

UNITED STATES BANKRUPTCY COURT  
Eastern District of California  
Honorable René Lastreto II  
Hearing Date: Friday, March 9, 2018  
Place: Department B - Courtroom #13  
Fresno, California

**INSTRUCTIONS FOR PRE-HEARING DISPOSITIONS**

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

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

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

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

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

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

9:30 AM

1. [17-14304](#)-B-7 IN RE: XCOR AEROSPACE INC, A CALIFORNIA CORPORATION  
[VC-2](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY  
2-6-2018 [[74](#)]

BB&T COMMERICAL EQUIPMENT  
CAPITAL CORP./MV  
RILEY WALTER  
MICHAEL VANLOCHEM/ATTY. FOR MV.

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

DISPOSITION: Granted.

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

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

The motion will be GRANTED.

The movant, BB&T Commercial Equipment Capital Corp., seeks relief from the automatic stay with respect to personal property of the debtor, which includes, inter alia, refrigerated dryer, air compressor, receiver tank, filler, cubicles, and spot panel cleaning. The movant has produced evidence that the collateral has a value of \$9,500.00 wholesale and the balance owed to movant is \$18,722.51. (Docket #76).

The court concludes that there is no equity in the collateral and the collateral is not necessary to reorganization because debtor is in chapter 7. There is also no equity cushion protecting movant.

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.

Because the movant has not established that the value of its collateral exceeds the amount of its secured claim, the court awards no fees and costs in connection with the movant's secured claim as a result of the filing and prosecution of this motion. 11 U.S.C. § 506(b).

The 14-day stay of Fed. R. Bankr. P. 4001(a)(3) will be ordered waived due to the fact that the collateral is depreciating in value.

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

Unless the court expressly orders otherwise, the proposed order shall not include any other relief. If the proposed order includes extraneous or procedurally incorrect relief that is only available in an adversary proceeding then the order will be rejected. See *In re Van Ness*, 399 B.R. 897 (Bankr. E.D. Cal. 2009).

The court notes that the movant failed to include a cover page to the declaration (Docket #76) in compliance with LBR 9004-1 and 9004-2. Movant's previously filed motion [VC-1], which was denied by the court on procedural grounds, included a properly filed declaration. Both declarations appear to be identical in content.

2. [17-14918](#)-B-7      **IN RE: NOEL ESTRADA**  
[MAZ-1](#)

MOTION TO COMPEL ABANDONMENT  
2-16-2018    [\[19\]](#)

NOEL ESTRADA/MV  
MARK ZIMMERMAN

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.

11 U.S.C. § 554(b) provides that "on request of a party in interest and after notice and a hearing, the court may order the trustee to abandon any property of the estate that is burdensome to the estate or that is of inconsequential value and benefit to the estate." In order to grant a motion to abandon property, the bankruptcy court must find either that: (1) the property is

burdensome to the estate or (2) of inconsequential value and inconsequential benefit to the estate. In re Vu, 245 B.R. 644, 647 (9th Cir. B.A.P. 2000). As one court noted, "an order compelling abandonment is the exception, not the rule. Abandonment should only be compelled in order to help the creditors by assuring some benefit in the administration of each asset... Absent an attempt by the trustee to churn property worthless to the estate just to increase fees, abandonment should rarely be ordered." In re K.C. Mach. & Tool Co., 816 F.2d 238, 246 (6th Cir. 1987). And in evaluating a proposal to abandon property, it is the interests of the estate and the creditors that have primary consideration, not the interests of the debtor. In re Johnson, 49 F.3d 538, 541 (9th Cir. 1995) (noting that the debtor is not mentioned in § 554). In re Galloway, No. AZ-13-1085-PaKiTa, 2014 Bankr. LEXIS 3626, at \*16-17 (B.A.P. 9th Cir. Aug. 27, 2014)

Debtor seeks to compel trustee to abandon the property of debtor's sole proprietorship, a 1994 Kenworth W-900 tractor. Debtor claims the property is worth \$10,000 and is subject to no liens. Docket #21, ¶2. Debtor has also exempted \$8,000 of that \$10,000 value under California Code of Civil Procedure § 703.140(b)(6).

The court finds that the tractor is of inconsequential value and benefit to the estate. \$8,000 of the tractor is exempt, leaving only a potential \$2,000 left to creditors, minus trustee's fees and potentially other costs associated with the sale of the property.

Therefore this motion is GRANTED.

3. [18-10118](#)-B-7     **IN RE: FRANK AIELLO**  
[JDS-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY  
2-8-2018    [[10](#)]

GEORGIA HOUSING AND FINANCE  
AUTHORITY/MV  
PATRICK KAVANAGH  
JOHN SCHLOTTER/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 for failure to comply with Local Bankruptcy Rule 9014-1(d)(3)(B)(iii). New Local Rules of Practice in the Eastern District became effective on September 26, 2017. In particular, Rule 9014-1(d)(3)(B), which is about noticing requirements, requires movants to notify respondents that they can determine whether the matter has been resolved without oral argument or if the court has issued a tentative ruling by checking the Court's website at [www.caeb.uscourts.gov](http://www.caeb.uscourts.gov) after 4:00 p.m. the day before the hearing.

4. [17-14920](#)-B-7     **IN RE: VARDGES GASPARYAN**  
[BDA-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY  
2-6-2018    [[13](#)]

FINANCIAL SERVICES VEHICLE  
TRUST/MV  
JACOB EATON  
BRET ALLEN/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 for failure to comply with Local Bankruptcy Rule 9014-1(d)(3)(B)(iii). New Local Rules of Practice in the Eastern District became effective on September 26, 2017. In particular, Rule 9014-1(d)(3)(B), which is about noticing requirements, requires movants to notify respondents that they can determine whether the matter has been resolved without oral argument or if the court has issued a tentative ruling by checking the Court's website at [www.caeb.uscourts.gov](http://www.caeb.uscourts.gov) after 4:00 p.m. the day before the hearing.

5. [17-14923](#)-B-7     **IN RE: INDELIZA CASTANEDA**  
[TMT-1](#)

OBJECTION TO DEBTOR'S CLAIM OF EXEMPTIONS  
2-8-2018    [[14](#)]

INDELIZA CASTANEDA/MV  
ERIC ESCAMILLA  
WITHDRAWN

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

DISPOSITION:                    Dropped from calendar.

NO ORDER REQUIRED:            The trustee withdrew the objection.

6. [12-19625](#)-B-7     **IN RE: LUCAS RIANTO**  
[JDW-4](#)

MOTION TO AVOID LIEN OF FIA CARD SERVICES, N.A.  
2-16-2018    [\[49\]](#)

LUCAS RIANTO/MV  
JAMES MILLER

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.

A judgment was entered against the debtor in favor of FIA Card Services, N.A. for the sum of \$6,764.83 on July 19, 2012. Docket #52. The abstract of judgment was recorded with Fresno County on September 28, 2012. *Id.* That lien attached to the debtor's interest in a residential real property in Clovis, California. The motion will be granted pursuant to 11 U.S.C. § 522(f)(1)(A). The subject real property had an approximate value of \$179,077.50 as of the petition date. Docket #1, Schedule B. The unavoidable liens totaled \$366,945.00 on that same date, consisting of a first mortgage in favor of Seterus, Inc. Docket #1, Schedule D. The debtor claimed an exemption pursuant to Cal. Civ. Proc. Code § 703.140(b)(1) in the amount of \$26,800.00. Amended Schedule C, Docket #28.

The respondent holds a judicial lien created by the recordation of an abstract of judgment in the chain of title of the subject real property. After application of the arithmetical formula required by 11 U.S.C. § 522(f)(2)(A), there is no equity to support the judicial lien. Therefore, the fixing of this judicial lien impairs the debtor's exemption of the real property and its fixing will be avoided subject to 11 U.S.C. § 349(b)(1)(B).

7. [15-14225](#)-B-7     **IN RE: LETICIA CAMACHO**  
[TGM-4](#)

MOTION FOR COMPENSATION FOR TRUDI G. MANFREDO, TRUSTEES  
ATTORNEY(S)  
2-9-2018    [[107](#)]

GLEN GATES

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.

Trudi Manfredo, trustee's attorney, will be awarded \$4,237.00 in fees and \$293.50 in costs.

8. [17-14744](#)-B-7     **IN RE: JUSTINE/ESTELLA GOMEZ**  
[UST-1](#)

MOTION TO DISMISS CASE  
2-5-2018    [[25](#)]

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.

Unless the trustee's motion is withdrawn before the hearing, the motion will be granted without oral argument for cause shown.

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 case will be dismissed for cause: the debtors filed a joint case but are not married, and the debtors did not file credit counseling certificates or seek a waiver.

11 U.S.C. § 302(a) states that a joint case can only be filed by a debtor and their spouse. At the meeting of creditors, debtor Justine Gomez testified that joint debtor Estella Gomez is her mother. Docket #27.

11 U.S.C. §§ 109(h)(1) and 521(b) require debtors to obtain credit counseling from an approved provider within 180 days prior to filing bankruptcy and to file a certificate of that counseling with the court. Justine Gomez testified that she received counseling, but has not filed the certificate with the court. Estella Gomez testified that she is 'disable' and does not need to attend credit counseling, but has not filed any motion with the court to be excused from that requirement, as required by 11 U.S.C. § 109(h).

For the above reasons, this motion is GRANTED.

9. [17-13946](#)-B-7     **IN RE: STEVEN GROSS**  
[DRF-2](#)

MOTION TO EXTEND DEADLINE TO FILE A COMPLAINT OBJECTING TO  
DISCHARGEABILITY OF A DEBT  
1-17-2018    [[20](#)]

JAMES POLLOCK/MV  
LAYNE HAYDEN  
DONALD FORBES/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 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.

Normally, a complaint to determine dischargeability of a debt under 11 U.S.C. § 523(c) must be filed no later than 60 days after the first date set for the § 341 meeting. Federal Rule of Bankruptcy Procedure 4007(c) states that on a motion of a party in interest, and after a hearing on notice, the court may for cause extend the time fixed to file a complaint to determine the dischargeability of a debt under 11 U.S.C. § 523(c). This motion must be filed before the time expires.

The first date set for the § 341 meeting was November 22, 2017. The 60-day deadline ended on January 19, 2018. This motion was filed on January 17, 2018, which is within the 60-day deadline.

The court finds cause to extend the deadline. Movant conducted a Rule 2004 examination of debtor on December 21, 2017; a third party witness, Bank of America, has produced more than 57,000 pages of documents pertaining to the putative action; this motion was filed within the 60-day period; the motion contains enough information to put the debtor on notice as to what debt(s) may be the subject of the action to determine dischargeability; and the extension movant requests is not overly lengthy.

In addition, even though debtor received his discharge on January 24, 2018 (docket #25), the order states that some debts are not discharged, one example being "debts that the bankruptcy court has decided or will decide [are not discharged]." *Id.*

This motion is GRANTED. The time to file a non-dischargeability complaint will be extended to and including April 19, 2018 as to movant only.

10. [17-13963](#)-B-7     **IN RE: RODNEY LEFLORE**  
[APN-2](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY  
2-2-2018    [[26](#)]

SANTANDER CONSUMER USA,  
INC./MV  
ASHTON DUNN  
AUSTIN NAGEL/ATTY. FOR MV.

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

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

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

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

Because the debtor received his discharge on March 1, 2018 (docket #34), the motion is DENIED AS MOOT as to the debtor. 11 U.S.C. § 362(c)(2)(C).

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

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

Unless the court expressly orders otherwise, the proposed order shall not include any other relief. If the proposed order includes extraneous or procedurally incorrect relief that is only available in an adversary proceeding then the order will be rejected. See *In re Van Ness*, 399 B.R. 897 (Bankr. E.D. Cal. 2009).

11. [17-14669](#)-B-7     **IN RE: KATHLEEN POINDEXTER**  
[MEL-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY  
2-2-2018    [\[16\]](#)

BANK OF AMERICA N.A./MV  
MEGAN LEES/ATTY. FOR MV.

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

DISPOSITION:     Granted.

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

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

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

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

Unless the court expressly orders otherwise, the proposed order shall not include any other relief. If the proposed order includes extraneous or procedurally incorrect relief that is only available in an adversary proceeding then the order will be rejected. See *In re Van Ness*, 399 B.R. 897 (Bankr. E.D. Cal. 2009).

The debtor has not listed the purported property on her Schedule A/B. The motion references a 2006 Keystone RV Sprinter, while Schedule A/B lists a 2009 Wyoming Coachmen. Both items appear to be sleeping trailers.

Regardless, when a debtor files a petition for relief, an estate is created, and all assets of the debtor, subject to a few exceptions which are not applicable here, whether reported or not, are absorbed into that estate. See 11 U.S.C. § 541(a).

A "stay" as to the collection efforts of all creditors is automatically applicable and enforced under 11 U.S.C. § 362(c). But 11 U.S.C. § 362(d)(1) and (d)(2), under which this motion was filed, gives the court the ability to lift the automatic stay and permit a creditor to repossess their security interest if the creditor can show "cause," or if the creditor can show the debtor does not have any equity and the property AND such property is not necessary to an effective reorganization.

Here, the movant and creditor, Bank of America N.A., has provided evidence that they have a security interest in the property of the estate and are therefore entitled to repossession of said property if an exception from the automatic stay is applicable. Docket #21. "Cause" exists to lift the stay because debtor has not made payments due under the contract. Docket #18. The evidence filed by movant shows that debtor does not have any equity in the property, and the property is not necessary to an effective reorganization because this bankruptcy was filed under chapter 7 of the Bankruptcy Code and reorganization is not an option under chapter 7. Therefore this motion is GRANTED.

12. [17-11376](#)-B-7     **IN RE: HECTOR MERCADO MUNOZ AND MIRTA**  
MERCADO CARDENAS  
[JRL-4](#)

CONTINUED MOTION TO AVOID LIEN OF BRAVO CAPITAL, LLC  
11-16-2017    [[160](#)]

HECTOR MERCADO MUNOZ/MV  
JERRY LOWE  
RESPONSIVE PLEADING

NO RULING.

This matter will be called with item #18 below.

13. [14-13880](#)-B-7     **IN RE: JUAN GONZALES**  
[JES-3](#)

MOTION FOR COMPENSATION FOR JAMES SALVEN, ACCOUNTANT(S)  
2-6-2018    [[37](#)]

JAMES SALVEN/MV  
GREG BLEVINS

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.

Mr. Salven will be awarded \$1,425.00 in fees and \$213.10 in costs.

14. [17-14084](#)-B-7     **IN RE: RILEY TALFORD**  
[AP-2](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY  
2-6-2018    [[27](#)]

THE BANK OF NEW YORK MELLON/MV  
ERIC ESCAMILLA  
JENELLE ARNOLD/ATTY. FOR MV.

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

DISPOSITION:        Granted.

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

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

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

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

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

Unless the court expressly orders otherwise, the proposed order shall not include any other relief. If the proposed order includes extraneous or procedurally incorrect relief that is only available in an adversary proceeding then the order will be rejected. See *In re Van Ness*, 399 B.R. 897 (Bankr. E.D. Cal. 2009).

15. [16-14586](#)-B-7     **IN RE: CODY SKAGGS**  
[JCW-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY  
2-6-2018    [[25](#)]

WELLS FARGO BANK, N.A./MV  
MARK ZIMMERMAN  
JENNIFER WONG/ATTY. FOR MV.  
DISCHARGED

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

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

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

This motion for relief from stay was fully noticed in compliance with the Local Rules of Practice and there was no opposition. The motion will be DENIED AS MOOT as to the debtor because their discharge has been entered. 11 U.S.C. § 362(c)(2)(C). The motion will be granted for cause shown as to the chapter 7 trustee.

The automatic stay is terminated as to the trustee's interest only, 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 and provides that the motion is denied as to the debtor.

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

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

The request of the Moving Party, at its option, to provide and enter into any potential forbearance agreement, loan modification, refinance agreement or other loan workout/loss mitigation agreement as allowed by state law will be denied. The court is granting stay relief to movant to exercise its rights and remedies under applicable bankruptcy law. No more, no less.

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).

16. [17-14498](#)-B-7     **IN RE: PRISILIANO/NELIDA ZAVALA**  
[SL-1](#)

MOTION TO AVOID LIEN OF MIDLAND FUNDING LLC  
2-21-2018    [\[22\]](#)

PRISILIANO ZAVALA/MV  
SCOTT LYONS

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. 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).

First, debtor claims a \$175,000.00 homestead exemption under California Code of Civil Procedure ("CCP") § 704.950. Docket #1, Schedule C. The text of § 704.950 nowhere gives a dollar amount for a homestead exemption, but does reference CCP § 704.730. CCP § 704.730(a)(3) permits a debtor to a \$175,000.00 homestead exemption if certain requirements are met. However, no evidence filed by the debtor shows entitlement to that exemption. *Morgan v. FDIC (In re Morgan)*, 149 BR 147, 152 (9th Cir. B.A.P. 1993) (citing *In re Mohring*, 142 BR 389, 394 (Bankr. E.D. Cal. 1992)). No facts competently showing the debtors' entitlement to the claimed exemption (\$175,000.00) are included in the declarations.

Second, the declaration of Nelida Zavala (docket #24) is confusing. Most of the declaration references Midland Funding. But on page 2 the judicial lien of "California Business Bureau, Inc." is mentioned.

Therefore this motion is DENIED WITHOUT PREJUDICE.

17. [15-10257](#)-B-7     **IN RE: JUAN CALVILLO**  
[DJP-2](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY  
2-23-2018    [[137](#)]

EDUCATIONAL EMPLOYEES CREDIT  
UNION/MV  
MARK ZIMMERMAN  
DON POOL/ATTY. FOR MV.

TENTATIVE RULING:            This matter will proceed as scheduled.

DISPOSITION:                  Granted.

ORDER:                          The minutes of the hearing will be the court's findings and conclusions. The Moving Party 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 motion will be GRANTED.

The movant, Educational Employees Credit Union, seeks relief from the automatic stay with respect to a 2009 Acura TL. The movant has produced evidence that the vehicle has a value of \$11,632.00 and its secured claim is approximately \$16,442.19. Docket #20.

The court concludes that there is no equity in the vehicle and no evidence exists that it is necessary to a reorganization or that the trustee can administer it for the benefit of the creditors. The court also notes that the trustee filed a report of no distribution on December 15, 2017.

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 14-day stay of Fed. R. Bankr. P. 4001(a)(3) will be ordered waived because the vehicle is depreciating in value.

18. [17-11376](#)-B-7    **IN RE: HECTOR MERCADO MUNOZ AND MIRTA**  
MERCADO CARDENAS  
[17-1092](#)

CONTINUED STATUS CONFERENCE RE: COMPLAINT  
12-26-2017    [[1](#)]

BRAVO CAPITAL, LLC V. MERCADO  
ANDREW ALPER/ATTY. FOR PL.

NO RULING.



11:00 AM

1. [18-10304](#)-B-7     **IN RE: RODOLFO CALDERON**

PRO SE REAFFIRMATION AGREEMENT WITH ONEMAIN FINANCIAL  
SERVICES, INC.  
2-13-2018    [[11](#)]

NO RULING.

2. [17-14838](#)-B-7     **IN RE: LETICIA RIVERA**

REAFFIRMATION AGREEMENT WITH TOYOTA MOTOR CREDIT CORPORATION  
2-13-2018    [[18](#)]

EDDIE RUIZ

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

DISPOSITION:     Denied.

ORDER:             The court will issue an order.

Both the reaffirmation agreement and the bankruptcy schedules show that reaffirmation of this debt creates a presumption of undue hardship which has not been rebutted in the reaffirmation agreement. Although the debtor's attorney executed the agreement, the attorney could not affirm that, (a) the agreement was not a hardship and, (b) the debtor would be able to make the payments.

3. [17-14783](#)-B-7     **IN RE: ESMERALDA LOPEZ**

PRO SE REAFFIRMATION AGREEMENT WITH ONEMAIN  
2-20-2018    [[27](#)]

NO RULING.