE: CHRISTOPHER WRIGHT**  
[EAT-2](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY  
12-12-2018    [\[31\]](#)

U.S. BANK, N.A./MV  
DARLENE VIGIL/ATTY. FOR MV.  
CASE DISMISSED 9/18/18, REOPENED 12/13/18

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

DISPOSITION:     Granted.

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

This motion was set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of the creditors, the debtor, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014- 1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. Cf. Ghazali v.

Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument. Upon default, factual allegations will be taken as true (except those relating to amount of damages). Televideo Systems, Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires that a plaintiff make a prima facie showing that they are entitled to the relief sought, which the movant has done here.

The movant, U.S. Bank, N.A., seeks relief from the automatic stay under § 362(d)(1) retroactively with respect to a piece of real property located at 5717 Taft Avenue in South Gate, CA 90280.

11 U.S.C. § 362(d)(1) allows the court to grant relief from stay for cause, including the lack of adequate protection. "Because there is no clear definition of what constitutes 'cause,' discretionary relief from the stay must be determined on a case by case basis." In re Mac Donald, 755 F.2d 715, 717 (9th Cir. 1985).

The Ninth Circuit Court of Appeals has warned that retroactive relief should only be "applied in extreme circumstances." In re Aheong, 276 B.R. 233, 250 (B.A.P. 9th Cir. 2002) (citations omitted). In In re Fjeldsted, 293 B.R. 12, 24-25 (B.A.P. 9th Cir. 2003), the court outlined factors for a court to consider when deciding a motion to annul the automatic stay: the number of bankruptcy filings by the debtor; whether, in a repeat filing case, the circumstances indicate an intent to delay and hinder creditors; the extent of any prejudice, including to a bona fide purchaser; the debtor's overall good faith; the debtor's compliance with the Code; the relative ease of restoring the parties to the *status quo ante*; how quickly the creditor moved for annulment; and how quickly the debtor moved to set aside the sale; whether creditors proceeded to take steps in continued violation of the stay, or whether they moved expeditiously to gain relief; whether annulment of the stay will cause irreparable injury to the debtor; and whether stay relief will promote judicial economy or other efficiencies. One factor alone may be dispositive. *Id.* at 25.

The court finds that the *Fjeldsted* factors weigh in favor of the creditor. Though this is debtor's first bankruptcy case, it is apparently the seventh bankruptcy case that the subject property has been involved in. In every one of those bankruptcy cases, the subject property was apparently transferred to the debtor, all seven of which who were different, by way of grant deed just days before the case was filed. This shows that there was a clear intent to delay and hinder creditors. Doc. #36. There would be prejudice to a bona fide purchaser because the creditor actually bought at the non-judicial foreclosure sale. *Id.* As shown by the frequent transfer of the subject property, there was an apparent intent and delay to hinder creditors with skeleton filings. This debtor's case was actually dismissed because he failed to appear at his § 341 meeting and filed a barebones petition. Doc. #1, 24. The debtor has not filed in good faith. It would not be easy to restore the parties to

the *status quo ante* because creditor has already bought the property. The creditors did not take further steps to violate the stay, annulment will not cause irreparable injury to the debtor, and stay relief will promote judicial economy because it will prevent further unnecessary legal action on movant's part.

Therefore, the court finds that "cause" exists to retroactively annul the automatic stay under 11 U.S.C. § 362(d)(1). This motion is GRANTED.

The 14-day stay of Fed. R. Bankr. P. 4001(a)(3) will be ordered waived due to the fact that the movant has title to the real property.

12. [18-14172](#)-B-7      **IN RE: SALVADOR GUZMAN**  
[RSL-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY  
12-14-2018    [\[10\]](#)

TOYOTA MOTOR CREDIT  
CORPORATION/MV  
NEIL SCHWARTZ  
ROBERT LAMPL/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 collateral is a 2016 Toyota Prius. Doc. #14. The collateral has a value of \$17,225.00 and debtor owes \$25,883.37. *Id.*

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

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).

13. [18-12685](#)-B-7     **IN RE: SYLVIA AVILA**  
[MAZ-1](#)

MOTION TO CONVERT CASE FROM CHAPTER 7 TO CHAPTER 13  
12-13-2018    [\[19\]](#)

MARK ZIMMERMAN  
DISCHARGED 10/11/18, RESPONSIVE PLEADING

TENTATIVE RULING:            This matter will proceed as scheduled.

DISPOSITION:                  Denied without prejudice.

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

This motion was filed and served pursuant to Local Rule of Practice ("LBR") 9014-1(f)(1) and will proceed as scheduled. The trustee timely responded, stating that they were "uncertain of a debtor's qualification to convert a case from Chapter 7 to 13 once the discharge has been entered in the Chapter 7 case." Doc. #27.

The issue of whether a debtor in chapter 7 who moves for a conversion order after receiving their discharge has not been widely analyzed in this District nor the 9th Circuit.

11 U.S.C. § 706(a) plainly states that a chapter 7 debtor may convert their case to chapter 13 "at any time" if the case was not previously converted.

11 U.S.C. § 706(d) states that "a case may not be converted to a case under another chapter of this title unless the debtor may be a debtor under such chapter."

The waters of conversion from chapter 7 to chapter 13 were subsequently muddled by the Supreme Court's decision Marrama v. Citizens Bank, 549 U.S. 365, 371-72 (2007). The Court held that a debtor does not have an absolute right to convert to chapter 13 under 11 U.S.C. § 706(a), but must also be eligible to a debtor under that chapter. The Supreme Court held that "[i]n practical effect, a ruling that an individual's Chapter 13 case should be dismissed or converted to Chapter 7 because of prepetition bad-faith conduct, including fraudulent acts committed in an earlier Chapter 7 proceeding, is tantamount to a ruling that the individual does not qualify as a debtor under Chapter 13." Therefore, this court must find that the debtor is eligible to be a debtor under chapter 13 in conformance with 11 U.S.C. § 1307(c).

Concerning chapter 7 conversion to chapter 13 post-discharge however, the Central District of California Bankruptcy Court in In re Santos, 561 B.R. 825, 832 (Bankr. C.D. Cal. 2017) has tackled this question. That court held that post-discharge conversion "would constitute an abuse of process to allow Debtors to retain their discharge, but preclude full administration of the Chapter 7 bankruptcy estate by the Trustee." The court cited to In re

Starling, 359 B.R. 907-09 (Bankr. N.D. Ill. 2007), which stated that conversion can only be authorized after vacation of the chapter 7 discharge, and In re Hauswirth, 242 B.R. 95, 96 (Bankr. N.D. Ga. 1999), which stated "[t]he other courts which have considered that question have all reached the tacit conclusion that a debtor may not convert from Chapter 7 to Chapter 13 and retrain the Chapter 7 discharge." In re Santos, 561 B.R. at 827.

However, the District Court for the Eastern District of California in In re Johnson, 564 B.R. 653 (E.D. Cal. 2017) held that "[a] chapter 7 discharge does not prevent him from obtaining what he wants - a Chapter 13 conversion." *Id.* at 660. In Johnson, the chapter 7 debtor moved the bankruptcy court to convert his chapter 7 case to a chapter 13 case one day prior to the court entering his chapter 7 discharge. *Id.* at 655. That first motion was denied without prejudice on procedural grounds. *Id.* The day after the bankruptcy court entered his discharge, the bankruptcy court clerk entered Johnson's second motion to convert from chapter 7 to chapter 13. *Id.* Shortly after, Johnson moved to set aside the discharge order; the bankruptcy court denied the motion and dismissed his second conversion motion. *Id.* He then appealed. *Id.*

After analyzing Johnson's arguments under Federal Rules of Civil Procedure 60(a) and 60(b)(1), the District Court found that neither were persuasive. Notwithstanding the Supreme Court's decision in Marrama v. Citizens Bank, 549 U.S. 365 (2007), the court stated "as long as Johnson follows procedural rules and establishes his eligibility for a Chapter 13 conversion, his Chapter 7 discharge will not preclude him from obtaining a Chapter 13 conversion. . . ."

The decision of the District Court for the Eastern District of California, that post-discharge conversion from chapter 7 to chapter 13 is permissible, notwithstanding the necessary findings under Marrama, is persuasive in this case. But, the court finds that debtor is not eligible to be a chapter 13 debtor. Debtor's Schedules I and J show a current monthly net income of negative \$51.23. Doc. #1. Therefore debtor does not have any income to fund a chapter 13 plan based on the current record. See also 11 U.S.C. §§ 101(30), 109(e).

14. [18-13891](#)-B-7     **IN RE: ROBERT/CAROLYN WHITE**  
[KDG-1](#)

MOTION TO AVOID LIEN OF GCFS, INC.  
11-30-2018    [\[19\]](#)

ROBERT WHITE/MV  
HAGOP BEDOYAN

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

DISPOSITION:     Granted.

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

This motion was set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of the creditors, the debtor, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014- 1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument. Upon default, factual allegations will be taken as true (except those relating to amount of damages). Televideo Systems, Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires that a plaintiff make a prima facie showing that they are entitled to the relief sought, which the movant has done here.

In order to avoid a lien under 11 U.S.C. § 522(f)(1) the movant must establish four elements: (1) there must be an exemption to which the debtor would be entitled under § 522(b); (2) the property must be listed on the debtor's schedules as exempt; (3) the lien must impair the exemption; and (4) the lien must be either a judicial lien or a non-possessory, non-purchase money security interest in personal property listed in § 522(f)(1)(B). § 522(f)(1); Goswami v. MTC Distrib. (In re Goswami), 304 B.R. 386, 390-91 (9th Cir. BAP 2003), quoting In re Mohring, 142 B.R. 389, 392 (Bankr. E.D. Cal. 1992), aff'd 24 F.3d 247 (9th Cir. 1994).

A judgment was entered against the debtor in favor of GCFS, Inc., a California corporation in the sum of \$20,124.59 on March 25, 2005. Doc. #21. The abstract of judgment was recorded with Fresno County on April 19, 2005. *Id.* The judgment was renewed on February 5, 2015. *Id.* That lien attached to the debtor's interest in a residential real property in Fresno, CA. The motion will be granted pursuant to 11 U.S.C. § 522(f)(1)(A). The subject real property had an approximate value of \$249,000.00 as of the petition date. Doc. #12. The unavoidable liens totaled \$132,853.00 on that same date, consisting of a first deed of trust in favor of Wells Fargo Home



Mortgage. *Id.* The debtor claimed an exemption pursuant to Cal. Civ. Proc. Code § 704.730(a)(2) in the amount of \$175,000.00. *Id.*

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

15. [18-13891](#)-B-7     **IN RE: ROBERT/CAROLYN WHITE**  
[KDG-2](#)

MOTION TO AVOID LIEN OF CAPITAL ONE SERVICES, INC.  
11-30-2018     [\[25\]](#)

ROBERT WHITE/MV  
HAGOP BEDOYAN

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

DISPOSITION:     Denied.

ORDER:     The court will issue the order.

This motion is DENIED.

A judgment was entered against the debtor in favor of Capital One Services, Inc. in the sum of \$9,175.26 on July 13, 2007. Doc. #27. The abstract of judgment was recorded with Fresno County on August 12, 2014. *Id.* That lien attached to the debtor's interest in a residential real property in Fresno, CA.

California Code of Civil Procedure ("CCP") § 683.020 states that "upon the expiration of 10 years after the date of entry of a money judgment or a judgment for possession or sale of property: the judgment may not be enforced; all enforcement procedures pursuant to the judgment or to a writ or order issued pursuant to the judgment shall cease; and any lien created by an enforcement procedure pursuant to the judgment is extinguished."

CCP §§ 683.110 through 683.160 state that a judgment is renewable and provides the procedures for renewal.

The 10 year expiration date under the California statute of repose (Cal. Civ. Proc. Code § 683.020) has run. "10 years after the date of entry" of the judgment was July 13, 2017. The court also sees no evidence that the judgment was renewed. This case was filed September 25, 2018. Doc. #1. Because the judgment is no longer enforceable, and cannot be renewed now, the court cannot avoid the lien. Therefore, this motion is DENIED.

16. [18-14693](#)-B-7     **IN RE: JOSE MONTANO**  
[JHW-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY  
12-19-2018    [\[12\]](#)

SANTANDER CONSUMER USA INC./MV  
THOMAS GILLIS  
JENNIFER WANG/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. The collateral is a 2018 Chevrolet Silverado 1500. Doc. #17. The collateral has a value of \$34,550.00 and debtor owes \$45,031.83. *Id.*

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).

17. [18-14698](#)-B-7     **IN RE: EDWARD ARANDA**

NOTICE OF INTENT TO CLOSE CASE WITHOUT ENTRY OF DISCHARGE  
12-12-2018    [\[13\]](#)

ERIC ESCAMILLA  
RESPONSIVE PLEADING

NO RULING.

18. [18-13399](#)-B-7     **IN RE: ROBERTO SOSA URTIZ AND YANET DE SOSA**  
[DCF-2](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY  
12-4-2018    [\[57\]](#)

BMO HARRIS BANK N.A./MV  
REBECCA TOMILOWITZ  
DANIEL FLEMING/ATTY. FOR MV.  
WITHDRAWN, DISCHARGED 11/27/18

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

DISPOSITION:                    Dropped from calendar.

NO ORDER REQUIRED:            Movant withdrew the motion.

This matter will be dropped from calendar. The motion was withdrawn  
on November 27, 2018. Doc. #65.

11:00 AM

1. [18-14475](#)-B-7      **IN RE: OLEN WHITSON**

PRO SE REAFFIRMATION AGREEMENT WITH GOLDEN 1 CREDIT UNION  
12-26-2018    [\[15\]](#)

TIMOTHY SPRINGER

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

DISPOSITION:      Denied.

ORDER:              The court will issue an order.

Counsel shall inform his client that no appearance is necessary at this hearing.

Debtor was represented by counsel when he entered into the reaffirmation agreement. Pursuant to 11 U.S.C. § 524(c)(3), “if the debtor is represented by counsel, the agreement *must* be accompanied by an affidavit of the debtor’s attorney’ attesting to the referenced items before the agreement will have legal effect.” *In re Minardi*, 399 B.R. 841, 846 (Bankr. N.D. Ok. 2009) (emphasis in original). In this case, the debtor’s attorney affirmatively represented that the agreement established a presumption of undue hardship and that his opinion the debtor was not able to make the required payments. Therefore, the agreement does not meet the requirements of 11 U.S.C. § 524(c) and is not enforceable.

2. [18-14878](#)-B-7      **IN RE: JOSE RODRIGUEZ**

PRO SE REAFFIRMATION AGREEMENT WITH NOBLE CREDIT UNION  
12-27-2018    [\[17\]](#)

NO RULING.

3. [18-14681](#)-B-7      **IN RE: BRYAN/JESSICA CRISWELL**

PRO SE REAFFIRMATION AGREEMENT WITH MECHANICS BANK  
12-21-2018    [\[10\]](#)

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

DISPOSITION:                    The reaffirmation hearing has been continued  
by court order to February 13, 2019 at 11:00  
a.m.

NO ORDER REQUIRED.

At the debtors' request (Doc. #16), the reaffirmation hearing has  
been continued to February 13, 2019 at 11:00 a.m. (Doc. #17)

4. [18-14692](#)-B-7      **IN RE: JOSE GARCIA**

PRO SE REAFFIRMATION AGREEMENT WITH NOBLE CREDIT UNION  
12-28-2018    [\[13\]](#)

THOMAS GILLIS

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

DISPOSITION:                    Denied.

ORDER:                            The court will issue an order.

Counsel shall inform his client that no appearance is necessary at  
this hearing.

Debtor was represented by counsel when he entered into the  
reaffirmation agreement. Pursuant to 11 U.S.C. § 524(c)(3), "if the  
debtor is represented by counsel, the agreement *must* be accompanied  
by an affidavit of the debtor's attorney' attesting to the  
referenced items before the agreement will have legal effect." *In re*  
*Minardi*, 399 B.R. 841, 846 (Bankr. N.D. Ok. 2009) (emphasis in  
original). In this case, the debtor's attorney affirmatively  
represented that the agreement established a presumption of undue  
hardship and that his opinion the debtor was not able to make the  
required payments. Therefore, the agreement does not meet the  
requirements of 11 U.S.C. § 524(c) and is not enforceable.

1:30 PM

1. [18-13802](#)-B-7     **IN RE: ELVIA OLIVA**  
[18-1080](#)

STATUS CONFERENCE RE: COMPLAINT  
11-19-2018    [\[1\]](#)

SORIANO V. OLIVA

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

DISPOSITION:        This matter will be continued to February 13, 2019  
                         at 1:30 p.m.

ORDER:                The court will issue the order.

The summons and complaint were properly served in accordance with the Federal Rules of Bankruptcy Procedure. The time for defendant to have answered the complaint or stipulate to an extension of time to file have lapsed.

Plaintiff shall file a motion for entry of default and judgment or dismissal before the continued hearing. If such a motion is filed, the status conference will be dropped and the court will hear the motion when scheduled. If no motion for default and judgment or dismissal is filed prior to the continued hearing, the court will issue an order to show cause on why this case should not be dismissed for lack of prosecution.

2. [18-12011](#)-B-7     **IN RE: ARSHAD HUSSAIN**  
[18-1054](#)

CONTINUED STATUS CONFERENCE RE: COMPLAINT  
8-24-2018    [\[1\]](#)

RASUL V. HUSSAIN  
ALICIA HINTON/ATTY. FOR PL.  
NOTICE OF SETTLEMENT 12/10/18

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

DISPOSITION:        Dropped from calendar.

NO ORDER REQUIRED:    A stipulation dismissing the case was filed by  
                         both parties. Doc. #25.

3. [18-13218](#)-B-7     **IN RE: VAN LAI**  
[18-1056](#)

CONTINUED ORDER TO SHOW CAUSE REGARDING DISMISSAL OF  
ADVERSARY PROCEEDING  
11-15-2018    [\[21\]](#)

LAI V. T2M INVESTMENTS, LLC ET  
AL  
RESPONSIVE PLEADING

NO RULING.

4. [17-13527](#)-B-7     **IN RE: BEKAFA WOLDEMESKEL**  
[17-1089](#)

CONTINUED PRE-TRIAL CONFERENCE RE: AMENDED COMPLAINT  
2-1-2018    [\[9\]](#)

KEVORKIAN V. WOLDEMESKEL  
J. ARMAS/ATTY. FOR PL.  
DISMISSED 12/20/18

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

DISPOSITION:                    Dropped from calendar.

NO ORDER REQUIRED:            The case was voluntarily dismissed without  
prejudice. Doc. #39.

5. [17-10236](#)-B-13     **IN RE: PAUL/KATHLEEN LANGSTON**  
[17-1044](#)     [FW-2](#)

MOTION FOR SUMMARY JUDGMENT  
11-30-2018    [\[62\]](#)

LANGSTON ET AL V. INTERNAL  
REVENUE SERVICE  
GABRIEL WADDELL/ATTY. FOR MV.  
CONTINUED TO 2/13/19 WITHOUT AN ORDER

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

DISPOSITION:                    Continued to February 13, 2019 at 1:30 p.m. unless  
denied without prejudice as set forth below.

ORDER:                            The court will issue an order.

This matter is continued to February 13, 2019 at 1:30 p.m.

The court notes that the amended notice. Doc. #75. However, the  
Local Rules of Practice ("LBR") do not permit a continuance without  
court order. LBR 9014-1(j). The court did not issue an order  
permitting this continuance. Unless movant submits such an order not

later than January 16, 2019, this motion will be denied without prejudice for failure to comply with the Local Rules of Practice.

6. [17-13797](#)-B-9     **IN RE: TULARE LOCAL HEALTHCARE DISTRICT**  
[18-1008](#)

PRE-TRIAL CONFERENCE RE: AMENDED COMPLAINT  
5-8-2018    [\[9\]](#)

TULARE LOCAL HEALTHCARE  
DISTRICT V. MB FINANCIAL BANK,  
RILEY WALTER/ATTY. FOR PL.  
RESPONSIVE PLEADING, CONTINUED TO 4/16/19 PER ECF STIPULATION AND  
ORDER #30

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

DISPOSITION:                    Continued to April 16, 2019 at 1:30 p.m.

NO ORDER REQUIRED:            The court already issued an order. Doc. #30.

7. [17-13797](#)-B-9     **IN RE: TULARE LOCAL HEALTHCARE DISTRICT**  
[18-1022](#)     [WW-2](#)

MOTION FOR ENTRY OF DEFAULT JUDGMENT  
12-17-2018    [\[57\]](#)

TULARE LOCAL HEALTHCARE  
DISTRICT V. LAVERS ET AL  
RILEY WALTER/ATTY. FOR MV.

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

DISPOSITION:                    Granted.

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

This motion was set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of the creditors, the debtor, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument. Upon default, factual allegations will be taken as true (except those relating to amount of damages). Televideo Systems, Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires that a plaintiff make a



prima facie showing that they are entitled to the relief sought, which the movant has done here.

This motion is GRANTED.

On November 29, 2018, the court entered the defaults of defendants. Doc. #51. The court finds that the underlying obligation as described in the complaint in the principal sum of \$605,000.00 has been satisfied; that none of the defendants have any interest in the real property bearing APN 170-072-020; and that plaintiff is entitled to an order clearing the deeds of trust bearing the recording numbers 46259 recorded on July 26, 1990, 74593 recorded on November 8, 1990, and 95-030974 recorded on May 15, 1995 as void.