

UNITED STATES BANKRUPTCY COURT
Eastern District of California
Honorable René Lastreto II
Hearing Date: Wednesday, February 5, 2020
Place: Department B – 510 19th Street
Bakersfield, 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.

9:00 AM

1. [15-11302](#)-B-13 **IN RE: DENISE WILEY**
[MHM-3](#)

MOTION TO DISMISS CASE
12-11-2019 [[133](#)]

MICHAEL MEYER/MV
ROBERT WILLIAMS/ATTY. FOR DBT.

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

DISPOSITION: Dropped from calendar.

ORDER: The court will issue an order.

Debtor converted the case to chapter 7 on January 31, 2020. Doc. #137.

2. [19-13907](#)-B-13 **IN RE: JAVIER JAIME AND LILIANA LUIS**
[RSW-2](#)

MOTION TO CONFIRM PLAN
12-30-2019 [[30](#)]

JAVIER JAIME/MV
ROBERT WILLIAMS/ATTY. FOR DBT.
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 is DENIED WITHOUT PREJUDICE.

The chapter 13 trustee opposes confirmation because the proposed plan does not provide for all of the debtors' projected disposable income to be applied to unsecured creditors under 11 U.S.C. § 1325(b). Doc. #41. Debtors timely responded, suggesting that because joint-debtor's income varies, annual reviews would resolve

the issue of income. Doc. #46. The debtor's declaration sets forth the equipment Mr. Jaime purchased and that he waits for assigned jobs from the staffing agency. That is not evidence the Plan is feasible - just that it might not be.

This matter will be called to allow Trustee to reply to Debtors' response and proposal. But, there is no real evidence before the court yet that there are proper responses to the Trustee's requests.

3. [18-13708](#)-B-13 **IN RE: LEONARDO CHAVEZ**
[NSV-4](#)

MOTION TO MODIFY PLAN
12-20-2019 [\[50\]](#)

LEONARDO CHAVEZ/MV
NIMA VOKSHORI/ATTY. FOR DBT.

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 35 days' notice as required by Local Rule of Practice ("LBR") 3015-1(d)(1). The failure of the creditors, the debtor, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument. Upon default, factual allegations will be taken as true (except those relating to amount of damages). Televideo Systems, Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires that a plaintiff make a prima facie showing that they are entitled to the relief sought, which the movant has done here.

This motion is GRANTED. The confirmation order shall include the docket control number of the motion and it shall reference the plan by the date it was filed.

4. [19-13411](#)-B-13 **IN RE: ADAM CHAVEZ**
[MHM-3](#)

OBJECTION TO DEBTOR'S CLAIM OF EXEMPTIONS
1-7-2020 [\[38\]](#)

MICHAEL MEYER/MV
NEIL SCHWARTZ/ATTY. FOR DBT.
WITHDRAWN

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

DISPOSITION: Dropped from calendar.

NO ORDER REQUIRED: Movant withdrew the objection. Doc. #51.

5. [19-13316](#)-B-13 **IN RE: CURTIS ROSS**
[MHM-1](#)

CONTINUED OBJECTION TO CONFIRMATION OF PLAN BY TRUSTEE MICHAEL H.
MEYER
9-26-2019 [\[16\]](#)

ROBERT WILLIAMS/ATTY. FOR DBT.

NO RULING.

6. [19-13316](#)-B-13 **IN RE: CURTIS ROSS**
[MHM-3](#)

CONTINUED MOTION TO DISMISS CASE
11-13-2019 [\[38\]](#)

MICHAEL MEYER/MV
ROBERT WILLIAMS/ATTY. FOR DBT.

NO RULING.

7. [19-13343](#)-B-13 **IN RE: CHRISTINA CORONEL**
[RSW-1](#)

MOTION TO AVOID LIEN OF DISCOVER BANK
12-19-2019 [\[39\]](#)

CHRISTINA CORONEL/MV
ROBERT WILLIAMS/ATTY. FOR DBT.

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

DISPOSITION: Denied without prejudice.

ORDER: The court will issue an order.

This motion is DENIED WITHOUT PREJUDICE for failure to comply with the Local Rules of Practice ("LBR").

LBR 9014-1(f)(1)(B) states that Motions filed on at least 28 days' notice require the movant to notify the respondent or respondents that any opposition to motions filed on at least 28 days' notice must be in writing and must be filed with the court at least fourteen (14) days preceding the date or continued date of the hearing.

This motion was served and filed on December 19, 2019 and set for hearing on February 5, 2020. Doc. #40, 43. February 5, 2020 is more than 28 days after December 19, 2019, and therefore this hearing was set on at least 28 days' notice under LBR 9014-1(f)(1). The notice stated that written opposition was not required, but may be presented at the hearing. Doc. #40. That is incorrect. Because the hearing was set on at least 28 days' notice, the notice should have stated that written opposition was required and must be filed and served at least 14 days before the hearing or the respondents' defaults would be entered. Because this motion was filed, served, and noticed on more than 28 days' notice, the language of LBR 9014-1(f)(1)(B) needed to have been included in the notice.

8. [19-13343](#)-B-13 **IN RE: CHRISTINA CORONEL**
[RSW-2](#)

MOTION TO AVOID LIEN OF SYNCHRONY BANK
12-19-2019 [\[44\]](#)

CHRISTINA CORONEL/MV
ROBERT WILLIAMS/ATTY. FOR DBT.

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

DISPOSITION: Denied without prejudice.

ORDER: The court will issue an order.

This motion is DENIED WITHOUT PREJUDICE for failure to comply with the Local Rules of Practice ("LBR").

LBR 9014-1(f)(1)(B) states that Motions filed on at least 28 days' notice require the movant to notify the respondent or respondents that any opposition to motions filed on at least 28 days' notice must be in writing and must be filed with the court at least fourteen (14) days preceding the date or continued date of the hearing.

This motion was served and filed on December 19, 2019 and set for hearing on February 5, 2020. Doc. #45, 48. February 5, 2020 is more than 28 days after December 19, 2019, and therefore this hearing was set on at least 28 days' notice under LBR 9014-1(f)(1). The notice stated that written opposition was not required, but may be presented at the hearing. Doc. #45. That is incorrect. Because the hearing was set on at least 28 days' notice, the notice should have stated that written opposition was required and must be filed and served at least 14 days before the hearing or the respondents' defaults would be entered. Because this motion was filed, served, and noticed on more than 28 days' notice, the language of LBR 9014-1(f)(1)(B) needed to have been included in the notice.

9. [19-14647](#)-B-13 **IN RE: JOHN WILLIAMS**
[MHM-1](#)

CONTINUED OBJECTION TO CONFIRMATION OF PLAN BY TRUSTEE MICHAEL H. MEYER
12-20-2019 [\[15\]](#)

ROBERT WILLIAMS/ATTY. FOR DBT.
RESPONSIVE PLEADING

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Sustained.

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

This objection was continued to allow debtor to respond to the chapter 13 trustee's objection to confirmation. Doc. #27.

Debtor timely responded, without evidence, stating essentially that Trustee's objection should be overruled because they have provided everything Trustee would need to submit the order confirming the plan. Doc. #30. Without any evidence however, the court cannot independently confirm debtor's statements.

The court takes judicial notice of its own docket, and sees that an amended Form 122C-1 was filed on January 22, 2020. Doc. #29. But there is no evidence that the LLC formation documents or invoices have been provided to Trustee.

Debtor states that the schedules are correct and amending them is not necessary, but nevertheless does not object to amending them. Doc. #30. No amended schedules were filed.

Unless Trustee withdraws the objection, the court intends to sustain the objection.

10. [19-14647](#)-B-13 **IN RE: JOHN WILLIAMS**
[MHM-2](#)

CONTINUED MOTION TO DISMISS CASE
12-23-2019 [\[18\]](#)

MICHAEL MEYER/MV
ROBERT WILLIAMS/ATTY. FOR DBT.
RESPONSIVE PLEADING

NO RULING.

11. [19-14154](#)-B-13 **IN RE: SHANNON/TY WILLIAMS**
[MHM-1](#)

CONTINUED OBJECTION TO CONFIRMATION OF PLAN BY TRUSTEE MICHAEL
H. MEYER
11-27-2019 [\[16\]](#)

RICHARD STURDEVANT/ATTY. FOR DBT.
DISMISSED 1/16/20

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. #40.

12. [19-14154](#)-B-13 **IN RE: SHANNON/TY WILLIAMS**
[MHM-2](#)

CONTINUED MOTION TO DISMISS CASE
12-2-2019 [\[19\]](#)

MICHAEL MEYER/MV
RICHARD STURDEVANT/ATTY. FOR DBT.
DISMISSED 1/16/20

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. #40.

13. [19-15063](#)-B-13 **IN RE: CHARLES GOFORTH AND ANGELA LUTHER-GOFORTH**
[MHM-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY TRUSTEE MICHAEL H. MEYER
1-10-2020 [\[14\]](#)

WILLIAM OLCOTT/ATTY. FOR DBT.

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

DISPOSITION: Continued to March 4, 2020 at 9:00 a.m.

ORDER: The court will issue an order.

The chapter 13 trustee ("Trustee") has filed an objection to the
debtors' plan. Debtors and their counsel did not appear at the § 341
meeting of creditors on January 8, 2020. The trustee does not oppose
confirmation other than debtors are required to appear and submit to
an examination under oath.

Therefore this objection is continued to March 4, 2020 at 9:00 a.m. The continued § 341 meeting is scheduled for February 25, 2020. If debtors do not appear without justifiable excuse, the court may sustain the objection.

14. [19-14193](#)-B-13 **IN RE: ELIZABETH VILLA**
[MHM-1](#)

CONTINUED OBJECTION TO CONFIRMATION OF PLAN BY TRUSTEE MICHAEL
H. MEYER
11-27-2019 [[16](#)]

ROBERT WILLIAMS/ATTY. FOR DBT.
RESPONSIVE PLEADING

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Sustained.

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

This objection was continued to allow the debtor to respond to the chapter 13 trustee's ("Trustee") objection. Doc. #21.

Debtor timely responded, stating that everything requested had been provided, cannot be provided because it does not exist, or will be provided. Doc. #27.

Trustee timely replied. Doc. #29. Trustee apparently still has issues with the amended schedule A/B and line 5 of form 122C-1. Id.

Unless Trustee withdraws the objection, the court intends to sustain the objection.

15. [19-14593](#)-B-13 **IN RE: GUSTAVO/SANDRA RAMIREZ**
[MHM-1](#)

CONTINUED OBJECTION TO CONFIRMATION OF PLAN BY TRUSTEE MICHAEL
H. MEYER
12-20-2019 [\[15\]](#)

ROBERT WILLIAMS/ATTY. FOR DBT.
RESPONSIVE PLEADING

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Sustained.

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

This objection was continued to allow the debtor to respond to the
chapter 13 trustee's ("Trustee") objection. Doc. #27.

Debtor responded prior to the court's ruling, stating that amended
schedules and form 122C-2 would be filed. Doc. #22. As of January
27, 2020, no amendments have been filed.

If amendments are filed before the continued hearing, the matter may
be continued to allow Trustee time to review the amendments. If
amendments are not filed prior to the continued hearing, the court
intends to sustain the objection.

16. [19-14593](#)-B-13 **IN RE: GUSTAVO/SANDRA RAMIREZ**
[MHM-2](#)

CONTINUED MOTION TO DISMISS CASE
12-23-2019 [\[18\]](#)

MICHAEL MEYER/MV
ROBERT WILLIAMS/ATTY. FOR DBT.
RESPONSIVE PLEADING

NO RULING.

17. [16-11594](#)-B-13 **IN RE: MICHAEL/PAULA COUNTER**
[PLG-2](#)

MOTION TO WAIVE SECTION 1328 CERTIFICATE REQUIREMENT AND
SECTION 522(Q) EXEMPTIONS AND WAIVE REQUIREMENT FOR DEBTOR
TO FILE NOTICE OF DEATH WITHIN SIXTY DAYS OF THE DEATH OF
THE DEBT
1-8-2020 [\[39\]](#)

MICHAEL COUNTER/MV
RABIN POURNAZARIAN/ATTY. FOR DBT.

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. Debtor's counsel asks the court to excuse debtor from being required to complete and file the 11 U.S.C. § 1328 certificate (form EDC 3-190) and if applicable, the 11 U.S.C. § 522(q) exemptions (form EDC 3-191) and to waive the requirement for debtor to file notice of death within 60 days of the death of the debtor, Michael Counter. Doc. #39. Debtor passed away over three years ago, on November 8, 2016, and is therefore to complete and file the above-mentioned forms.

Federal Rule of Bankruptcy Procedure 1016 provides:

Death or incompetency of the debtor shall not abate a liquidation case under chapter 7 of the Code. In such event the estate shall be administered and the case concluded in the same manner, so far as possible, as though the death or incompetency had not occurred. If a reorganization, family farmer's debt adjustment, or individual's debt adjustment case is pending under chapter 11, chapter 12, or chapter 13, the case may be

dismissed; or if further administration is possible and in the best interest of the parties, the case may proceed and be concluded in the same manner, so far as possible, as though the death or incompetency had not occurred.

No party has filed opposition to this motion. Therefore, in accordance with Fed. R. Bankr. P. 1016, the debtor Michael Counter is not required to complete the 11 U.S.C. § 1328 certificate (form EDC 3-190) and if applicable, the 11 U.S.C. § 522(q) exemptions (form EDC 3-191), and the requirement for debtor to file notice of death within sixty days of the death of Michael Counter.

10:00 AM

1. [19-14618](#)-B-7 **IN RE: CIRO CUELLAR AND GLORIA MERAZ**
[JMV-1](#)

MOTION TO SELL
1-15-2020 [\[22\]](#)

JEFFREY VETTER/MV
PHILLIP GILLET/ATTY. FOR DBT.
JEFFREY VETTER/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
will submit a proposed order after hearing.

This motion was filed and served pursuant to Local Rule of Practice ("LBR") 9014-1(f)(2) and will proceed as scheduled. Unless opposition is presented at the hearing, the court intends to enter the respondents' defaults and grant the motion. If opposition is presented at the hearing, the court will consider the opposition and whether further hearing is proper pursuant to LBR 9014-1(f)(2). The court will issue an order if a further hearing is necessary.

This motion is GRANTED. 11 U.S.C. § 363(b)(1) allows the trustee to "sell, or lease, other than in the ordinary course of business, property of the estate."

Proposed sales under 11 U.S.C. § 363(b) are reviewed to determine whether they are: (1) in the best interests of the estate resulting from a fair and reasonable price; (2) supported by a valid business judgment; and (3) proposed in good faith. In re Alaska Fishing Adventure, LLC, No. 16-00327-GS, 2018 WL 6584772, at *2 (Bankr. D. Alaska Dec. 11, 2018); citing 240 North Brand Partners, Ltd. v. Colony GFP Partners, LP (In re 240 N. Brand Partners, Ltd.), 200 B.R. 653, 659 (9th Cir. BAP 1996) citing In re Wilde Horse Enterprises, Inc., 136 B.R. 830, 841 (Bankr. C.D. Cal. 1991). In the context of sales of estate property under § 363, a bankruptcy court "should determine only whether the trustee's judgment was reasonable and whether a sound business justification exists supporting the sale and its terms." Alaska Fishing Adventure, LLC, 2018 WL 6584772, at *4, quoting 3 Collier on Bankruptcy ¶ 363.02[4] (Richard Levin & Henry J. Sommer eds., 16th ed.). "[T]he trustee's business judgment is to be given great judicial deference." Id., citing In re Psychometric Systems, Inc., 367 B.R. 670, 674 (Bankr. D. Colo. 2007), citing In re Bakalis, 220 B.R. 525, 531-32 (Bankr. E.D.N.Y. 1998).

The chapter 7 trustee ("Trustee") asks this court for authorization to sell a 2010 Chevrolet Silverado ("Vehicle") back to debtors, subject to higher and better bids at the hearing, for \$5,000.00. Doc. #22.

It appears that the sale of the Vehicle is in the best interests of the estate, for a fair and reasonable price, supported by a valid business judgment, and proposed in good faith. Trustee has received \$500.00 from debtors and the remaining balance shall be tendered not later than 10 days after the order approving the sale is signed. The provisions of Federal Rule of Bankruptcy Procedure 6004(h) are waived.

2. [13-16538](#)-B-7 **IN RE: SABA ELTAREB**
[JRL-3](#)

MOTION TO AVOID LIEN OF UNIFUND CCR PARTNERS
1-22-2020 [\[33\]](#)

SABA ELTAREB/MV
JERRY LOWE/ATTY. FOR DBT.

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Granted.

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

This motion was filed and served pursuant to Local Rule of Practice ("LBR") 9014-1(f)(2) and will proceed as scheduled. Unless opposition is presented at the hearing, the court intends to enter the respondents' defaults and grant the motion. If opposition is presented at the hearing, the court will consider the opposition and whether further hearing is proper pursuant to LBR 9014-1(f)(2). The court will issue an order if a further hearing is necessary.

This motion is GRANTED. 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 Unifund CCR Partners, A New York Partnership in the sum of \$18,669.33 on June 21, 2011. Doc. #36. The abstract of judgment was recorded with Merced County on August 8, 2011. Id. That lien attached to the debtor's interest in a residential real property in Merced, 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 \$186,000.00 as of the petition date. Doc. #1. The unavoidable liens totaled \$147,000.00 on that same date, consisting of a first deed of trust in favor of HSBC Mortgage. Id. The debtor claimed an exemption pursuant to Cal. Civ. Proc. Code § 704.730(a)(1) in the amount of \$39,000.00. 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).

3. [19-13754](#)-B-7 **IN RE: ROBERT/MARY VISNEAU**
[VC-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
1-2-2020 [\[21\]](#)

FLAGSHIP CREDIT ACCEPTANCE/MV
R. BELL/ATTY. FOR DBT.
MICHAEL VANLOCHEM/ATTY. FOR MV.
DISCHARGED 12/9/19

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

DISPOSITION: Granted in part as to the trustee's interest and
denied as moot in part as to the debtors' interest.

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 movant, Flagship Credit Acceptance, seeks relief from the automatic stay under § 362(d)(1) and (d)(2). 11 U.S.C. § 362(d)(2) allows the court to grant relief from the stay if the debtor does not have an equity in such property and such property is not necessary to an effective reorganization.

Accordingly, the motion will be DENIED AS MOOT as to the debtors pursuant to 11 U.S.C. § 362(c)(2)(C). The debtors' discharge was entered on December 9, 2019. Docket #15. The motion will be GRANTED IN PART 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 collateral is a 2017 Mitsubishi Mirage. Doc. #25. The collateral has a value in between \$7,450.00 and \$10,400.00. Doc. #23. The debtor owes \$15,736.27. Id. The order shall provide the motion is DENIED AS MOOT as to the debtors.

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).

4. [19-14754](#)-B-7 **IN RE: GORDON/BONNIE HOSICK**
[NFS-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
1-16-2020 [\[14\]](#)

BANK OF AMERICA, N.A./MV
NEIL SCHWARTZ/ATTY. FOR DBT.
NATHAN SMITH/ATTY. FOR MV.

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Granted unless opposed at the hearing.

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

This motion was filed and served pursuant to Local Rule of Practice ("LBR") 9014-1(f)(2) and will proceed as scheduled. Unless opposition is presented at the hearing, the court intends to enter the respondents' defaults and grant the motion. If opposition is presented at the hearing, the court will consider the opposition and whether further hearing is proper pursuant to LBR 9014-1(f)(2). The court will issue an order if a further hearing is necessary.

The movant, Bank of America, N.A., seeks relief from the automatic stay under 11 U.S.C. § 362(d)(2). Section 362(d)(2) allows the court to grant relief from the stay if the debtor does not have any equity in such property and such property is not necessary to an effective reorganization.

The collateral is a parcel of real property commonly known as 12107 Fairburn Way, Bakersfield, CA 93312-5806. Doc. #17. The collateral has a value of \$287,710.00 and the amount owed is \$302,866.44. Doc. #16.

After review of the included evidence, the court finds that the debtor does not have any equity in the property and the property is not necessary to an effective reorganization.

The 14-day stay of Fed. R. Bankr. P. 4001(a)(3) will be ordered waived because debtor has failed to make the last 12 payments and is delinquent in at least \$23,477.81. Doc. #17.

Accordingly, the motion will be granted pursuant to 11 U.S.C. § 362(d)(2) to permit the movant to dispose of its collateral pursuant to applicable law and to use the proceeds from its disposition to satisfy its claim. No other relief is awarded.

The order submitted shall provide that the bankruptcy proceeding has been finalized for purposes of California Civil Code § 2923.5.

5. [19-13865](#)-B-7 **IN RE: DAVID/LINDA BOHANNON**
[RSW-1](#)

MOTION TO AVOID LIEN OF AMERICAN EXPRESS NATIONAL BANK
12-26-2019 [\[15\]](#)

DAVID BOHANNON/MV
ROBERT WILLIAMS/ATTY. FOR DBT.

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

DISPOSITION: Granted.

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

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

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

A judgment was entered against the debtor in favor of American Express National Bank f/k/a American Express Centurion Bank in the sum of \$16,225.95 on April 24, 2019. Doc. #18. The abstract of judgment was recorded with Kern County on May 18, 2019. Id. That lien attached to the debtor's interest in a residential real property in Bakersfield, 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 \$200,000.00 as of the petition date. Doc. #1. The unavoidable liens totaled \$100,876.00 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)(3) 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).

6. [19-10973](#)-B-7 **IN RE: CVC ENVIRONMENTAL, INC.**
[RTW-2](#)

MOTION FOR COMPENSATION FOR RATZLAFF, TAMBERI & WONG,
ACCOUNTANT(S)
1-6-2020 [\[43\]](#)

RATZLAFF, TAMBERI & WONG/MV
LEONARD WELSH/ATTY. FOR DBT.

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

DISPOSITION: Granted.

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

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

The motion will be GRANTED. Trustee's accountants, Ratzlaff, Tamberi & Wong, requests fees of \$2,478.00 and costs of \$42.50 for a total of \$2,520.00 for services rendered from May 9, 2019 through December 20, 2019.

11 U.S.C. § 330(a)(1)(A) & (B) permits approval of "reasonable compensation for actual necessary services rendered by . . . [a] professional person" and "reimbursement for actual, necessary expenses." Movant's services included, without limitation: (1) Reviewed debtor corporation's prior tax returns, (2) Reviewing the chapter 7 trustee's accounting information, (3) Preparing and filing the federal and state corporation income tax returns, and (4) Preparing the fee application. The court finds the services reasonable and necessary and the expenses requested actual and necessary.

Movant shall be awarded \$2,478.00 in fees and \$42.50 in costs.

7. [19-14493](#)-B-7 **IN RE: FRANKLIN GOODSON, JR.**
[EAT-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
12-23-2019 [\[24\]](#)

LAKEVIEW LOAN SERVICING, LLC/MV
CASSANDRA RICHEY/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 will submit a proposed order after hearing.

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). Therefore, the defaults of the above-mentioned parties in interest, except for the debtor, are entered. 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).

The movant, Lakeview Loan Servicing, LLC, seeks relief from the automatic stay under 11 U.S.C. § 362(d)(1). 11 U.S.C. § 362(d)(1) allows the court to grant relief from the 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 collateral is a parcel of real property commonly known as 10123 Seven Falls Avenue, Bakersfield, CA 93312. Doc. #26. The collateral has a value of \$299,000.00 and the amount owed is \$286,206.05. Doc. #24. Movant estimates the cost of the foreclosure sale to be \$23,920.00. Id.

After review of the included evidence, the court finds that "cause" exists to lift the stay because debtor has failed to make 1 post-petition payment and 15 pre-petition payments. Doc. #28. The movant has produced evidence that debtor is delinquent at least \$29,823.17. Doc. #26.

The 14-day stay of Fed. R. Bankr. P. 4001(a)(3) will be ordered waived because debtor has failed to make the last 16 payments and is delinquent in at least \$29,823.17. Id.

Accordingly, the motion will be granted pursuant to 11 U.S.C. § 362(d)(1) to permit the movant to dispose of its collateral pursuant to applicable law and to use the proceeds from its disposition to satisfy its claim. No other relief is awarded.

The order submitted shall provide that the bankruptcy proceeding has been finalized for purposes of California Civil Code § 2923.5.

The court notes debtor's late-filed opposition. Doc. #33. Debtor did not file a motion for leave to file late opposition, but because debtor is not represented by an attorney, the court will not enter the debtor's default and will call the matter.

10:30 AM

1. [09-18610](#)-B-11 IN RE: JUAN/JESSIKA MORALES
[KDG-25](#)

MOTION FOR ENTRY OF DISCHARGE AND/OR MOTION FOR FINAL DECREE
1-8-2020 [[447](#)]

JUAN MORALES/MV
JACOB EATON/ATTY. FOR DBT.

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. Section 13.02 of debtors' plan of reorganization states that the debtors will be discharged from the debts provided for in the plan after debtors have completed their payments to classes one, two, three, seven, and twenty-two. Doc. #336, 447. No party has opposed this motion.

The court finds that the debtors' have completed the payments to classes one, two, three, seven, and twenty-two, and pursuant to section 13.02 of the plan and 11 U.S.C. § 1141(d)(5), the debtor's discharge shall be entered. Pursuant to Federal Rule of Bankruptcy Procedure 3022, the court also enters the Final Decree and the case shall be closed. The confirmation order is final and debtors have assumed the business and management of the property dealt with under the Plan, debtors have made all the payments to creditors required by the Plan, and there are no motions, contested matters, or adversary proceedings that need to be resolved. The court finds that the debtors' chapter 11 estate has been fully administered.

2. [18-14663](#)-B-11 **IN RE: 3MB, LLC**

CONTINUED STATUS CONFERENCE RE: CHAPTER 11 VOLUNTARY PETITION
11-19-2018 [[1](#)]

LEONARD WELSH/ATTY. FOR DBT.
DISMISSED 1/10/20

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. #329.

3. [18-14663](#)-B-11 **IN RE: 3MB, LLC**

CONTINUED CONFIRMATION HEARING RE: AMENDED/MODIFIED PLAN
7-25-2019 [[221](#)]

LEONARD WELSH/ATTY. FOR DBT.
DISMISSED 1/10/20

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. #329.

4. [17-11591](#)-B-11 **IN RE: 5 C HOLDINGS, INC.**
[LKW-19](#)

MOTION FOR ENTRY OF DISCHARGE AND/OR MOTION FOR FINAL DECREE
1-21-2020 [[466](#)]

5 C HOLDINGS, INC./MV
LEONARD WELSH/ATTY. FOR DBT.

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Granted.

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

This motion was filed and served pursuant to Local Rule of Practice ("LBR") 9014-1(f)(2) and will proceed as scheduled. Unless opposition is presented at the hearing, the court intends to enter the respondents' defaults and grant the motion. If opposition is presented at the hearing, the court will consider the opposition and

whether further hearing is proper pursuant to LBR 9014-1(f)(2). The court will issue an order if a further hearing is necessary.

This motion is GRANTED. Pursuant to the debtor's plan of reorganization, the debtor cannot receive a discharge until all payments to class 13 claimants are completed. The court finds that debtor has completed all payments to class 13 claimants are complete. Doc. #468, 469.

Pursuant to Federal Rule of Bankruptcy Procedure 3022, the court also enters the Final Decree and the case shall be closed. The confirmation order is final and debtor has assumed the business and management of the property dealt with under the Plan, debtor has made all the payments to creditors required by the Plan, and there are no motions, contested matters, or adversary proceedings that need to be resolved. The court finds that the debtors' chapter 11 estate has been fully administered.

11:00 AM

1. [18-14315](#)-B-7 **IN RE: BRANDON/SANDRA CAUDEL**
[19-1011](#)

PRE-TRIAL CONFERENCE RE: COMPLAINT
12-23-2019 [[64](#)]

HARDCASTLE SPECIALTIES, INC. V. CAUDEL ET AL
VIVIANO AGUILAR/ATTY. FOR PL.
RESPONSIVE PLEADING

NO RULING.

2. [15-13444](#)-B-7 **IN RE: TRAVIS/AMBER BREWER**
[15-1151](#)

CONTINUED STATUS CONFERENCE RE: COMPLAINT
12-17-2015 [[1](#)]

BJORNEBOE V. BREWER
MISTY PERRY-ISAACSON/ATTY. FOR PL.
RESPONSIVE PLEADING

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

DISPOSITION: Continued to April 8, 2020 at 11:00 a.m.

ORDER: The court will issue an order.

Plaintiff's status report states that the state court trial must conclude by March 3, 2020. Doc. #96. Therefore this status conference is continued to April 8, 2020 at 11:00 a.m. Plaintiff shall file and serve a status report not later than April 1, 2020.

3. [19-12251](#)-B-7 **IN RE: MARTIN/BETSY MORENOVILLA**
[19-1102](#)

STATUS CONFERENCE RE: COMPLAINT
9-26-2019 [\[1\]](#)

ALPHA & OMEGA GARDENING, INC. V. DEMAY ET AL
NATHANIEL OLESON/ATTY. FOR PL.

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

DISPOSITION: This matter will be continued to March 4, 2020 at
11:00 a.m.

ORDER: The court will issue the order.

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.

4. [19-13374](#)-B-7 **IN RE: KENNETH HUDSON**
[19-1128](#)

STATUS CONFERENCE RE: COMPLAINT
11-26-2019 [\[1\]](#)

BROWN V. HUDSON
GLEN GATES/ATTY. FOR PL.
SUMMONS REISSUED FOR 4/8/2020

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

DISPOSITION: Dropped from calendar.

ORDER: The court will issue the order.

A new summons was issued on January 15, 2020, setting the new status conference for April 8, 2020 at 11:00 a.m.