

UNITED STATES BANKRUPTCY COURT
Eastern District of California
Honorable René Lastreto II
Hearing Date: Wednesday, February 13, 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. [18-10901](#)-B-7 **IN RE: FLOR OAXAQUENA, INC.**
[JES-2](#)

MOTION FOR COMPENSATION FOR JAMES E. SALVEN, ACCOUNTANT(S)
12-21-2018 [\[26\]](#)

JAMES SALVEN/MV
JUSTIN HARRIS

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 accountant, James E. Salven, requests fees of \$700.00 and costs of \$224.29 for a total of \$924.29 for services rendered from October 18, 2018 through December 7, 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) Obtaining an e-file waiver for 2017 and 2018, (2) Recreating balance sheets and income statements for 2017 and 2018, (3) Inputting and processing the 2017 and 2018 tax returns, and (4) Preparing, filing, and serving the fee application.

Movant shall be awarded \$700.00 in fees and \$224.29 in costs.

2. [19-10016](#)-B-7 **IN RE: QUALITY FRESH FARMS, INC.**
[APN-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
1-11-2019 [\[8\]](#)

FORD MOTOR CREDIT COMPANY/MV
RILEY WALTER
AUSTIN NAGEL/ATTY. FOR MV.
RESPONSIVE PLEADING

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 the automatic stay will be granted
without oral argument based upon well-pled facts.

This motion relates to an executory contract or lease of personal
property. The time prescribed in 11 U.S.C. § 365(d)(1) for the
lease to be assumed by the chapter 7 trustee has not yet run and,
pursuant to § 365 (p)(1), the leased property is still property of
the estate and protected by the automatic stay under § 362(a).

This matter was fully noticed in compliance with the Local Rules of
Practice. The debtor filed non-opposition on January 15, 2019. (Doc.
#14). Accordingly, the trustee's default will be entered. Federal
Rule of Civil Procedure 55, made applicable by Federal Rule of
Bankruptcy Procedure 7055, governs default matters and is applicable
to contested matters under Federal Rule of Bankruptcy Procedure
9014(c). Upon default, factual allegations will be taken as true
(except those relating to amount of damages). *Televideo Systems,
Inc. v. Heidenthal* (826 F.2d 915, 917 (9th Cir., 1987)).
Constitutional due process requires that a plaintiff make a *prima
facie* showing that they are entitled to the relief sought, which the
movant has done here. The trustee has not moved to assume the
subject lease.

Since there is no opposition by the debtor, relief is ordered as to
the debtor's interest as well.

The proposed order shall specifically describe the property or
action to which the order relates. The collateral is a 2018 Ford
F150. Doc. #12.

The waiver of Federal Rule of Bankruptcy Procedure 4001(a)(3) will
be granted. The moving papers show the collateral has been
surrendered and is in movant's possession.

3. [18-14017](#)-B-7 **IN RE: ARMANDO/MELISSA HERNANDEZ**
[NES-1](#)

MOTION TO AVOID LIEN OF INTERINSURANCE EXCHANGE OF THE
AUTOMOBILE CLUB
1-14-2019 [\[25\]](#)

ARMANDO HERNANDEZ/MV
NEIL SCHWARTZ

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 Interinsurance Exchange of the Automobile Club in the sum of \$41,507.98 on November 28, 2017. Doc. #29. The abstract of judgment was recorded with Ventura County on January 4, 2018. *Id.* That lien attached to the debtor's interest in a residential real property in California City, 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 \$126,455.00 as of the petition date. Doc. #1. The debtor claimed an exemption pursuant to Cal. Civ. Proc. Code § 704.730(a)(2) in the amount of \$100,000.00. *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).

4. [18-13218](#)-B-7 **IN RE: VAN LAI**

MOTION TO RECONVERT CASE FROM CHAPTER 7 TO CHAPTER 13
1-22-2019 [\[149\]](#)

VAN LAI/ATTY. FOR MV.

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Denied.

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

This motion is DENIED. 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).

This motion is DENIED.

The court must first note the procedural deficiencies relating to the Local Rules of Practice ("LBR").

The LBR "are intended to supplement and shall be construed consistently with and subordinate to the Federal Rules of Bankruptcy Procedure and those portions of the Federal Rules of Civil Procedure that are incorporated by the Federal Rules of Bankruptcy Procedure." LBR 1001-1(b). The most up-to-date rules can be found at the court's website, www.caeb.uscourts.gov, towards the middle of the page under "COURT INFORMATION," "Local Rules & General Orders." The rules may also be obtained at the Clerk's counter on the second floor of the District Court. The newest rules came into effect on September 26, 2017.

First, Debtor did not serve the United States Trustee's Office

Second, the motion and accompanying documents did not include a Document Control Number.

LBR 9004-2(a)(6), (b)(5), (b)(6), (e) and LBR 9014-1(c), (e)(3) are the rules about Docket Control Numbers ("DCN"). These rules require

the DCN to be in the caption page on all documents filed in every matter with the court and each new motion requires a new DCN.

Third, the notice of hearing did not contain necessary language. LBR 9014-1(f)(2)(C) states that motions filed on less than 28 days' notice, but at least 14 days' notice, require the movant to notify the respondent or respondents that no party in interest shall be required to file written opposition to the motion. Opposition, if any, shall be presented at the hearing on the motion. If opposition is presented, or if there is other good cause, the Court may continue the hearing to permit the filing of evidence and briefs.

This motion was filed and served on January 22, 2019 and set for hearing on February 13, 2019. Doc. #150, 151. February 13, 2019 is less than 28 days after January 22, 2019, and therefore this hearing was set on less than 28 days' notice under LBR 9014-1(f)(2). The notice did not state whether opposition was required, and if it was, whether it could be written, or when it needed to be filed and served, and what the consequences of failing to do so would be. Because this motion was filed, served, and noticed on less than 28 days' notice, the language of LBR 9014-1(f)(2)(C) needed to have been included in the notice.

Fourth, the notice did not contain the language required under LBR 9014-1(d)(3)(B)(iii). LBR 9014-1(d)(3)(B), which is about noticing requirements, requires movants to notify respondents that they can determine whether the matter has been resolved without oral argument or if the court has issued a tentative ruling by checking the Court's website at www.caeb.uscourts.gov after 4:00 p.m. the day before the hearing.

Even if those procedural deficiencies were not present, this motion could still not be granted.

11 U.S.C. § 706(a) states that "the debtor may convert a case under this chapter to a case under chapter . . . 13 . . . at any time, if the case has not been converted under section . . . 1307 of this title."

11 U.S.C. § 1307 states that "the debtor may convert a case under this chapter to a case under chapter 7 of this title at any time."

The court takes judicial notice of the fact that debtor voluntarily converted to chapter 7 under § 1307(a) on September 18, 2018. Doc. #94.

Because the case was converted to chapter 13 under § 1307, pursuant to § 706(a), debtor is no longer entitled to voluntary conversion to chapter 13. See § 706 (a). The debtor's "absolute right" to convert is unavailable here because the debtor voluntarily converted this case to Chapter 7. So, the conversion of the case is subject to this court's discretion.

The bankruptcy court has the discretion to deny a debtor's request to convert a case from Chapter 7 to 13 if the record supports a finding that the debtor acted in bad faith. See § 105 (a). Marrama

v. Citizens Bank of Mass., 549 U.S. 365, 373-76 (2015); Miller v. Faith (In re Miller), 696 Fed. Appx. 297 (9th Cir, 2017) [denial of conversion to Chapter 11]; Rosson v. Fitzgerald (In re Rosson), 545 F. 3d 764 (9th Cir. 2008) [no absolute right to dismiss Chapter 13 if the debtor engaged in bad faith conduct]. The underpinning premise for denying a debtor's "absolute" right to convert to Chapter 13 is the that under § 1307 a debtor may not "qualify" to be a debtor under Chapter 13 because of the debtor's bad faith conduct.

The court is constrained to find here that the debtor's actions in this case preclude a conversion to Chapter 13. First, the debtor originally filed this case to stop a foreclosure after agreeing in settling pre-bankruptcy state court litigation to refinance or sell certain real estate within a time frame. The time frame expired, and the debtor filed this case (after a previous case was dismissed) to stop foreclosure. The debtor filed an adversary proceeding in the Chapter 13 case and sought injunctive relief preventing a foreclosure which the court denied. Then the debtor converted to Chapter 7. After the trustee was appointed and began his duties to liquidate the estate including non-exempt real estate the debtor now seeks to "re-convert" to Chapter 13 after seeking the "shelter" of Chapter 7. The debtor cannot have it both ways.

Second, the earlier case (which was also a Chapter 13) was dismissed after the Chapter 13 Trustee filed a motion to dismiss when the Chapter 13 Trustee learned that the debtor failed to list real estate she owned or co-owned in Las Vegas, Nevada. When this debtor's secrets are exposed, then there is a quick change in the debtor's focus. This cannot be countenanced.

Third, if in fact the Trustee has one or more valid buyers for the debtor's non-exempt interests, this debtor has every right to present a higher and better offer and indeed has that right presently. There is no realistic harm to the debtor's position by denying this motion.

Fourth, the motion presents no evidence. The only basis for the conversion stated is a vague statement that the conversion to Chapter 7 "was a mistake, and that the chapter 7 is not appropriate for this case for various reasons." Unstated reasons and no evidence do not support any good cause to allow this conversion. Based on all the facts in this case, there is no basis to grant the motion.

Therefore, this motion is DENIED.

The court notes creditor T2M Investments LLC's opposition.

5. [14-11619](#)-B-7 **IN RE: DONALD ANGLE AND MARY HOLLAUER**
[ICE-6](#)

MOTION FOR COMPENSATION FOR IRMA C. EDMONDS, TRUSTEES
ATTORNEY(S)
12-28-2018 [\[131\]](#)

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 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 attorney, Irma C. Edmonds, requests fees of \$21,261.50 and costs of \$921.55 for a total of \$22,183.05 for services rendered from September 6, 2017 through December 27, 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) Reviewing debtor's bankruptcy filings and the civil litigation file, (2) Communicating with opposing counsel in the state court litigation, (3) Reviewing and revising the settlement agreement, and (4) Preparing and filing employment and fee applications, and (5) Preparation of a motion involving co-ordination of state court counsel and bankruptcy counsel and preparation of supporting documents.

Movant shall be awarded \$21,261.50 in fees and \$921.55 in costs.

6. [17-14329](#)-B-7 **IN RE: CHARLES/GWENEVA SAWYER**
[RTW-2](#)

MOTION FOR COMPENSATION FOR RATZLAFF TAMBERI & WONG,
ACCOUNTANT(S)
1-11-2019 [\[59\]](#)

RATZLAFF TAMBERI & WONG/MV
DAVID JENKINS

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 accountant, Ratzlaff, Tamberi & Wong, requests fees of \$1,209.50 and costs of \$26.32 for a total of \$1,235.82 for services rendered from November 21, 2018 through December 20, 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) Reviewing trustee's information and debtor's petition, (2) Preparing and filing federal and state fiduciary income tax returns for debtors, (3) and filing a fee application. The court finds the services reasonable and necessary and the expenses requested actual and necessary.

Movant shall be awarded \$1,209.50 in fees and \$26.32 in costs.

7. [18-14940](#)-B-7 **IN RE: RAY KROTHER**

MOTION FOR WAIVER OF THE CHAPTER 7 FILING FEE
1-2-2019 [\[19\]](#)

RAY KROTHER/MV
MARK ZIMMERMAN
RESPONSIVE PLEADING

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

DISPOSITION: Dropped from calendar.

NO ORDER REQUIRED: Debtor consented to paying the fee in
installments. Doc. #24.

8. [18-12341](#)-B-7 **IN RE: DANNY/ROBIN MARSHALL**
[TGM-3](#)

MOTION FOR COMPENSATION FOR TRUDI G. MANFREDO, TRUSTEES
ATTORNEY(S)
1-15-2019 [\[40\]](#)

NEIL SCHWARTZ

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 attorney, Trudi Manfredo, requests fees of \$3,982.50 and costs of \$113.38 for a total of \$4,095.88 for services rendered from September 4, 2018 through December 22, 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)

Preparation of employment and fee, and (2) Negotiating an agreement between the other party which had an interest in two entities that owned patents. The court finds the services reasonable and necessary and the expenses requested actual and necessary.

Movant shall be awarded \$3,982.50 in fees and \$113.38 in costs.

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

CONTINUED 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: 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. § 727(a)(8) states that a debtor shall be granted a discharge unless "the debtor has been granted a discharge under this section . . . in a case commenced within 8 years before the date of the filing of the petition."

Debtor Andre Cobbs ("Debtor") previously filed for chapter 7 relief on December 12, 2011 and received a discharge on June 4, 2012. Doc. #31. December 12, 2011 is within eight years of the date this petition was filed (September 5, 2018). Therefore, Debtor cannot receive a discharge in this case and the United States Trustee's motion is granted.

10. [18-10760](#)-B-7 **IN RE: SANFORD SEMCHAK & SPEIGHTS INC.**
[TGM-7](#)

MOTION FOR COMPENSATION FOR TRUDI G. MANFREDO, TRUSTEES
ATTORNEY(S)
1-15-2019 [\[81\]](#)

PATRICK KAVANAGH

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 attorney, Trudi Manfredo, requests fees of \$6,282.50 and costs of \$647.89 for a total of \$6,930.39 for services rendered from March 7, 2018 through December 31, 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) Drafting and successfully prosecuting a motion to sell estate assets and employ an auctioneer, (2) Negotiating an agreement between the other party which had an interest in two entities that owned patents, (3) Disposing assets, and (4) Preparing and filing fee and employment applications. The court finds the services reasonable and necessary and the expenses requested actual and necessary.

Movant shall be awarded \$6,282.50 in fees and \$647.89 in costs.

11. [18-14573](#)-B-7 **IN RE: WILLIAM BELL**
[KAZ-2](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
1-11-2019 [\[30\]](#)

DEUTSCHE BANK NATIONAL
TRUSTEE/MV
R. BELL
KRISTIN ZILBERSTEIN/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 court will issue
the order.

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, Deutsche Bank National Trustee, seeks relief from the automatic stay under 11 U.S.C. § 362(d)(4) with respect to a piece of real property located at 43A Appian Way, in South San Francisco, CA 94080.

Under § 362(d)(4), if the court finds that the debtor's filing of the petition was part of a scheme to delay, hinder, or defraud creditors that involved either transfer of all or part ownership of, or other interest in, such real property without the consent of the secured creditor or court approval OR multiple bankruptcy filings affecting such real property, then an order entered under paragraph (4) is binding in any other bankruptcy case purporting to affect such real property filed not later than two years after the date of entry of the order.

After review of the included evidence, the court finds that the debtor's filing of the petition was part of a scheme to delay, hinder, or defraud creditors that involved the transfer of all or part ownership of the subject real property without the consent of the secured creditor or court approval. The court finds the debtor was not complicit in the alleged scheme.

On or about January 25, 2007, Janet T. Kempis executed a promissory note in the amount of \$115,000.00. Doc. #32. The promissory note is secured by a deed of trust encumbering the property located at 43A Appian Way in South San Francisco, CA 94080 ("Property"). *Id.* On or about November 8, 2018, Janet Kempis transferred an alleged interest in the property to debtor without the knowledge or consent of movant

in violation of the terms of the Deed of Trust. *Id.* Four days later, debtor filed this chapter 7 bankruptcy case.

Movant has also learned that the loan was obtained fraudulently. Janet Kempis used her daughter's social security number in obtaining the loan. *Id.*

The Court having rendered findings of fact and conclusions of law pursuant to Federal Rule of Civil Procedure 52, as incorporated by Federal Rule of Bankruptcy Procedure 7052:

IT IS ORDERED that the automatic stay of 11 U.S.C. § 362(a) is vacated with respect to the real property located at 43A Appian Way in South San Francisco, CA 94080; and

IT IS FURTHER ORDERED, pursuant to 11 U.S.C. § 362(d)(4), that the filing of the petition was part of a scheme to delay, hinder, or defraud creditors that involved either transfer of all or part ownership of, or other interest in, the aforesaid real property without the consent of the secured creditor or court approval; or multiple bankruptcy filing affecting such real property. The order shall be binding in any other case under Title 11 of the United States Code purporting to affect the real property described in the motion not later than two years after the date of entry of the order.

The 14-day stay of Fed. R. Bankr. P. 4001(a)(3) will be ordered waived.

The request for attorney fees is denied without prejudice because movant has not shown that they are oversecured under 11 U.S.C. § 506(B).

12. [10-15674](#)-B-7 **IN RE: FRANK ABBOT AND KARLI AUBRY**
[NES-2](#)

MOTION TO AVOID LIEN OF DISCOVER BANK
1-14-2019 [\[31\]](#)

FRANK ABBOT/MV
NEIL SCHWARTZ

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 Discover Bank in the sum of \$7,524.26 on August 13, 2009. Doc. #35. The abstract of judgment was recorded with Kern County on December 5, 2009. *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 \$168,000.00 as of the petition date. Doc. #23. The unavoidable liens totaled \$281,000.00 on that same date, consisting of a first deed of trust in favor of Huntington Beach City Employee (doc. #1, Schedule D). The debtor claimed an exemption pursuant to Cal. Civ. Proc. Code § 703.140(b)(5) in the amount of \$1.00. Doc. #23, amended Schedule C.

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).

13. [10-15674](#)-B-7 **IN RE: FRANK ABBOT AND KARLI AUBRY**
[NES-3](#)

MOTION TO AVOID LIEN OF CALIFORNIA BUSINESS BUREAU, INC.
1-14-2019 [\[25\]](#)

FRANK ABBOT/MV
NEIL SCHWARTZ

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 California Business Bureau Inc. in the sum of \$19,447.4 on September 8, 2009. Doc. #29. The abstract of judgment was recorded with Orange County on January 21, 2010. *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 \$168,000.00 as of the petition date. Doc. #23. The unavoidable liens totaled \$281,000.00 on that same date, consisting of a first deed of trust in favor of Huntington Beach City Employee (doc. #1, Schedule D). The debtor claimed an exemption pursuant to Cal. Civ. Proc. Code § 703.140(b)(5) in the amount of \$1.00. Doc. #23, amended Schedule C.

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).

14. [18-13280](#)-B-7 **IN RE: ALFONSO ZAMORA**
[JES-2](#)

MOTION TO SELL
1-9-2019 [\[28\]](#)

JAMES SALVEN/MV
MARK ZIMMERMAN

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

DISPOSITION: Granted.

ORDER: The minutes of the hearing will be the court's
findings and conclusions. The Moving Party
shall submit a proposed order after 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). 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. § 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 asks this court for authorization to sell a 1990 Lincoln and 2007 Honda Odyssey ("Vehicles") to debtor, subject to higher and better bids at the hearing, for \$4,200.

It appears that the sale of the Vehicles is a reasonable exercise of the trustee's business judgment. This motion is GRANTED.

15. [18-14980](#)-B-7 **IN RE: MARCELA NEWELL**
[PK-1](#)

AMENDED MOTION FOR RELIEF FROM AUTOMATIC STAY
1-31-2019 [[31](#)]

THOMAS PARK/MV
OSCAR SWINTON
PATRICK KAVANAGH/ATTY. FOR MV.

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 on procedural grounds.

First, the court notes that this motion was essentially filed and served three times, all with the same Docket Control Number.

The first time it was served on January 30, 2019, which is exactly 14 days' notice. Doc. #21. Then two more amended motions were filed and served, both on January 31, 2019, which is less than 14 days' notice. Doc. # 30, 37. The court did not see an explanation as to why three motions were filed, nor why the motions were amended. The court notes that the first motion was signed by counsel but did not list the location of the courtroom. Then the second motion listed the location of the courtroom but was not signed by counsel. The third motion apparently corrects both problems, but was noticed, filed, and served too late.

Doc. #14 lists Dept. B, but the notice accompanying the motion lists Dept. A, but Judge Lastreto is still listed.

The latest amended motion was filed on January 31, 2019 and set for hearing on February 13, 2019. Doc. #32, 37. January 31, 2019 is 13 days before February 13, 2019, and therefore this hearing was set on less than 14 days' notice under LBR 9014-1(f)(3). Hearings set on less than 14 days' notice require an order shortening time. The court did not issue an order shortening time for this matter.

Because the motion was not in compliance with LBR 9014-1(f)(3), the motion is DENIED WITHOUT PREJUDICE.

16. [16-12687](#)-B-7 **IN RE: LORAIN GOODWIN MILLER**
[TGM-9](#)

MOTION FOR COMPENSATION FOR TRUDI G. MANFREDO, TRUSTEES
ATTORNEY(S)
1-16-2019 [\[215\]](#)

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 attorney, Trudi Manfredo, requests fees of \$20,691.00 and costs of \$536.81 for a total of \$21,227.81 for services rendered from October 12, 2016 through December 27, 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, including litigating an exemption issue, (2) Successfully objecting to four claims of the debtor, and (3) Filing fee and employment applications. The court finds the services reasonable and necessary and the expenses requested actual and necessary.

Movant shall be awarded \$20,691.00 in fees and \$536.81 in costs.

17. [18-15195](#)-B-7 **IN RE: CHRISTOPHER BENINCOSA**
[APN-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
1-7-2019 [\[12\]](#)

CAB WEST LLC/MV
PETER BUNTING
AUSTIN NAGEL/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 the automatic stay will be granted
without oral argument based upon well-pled facts.

This motion relates to an executory contract or lease of personal
property. The time prescribed in 11 U.S.C. § 365(d)(1) for the
lease to be assumed by the chapter 7 trustee has not yet run and,
pursuant to § 365 (p)(1), the leased property is still property of
the estate and protected by the automatic stay under § 362(a).

This matter was fully noticed in compliance with the Local Rules of
Practice and there is no opposition. Accordingly, the respondents'
defaults will be entered. Federal Rule of Civil Procedure 55, made
applicable by Federal Rule of Bankruptcy Procedure 7055, governs
default matters and is applicable to contested matters under Federal
Rule of Bankruptcy Procedure 9014(c). Upon default, factual
allegations will be taken as true (except those relating to amount
of damages). *Televideo Systems, Inc. v. Heidenthal* (826 F.2d 915,
917 (9th Cir., 1987). Constitutional due process requires that a
plaintiff make a *prima facie* showing that they are entitled to the
relief sought, which the movant has done here. The trustee has not
moved to assume the subject lease.

The proposed order shall specifically describe the property or
action to which the order relates. The collateral is a 2016 Ford
Focus. Doc. #15.

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

18. [18-15195](#)-B-7 **IN RE: CHRISTOPHER BENINCOSA**
[APN-2](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
1-7-2019 [\[18\]](#)

CAB WEST LLC/MV
PETER BUNTING
AUSTIN NAGEL/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 the automatic stay will be granted
without oral argument based upon well-pled facts.

This motion relates to an executory contract or lease of personal
property. The time prescribed in 11 U.S.C. § 365(d)(1) for the
lease to be assumed by the chapter 7 trustee has not yet run and,
pursuant to § 365 (p)(1), the leased property is still property of
the estate and protected by the automatic stay under § 362(a).

This matter was fully noticed in compliance with the Local Rules of
Practice and there is no opposition. Accordingly, the respondents'
defaults will be entered. Federal Rule of Civil Procedure 55, made
applicable by Federal Rule of Bankruptcy Procedure 7055, governs
default matters and is applicable to contested matters under Federal
Rule of Bankruptcy Procedure 9014(c). Upon default, factual
allegations will be taken as true (except those relating to amount
of damages). *Televideo Systems, Inc. v. Heidenthal* (826 F.2d 915,
917 (9th Cir., 1987). Constitutional due process requires that a
plaintiff make a *prima facie* showing that they are entitled to the
relief sought, which the movant has done here. The trustee has not
moved to assume the subject lease.

The proposed order shall specifically describe the property or
action to which the order relates. The collateral is a 2016 Ford
Focus. Doc. #22.

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

11:00 AM

1. [18-14933](#)-B-7 **IN RE: LISA MONTIJO**

PRO SE REAFFIRMATION AGREEMENT WITH CARMAX AUTO FINANCE
1-18-2019 [[13](#)]

NO RULING.

2. [18-14681](#)-B-7 **IN RE: BRYAN/JESSICA CRISWELL**

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

NO RULING.

1:30 PM

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

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

SORIANO V. OLIVA
GREGORIO SORIANO/ATTY. FOR PL.

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

DISPOSITION: The status conference will be continued to March 20,
2019 at 1:30 p.m. subject to further court order.

ORDER: The court will issue an order.

The docket reflects the plaintiff has filed a request to enter default (Doc. #10). If a prove-up hearing is scheduled before the next status conference, the court will continue the status conference to the hearing date or conclude the status conference.

2. [18-13218](#)-B-7 **IN RE: VAN LAI**
[18-1056](#)

CONTINUED ORDER TO SHOW CAUSE
11-15-2018 [[21](#)]

LAI V. T2M INVESTMENTS, LLC ET
AL
RESPONSIVE PLEADING

NO RULING.

3. [17-10236](#)-B-13 **IN RE: PAUL/KATHLEEN LANGSTON**
[17-1044](#)

CONTINUED STATUS CONFERENCE RE: AMENDED COMPLAINT
7-3-2017 [\[17\]](#)

LANGSTON ET AL V. INTERNAL
REVENUE SERVICE
GABRIEL WADDELL/ATTY. FOR PL.
RESPONSIVE PLEADING

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

DISPOSITION: The status conference will be continued to March 20,
2019 at 1:30 p.m. to be heard with the other motions
(Numbers 5 and 6 below).

ORDER: The court will issue an order.

4. [17-10236](#)-B-13 **IN RE: PAUL/KATHLEEN LANGSTON**
[17-1044](#) [FW-2](#)

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

LANGSTON ET AL V. INTERNAL
REVENUE SERVICE
GABRIEL WADDELL/ATTY. FOR MV.

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

DISPOSITION: New dates for response and reply are set forth
below. The hearing is continued to March 20, 2019 at
1:30 p.m.

ORDER: The court will issue an order.

The IRS has advised the court that the lapse in funding is now over. Accordingly, the court sets the following deadlines: Opposition to this motion is due February 27, 2019. Reply to the opposition is due March 13, 2019.

5. [17-10236](#)-B-13 **IN RE: PAUL/KATHLEEN LANGSTON**
[17-1044](#) [US-1](#)

CONTINUED MOTION TO DISMISS PAUL LANGSTON'S AND KATHLEEN
LANGSTON'S CLAIM FOR ATTORNEY'S FEES
11-20-2018 [\[55\]](#)

LANGSTON ET AL V. INTERNAL
REVENUE SERVICE
JONATHAN HAUCK/ATTY. FOR MV.

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

DISPOSITION: New dates for response and reply are set forth
below. The hearing is continued to March 20, 2019 at
1:30 p.m.

ORDER: The court will issue an order.

The IRS has advised the court that the lapse in funding is now over.
Accordingly, the court sets the following deadlines: Opposition to
this motion is due February 27, 2019. Reply to the opposition is due
March 13, 2019.

6. [18-13238](#)-B-7 **IN RE: DENISE DAWSON**
[18-1085](#)

STATUS CONFERENCE RE: COMPLAINT
12-5-2018 [\[1\]](#)

DAWSON V. LOS ANGELES COUNTY
SHERIFF'S DEPARTMENT
JEFFREY ROWE/ATTY. FOR PL.

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

DISPOSITION: The status conference is continued to April 24, 2019
at 1:30 pm subject to being reset.

ORDER: The court will issue an order.

The plaintiff served a stale summons. A new summons should be
issued, and the plaintiff must re-serve the defendant. No default
should be entered.

Fed. Rule of Bankr. Proc. 7004(c) requires that a summons be served
within 7 days of the issuance of the summons. Here, the summons was
issued December 5, 2018 (Doc. 5) but not served until December 20,
2018 (Doc. 6). Under Rule 7004(c), the plaintiff may request another
summons.

7. [18-13541](#)-B-13 **IN RE: MORGAN BROWN**
[18-1087](#)

STATUS CONFERENCE RE: COMPLAINT
12-14-2018 [[1](#)]

JEAN KELSEY WRIGHT, GUARDIAN
AD LITEM FOR JTW, A M V. BROWN
SCOTT CARR/ATTY. FOR PL.
SUMMONS REISSUED FOR 3/27/19

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

DISPOSITION: Continued to March 27, 2019 at 1:30 p.m.

ORDER: The court will issue an order.

A summons was reissued on January 29, 2019, setting the status conference over to March 27, 2019. Therefore, this matter will be continued to that date.

8. [18-11357](#)-B-13 **IN RE: ENRIQUE/GUADALUPE REYES**
[JB-1](#)

MOTION FOR SUMMARY JUDGMENT
1-2-2019 [[160](#)]

FRANCHISE TAX BOARD/MV
JAMES MICHEL
JILL BOWERS/ATTY. FOR MV.
RESPONSIVE PLEADING

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

DISPOSITION: Continued to February 27, 2019 at 1:30 p.m.

ORDER: The court will issue an order.

For good cause, this motion is continued to February 27, 2019 at 1:30 p.m. Debtors' counsel may possibly be occupied in a jury trial in Los Angeles on the date of this hearing. Doc. #209. Additionally, debtors have also filed their own motion for summary judgment, set for hearing on the same continued date. Hearing both motions at the same time will preserve judicial economy. Counsel for both parties have agreed to this continuance.