

UNITED STATES BANKRUPTCY COURT  
Eastern District of California  
Honorable René Lastreto II  
Hearing Date: Wednesday, March 15, 2017  
Place: Department B – Courtroom #13  
Fresno, California

**INSTRUCTIONS FOR PRE-HEARING DISPOSITIONS**

1. The following rulings are tentative. The tentative ruling will not become the final ruling until the matter is called at the scheduled hearing. **Pre-disposed matters will generally be called, and the rulings placed on the record at the end of the calendar.** Any party who desires to be heard with regard to a pre-disposed matter may appear at the hearing. If the party wishes to contest the tentative ruling, he/she shall notify the opposing party/counsel of his/her intention to appear. **If no disposition is set forth below, the hearing will take place as scheduled.**

2. Submission of Orders:

Unless the tentative ruling expressly states that the court will prepare an order, then the tentative ruling will only appear in the minutes. If any party desires an order, then the appropriate form of order, which conforms to the tentative ruling, must be submitted to the court. When the debtor(s) discharge has been entered, proposed orders for relief from stay must reflect that the motion is denied as to the debtor(s) and granted only as to the trustee. Entry of discharge normally is indicated on the calendar.

3. Matters Resolved Without Opposition:

If the tentative ruling states that no opposition was filed, and the moving party is aware of any reason, such as a settlement, why a response may not have been filed, the moving party must advise Vicky McKinney, the Calendar Clerk, at (559) 499-5825 by 4:00 p.m. the day before the scheduled hearing.

4. Matters Resolved by Stipulation:

If the parties resolve a matter by stipulation after the tentative ruling has been posted, but **before the formal order is entered on the docket**, the **moving party** may appear at the hearing and advise the court of the settlement or withdraw the motion. Alternatively, the parties may submit a stipulation and order to modify the tentative ruling together with the proposed order resolving the matter.

5. Resubmittal of Denied Matters:

If the moving party decides to re-file a matter that is denied without prejudice for any reason set forth below, the moving party must file and serve a new set of pleadings with a new docket control number. It may not simply re-notice the original motion.

THE COURT ENDEAVORS TO PUBLISH ITS PREDISPOSITIONS AS SOON AS POSSIBLE, HOWEVER CALENDAR PREPARATION IS ONGOING AND THESE PREDISPOSITIONS 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 A.M.

1.	<a href="#">11-62500</a> -B-7	MANUEL DA SILVEIRA AND	MOTION FOR COMPENSATION FOR
	THA-3	ANA BELA SILVEIRA	THOMAS H. ARMSTRONG, TRUSTEES
			ATTORNEY(S)
			2-13-17 [ <a href="#">39</a> ]

PETER FEAR/Atty. for dbt.

The motion will be granted in part and denied in part without oral argument based upon well-pled facts. The moving party shall submit a proposed order. No appearance is necessary.

This matter was fully noticed in compliance with the Local Rules of Practice and 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. 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.

The fees and costs will be granted on a final basis to be payable at the trustee's discretion, in the amount of \$5486.17 only. The amount of \$42.50 will be disallowed as having been incurred more than 30 days before the application for employment was filed and neither the application for employment nor the application for fees requested a *nunc pro tunc* order.

2. [15-12702](#)-B-7 MARTIN STEBBEN  
RH-3  
PETER FEAR/MV

CONTINUED OBJECTION TO CLAIM OF  
FRANCHISE TAX BOARD, CLAIM  
NUMBER 5  
12-9-16 [[41](#)]

GLEN GATES/Atty. for dbt.  
ROBERT HAWKINS/Atty. for mv.  
RESPONSIVE PLEADING

**This matter will proceed as a scheduling conference to set briefing deadlines and a hearing schedule.**

3. [14-10808](#)-B-7 FRANK WEST  
MAZ-2  
FRANK WEST/MV  
MARK ZIMMERMAN/Atty. for dbt.

MOTION TO AVOID LIEN OF UNIFUND  
CCR, LLC  
2-1-17 [[29](#)]

**The motion will be granted without oral argument based upon well-pled facts. The moving party shall submit a proposed order. No appearance is necessary.**

**This matter was fully noticed in compliance with the Local Rules of Practice and 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. 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. It appears from the evidence submitted and the record that the debtor is entitled to avoid this lien that impairs an exemption to which they would otherwise have been entitled.**

4. [17-10009](#)-B-7 AUBREY GARZA

OPPOSITION RE: TRUSTEE'S MOTION  
TO DISMISS FOR FAILURE TO  
APPEAR AT SEC. 341(A) MEETING  
OF CREDITORS  
2-2-17 [[14](#)]

*The motion is conditionally denied. The court will issue an order. No appearance is necessary.*

The debtor shall attend the meeting of creditors rescheduled for April 6, 2017, at 11:00 a.m. If the debtor fails to do so, the chapter 7 trustee may file a declaration with a proposed order and the case may be dismissed without a further hearing.

The time prescribed in Rules 1017(e)(1) and 4004(a) for the chapter 7 trustee and the U.S. Trustee to object to the debtor's discharge or to move for dismissal of the case under section 707(b) is extended to 60 days after the conclusion of the meeting of creditors.

5. [16-14714](#)-B-7 RONALD/CLARA MCCALL  
PFT-1  
PETER FEAR/MV

MOTION TO EMPLOY GOULD AUCTION  
AND APPRAISAL COMPANY AS  
AUCTIONEER, AUTHORIZING SALE OF  
PROPERTY AT PUBLIC AUCTION AND  
AUTHORIZING PAYMENT OF  
AUCTIONEER FEES AND EXPENSES  
2-14-17 [[12](#)]

RAYMOND ISLEIB/Atty. for dbt.  
PETER FEAR/Atty. for mv.

The motion will be granted without oral argument based upon well-pled facts. The moving party shall submit a proposed order. No appearance is necessary.

This matter was fully noticed in compliance with the Local Rules of Practice and 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. 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. The proposed employment and sale appear to be a reasonable exercise of the trustee's business judgment and will be granted on the terms disclosed in the moving papers.

6. [16-12226](#)-B-7      MICHAEL GRIFFIN AND NANCY      CONTINUED OBJECTION TO DEBTOR'S  
JES-1      PAGE-GRIFFIN      CLAIM OF EXEMPTIONS  
JAMES SALVEN/MV      10-6-16 [[46](#)]  
JERRY LOWE/Atty. for dbt.  
ROBERT HAWKINS/Atty. for mv.

This matter will be continued to April 26, 2017, at 9:30 a.m., to allow finalizing a settlement agreement between the debtors and the trustee. The court will enter an order. No appearance is necessary.

If there is a pending motion to compromise, the hearing will be continued to that date instead. If the settlement is finalized and an order signed then the continued hearing will be dropped from calendar.

7. [17-10229](#)-B-7      PAUL BUNYAN      CONTINUED MOTION FOR RELIEF  
PK-1      FROM AUTOMATIC STAY  
LORA BOZARTH/MV      1-31-17 [[14](#)]  
PATRICK KAVANAGH/Atty. for mv.  
RESPONSIVE PLEADING

This matter will proceed as scheduled. The court has reviewed the debtor's opposition and the movant's reply. The court intends to enter the tentative ruling below.

Tentative Ruling.

The automatic stay will be terminated as it applies to the movant's right to proceed with the unlawful detainer litigation pending in the state court to determine rights to possession only. No other claim may be asserted against debtor or estate. Cause exists to terminate the automatic stay as to that litigation.

The court notes that there is a dispute between the parties as to the nature of the debtor's interest in the real property that is the subject of that litigation. That dispute cannot be resolved in a §362 motion.

The movant shall submit a proposed order after hearing that specifically describes the action to which the order relates. A waiver of Federal Rule of Bankruptcy Procedure 4001(a)(3) will not be granted because no proof of any exigency or need for immediate relief was submitted.

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

8. [16-13860](#)-B-7 JANNET ANTUNA  
RHT-1  
ROBERT HAWKINS/MV  
OSCAR SWINTON/Atty. for dbt.  
ROBERT HAWKINS/Atty. for mv.

OBJECTION TO DEBTOR'S CLAIM OF  
EXEMPTIONS  
2-10-17 [[14](#)]

This matter will be continued to April 12, 2017, at 9:30 a.m., for the filing of additional documents, evidence, and further briefing, as indicated below. The court will enter an order. No appearance is necessary.

The court notes that movant did not file a certificate of proof of service of this objection, accordingly, such certificate, as well as a reply to the debtor's opposition, shall be filed on or before April 5, 2017.

It appears from the filing date and the notice that this objection was noticed pursuant LBR 9014-1(f)(1). If this is the case, then the debtor's objection was untimely.

In addition, although competent evidence was submitted in the form of counsel's declaration as to the error in entering the debtor's address, the statements regarding the pre-petition transfer are objectionable in that counsel does not establish that he has personal knowledge of these facts.

9. [16-11661](#)-B-7 BRUCE/CAROL MAHLMANN  
TMT-2  
TRUDI MANFREDO/MV  
JAMES MILLER/Atty. for dbt.  
TRUDI MANFREDO/Atty. for mv.

MOTION TO SELL  
2-9-17 [[28](#)]

The motion will proceed as scheduled for higher and better bids only. The motion will be granted without oral argument based upon well-pled facts. The trustee shall submit a proposed order after hearing as specified below.

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

10. [14-10968](#)-B-7 NORMAN/DONNA NOONEN  
MAZ-2  
NORMAN NOONEN/MV  
MARK ZIMMERMAN/Atty. for dbt.

MOTION TO AVOID LIEN OF CACH  
LLC  
2-7-17 [[29](#)]

The motion will be granted without oral argument based upon well-pled facts. The moving party shall submit a proposed order. No appearance is necessary.

This matter was fully noticed in compliance with the Local Rules of Practice and 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. 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.

It appears from the evidence submitted and the record that the debtors are entitled to avoid this lien that impairs an exemption to which they would otherwise have been entitled.

11. [14-10968](#)-B-7 NORMAN/DONNA NOONEN  
MAZ-3  
NORMAN NOONEN/MV  
MARK ZIMMERMAN/Atty. for dbt.

MOTION TO AVOID LIEN OF  
CITIBANK (SOUTH DAKOTA) N.A.  
2-7-17 [[34](#)]

The motion will be granted without oral argument based upon well-pled facts. The moving party shall submit a proposed order. No appearance is necessary.

This matter was fully noticed in compliance with the Local Rules of Practice and 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. 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.

It appears from the evidence submitted and the record that the debtors are entitled to avoid this lien that impairs an exemption to which they would otherwise have been entitled.

12. [17-10174](#)-B-7 AUSTIN RAJEWICH  
APN-1  
GATEWAY ONE LENDING & FINANCE,  
LLC/MV  
MARK ZIMMERMAN/Atty. for dbt.  
AUSTIN NAGEL/Atty. for mv.  
RESPONSIVE PLEADING

MOTION FOR RELIEF FROM  
AUTOMATIC STAY  
2-10-17 [[16](#)]

The motion will be granted without oral argument for cause shown. Movant shall submit a proposed order as specified below. No appearance is necessary.

This motion for relief from stay was fully noticed in compliance with the Local Rules of Practice. The debtor filed a notice of non-opposition and the trustee's default 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. If the notice and motion requested a waiver of Federal Rule of Bankruptcy Procedure 4001(a)(3), that relief will be granted. It appears that no insurance is being maintained and the debtor intends to surrender the vehicle.

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

13. [16-14676](#)-B-7 JOHN/PATRICIA FARINELLI  
AP-1  
WELLS FARGO BANK, N.A./MV  
PETER BUNTING/Atty. for dbt.  
JAMIE HANAWALT/Atty. for mv.  
RESPONSIVE PLEADING

MOTION FOR RELIEF FROM  
AUTOMATIC STAY  
2-10-17 [[15](#)]

This motion will proceed as scheduled.

The court has reviewed the trustee's opposition to the motion based on his intent to market the property. The court intends to inquire as to the status of the debtors' claim of exemption on this property, which appears to be their residence, as well as the possible effect of the tax liens and abstract of judgement, listed in the debtors' schedules, on the trustee's planned sale of the property.



14. [17-10279](#)-B-7 DANIEL/ALAINA LOWMAN  
DANIEL LOWMAN/MV  
SUSAN HEMB/Atty. for dbt.  
RESPONSIVE PLEADING

MOTION FOR WAIVER OF THE  
CHAPTER 7 FILING FEE OR OTHER  
FEE  
1-30-17 [[5](#)]

**This matter will proceed as scheduled.**

15. [16-10284](#)-B-7 YOLANDA ARELLANO  
JES-2  
JAMES SALVEN/MV  
OSCAR SWINTON/Atty. for dbt.  
RUSSELL REYNOLDS/Atty. for mv.

MOTION TO COMPROMISE  
CONTROVERSY/APPROVE SETTLEMENT  
AGREEMENT WITH YOLANDA  
RODRIGUEZ ARELLANO  
1-23-17 [[44](#)]

**The motion will be granted without oral argument based upon well-pled facts. The trustee shall submit a proposed order as specified below. No appearance is necessary.**

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. It appears that the compromise is a reasonable exercise of the trustee's business judgment.

16. [13-11489](#)-B-7 FERNANDO/LUCILA  
TGM-2 BAGUINGUITO  
PETER FEAR/MV

MOTION TO COMPROMISE  
CONTROVERSY/APPROVE SETTLEMENT  
AGREEMENT  
2-13-17 [[45](#)]

JAMES MILLER/Atty. for dbt.  
TRUDI MANFREDO/Atty. for mv.

The motion will be granted without oral argument based upon well-pled facts. The moving party shall submit a proposed order. No appearance is necessary.

This matter was fully noticed in compliance with the Local Rules of Practice and 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. 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.

It appears from the moving papers that the trustee has considered the standards of *In re A & C Properties*, 784 F.2d 1377, 1381 (9th Cir. 1986), and that the compromise pursuant to FRBP 9019 is a reasonable exercise of the trustee's business judgment.

17. [14-14991](#)-B-7 KEVIN/DEBORAH KOKER  
JDR-1  
KEVIN KOKER/MV  
JEFFREY ROWE/Atty. for dbt.

MOTION TO COMPEL ABANDONMENT  
2-28-17 [[51](#)]

This motion will be denied without prejudice. The court will enter an order. No appearance is necessary.

The record shows that the motion to compel abandonment was not served on all creditors. "Unless otherwise directed by the court, the trustee or debtor in possession shall give notice of a proposed abandonment or disposition of property to the U.S. Trustee, all creditors . . . ." FRBP 6007(a). This provision also applies to motions brought by parties in interest. FRBP 6007(b). *In re Nordike*, 2013 WL 66262, \*1 (Bankr. S.D.Ill. Jan. 4, 2013).

18. [14-14991](#)-B-7 KEVIN/DEBORAH KOKER  
JES-1  
JAMES SALVEN/MV  
JEFFREY ROWE/Atty. for dbt.  
RESPONSIVE PLEADING

OBJECTION TO DEBTOR'S CLAIM OF  
EXEMPTIONS  
2-8-17 [[29](#)]

This matter will proceed as scheduled.

19. [14-14991](#)-B-7 KEVIN/DEBORAH KOKER  
JES-2  
JAMES SALVEN/MV  
JEFFREY ROWE/Atty. for dbt.  
RESPONSIVE PLEADING

MOTION TO COMPEL  
2-8-17 [[34](#)]

**This matter will proceed as scheduled.**

11:00 A.M.

1.     [17-10001](#)-B-7     ROLANDO/MARICHIA CASTILLO     REAFFIRMATION AGREEMENT WITH  
CAPITAL ONE AUTO FINANCE  
2-7-17 [[10](#)]  
  
TIMOTHY SPRINGER/Atty. for dbt.

**The hearing will be dropped from calendar. Counsel shall inform his clients that no appearance is necessary at this hearing.**

Debtors were represented by counsel when they entered into the reaffirmation agreement. Pursuant to 11 U.S.C. §524(c)(3), “if the debtor is represented by counsel, the agreement *must* be accompanied by an affidavit of the debtor’s attorney’ attesting to the referenced items before the agreement will have legal effect.” *In re Minardi*, 399 B.R. 841, 846 (Bankr. N.D. Ok, 2009) (emphasis in original). In this case, the debtors attorney appears to be affirming that the reaffirmation agreement represents a hardship presumption that has not been rebutted. Therefore, the agreement does not meet the requirements of 11 U.S.C. §524(c) and is not enforceable.

2.     [16-14132](#)-B-7     REYNALDO/MARIA CERVANTES     REAFFIRMATION AGREEMENT WITH  
ONEMAIN FINANCIAL SERVICES,  
INC.  
2-8-17 [[16](#)]  
  
TIMOTHY SPRINGER/Atty. for dbt.

**The hearing will be dropped from calendar. Counsel shall inform his clients that no appearance is necessary at this hearing.**

Debtors were represented by counsel when they entered into the reaffirmation agreement. Pursuant to 11 U.S.C. §524(c)(3), “if the debtor is represented by counsel, the agreement *must* be accompanied by an affidavit of the debtor’s attorney’ attesting to the referenced items before the agreement will have legal effect.” *In re Minardi*, 399 B.R. 841, 846 (Bankr. N.D. Ok, 2009) (emphasis in original). In this case, the debtors attorney appears to be affirming that the reaffirmation agreement represents a hardship presumption that has not been rebutted. Therefore, the agreement does not meet the requirements of 11 U.S.C. §524(c) and is not enforceable.

3. [16-14437](#)-B-7 BRETT/KRISTIE MOGLIA

REAFFIRMATION AGREEMENT WITH  
ONEMAIN FINANCIAL GROUP, LLC  
2-2-17 [[23](#)]

PETER FEAR/Atty. for dbt.

**The hearing will be dropped from calendar. Counsel shall inform his clients that no appearance is necessary at this hearing.**

Debtors were represented by counsel when they entered into the reaffirmation agreement. Pursuant to 11 U.S.C. §524(c)(3), “if the debtor is represented by counsel, the agreement *must* be accompanied by an affidavit of the debtor’s attorney’ attesting to the referenced items before the agreement will have legal effect.” *In re Minardi*, 399 B.R. 841, 846 (Bankr. N.D. Ok, 2009) (emphasis in original). In this case, the debtors attorney appears to be affirming that the reaffirmation agreement represents a hardship presumption that has not been rebutted. Therefore, the agreement does not meet the requirements of 11 U.S.C. §524(c) and is not enforceable.

SCOTT LYONS/Atty. for dbt.

This matter will be dropped from calendar. Debtor's counsel shall inform the debtor that no appearance is necessary.

Court review does not appear to be required.

The court is unclear with regard to counsel's interlineations of the attorney's affirmation, adding a box with a checkmark and the phrase, "I declare under penalty of perjury that the foregoing is true and correct." This appears to apply to the certification above this addition.

The reaffirmation agreement itself is intended to represent the debtor's financial situation and shows that reaffirming this agreement would be a hardship. Page 3, B, states:

"1. Your present monthly income and expenses are:

- a. Monthly income from all sources after payroll deductions: \$3,813
- b. Monthly expenses (including all reaffirmed debts except this one) \$3789
- c. Amount available to pay this reaffirmed debt (subtract b. from a.) \$24
- d. Amount of monthly payment required for this reaffirmed debt. \$24."

While below, in #2, the notation is made: "Payment is already included in the monthly expenses," this statement is vague and is not sufficient to address the clear inaccuracy of B, which on its face shows the reaffirmation is presumed to be an undue hardship.

The court should be able to rely on the accuracy of the debtor's financial information as stated in the reaffirmation agreement itself and should not be required to comb through the debtor's petition and schedules to discover whether or not the repayment is presumed to be an undue hardship.

Upon the review of the debtor's schedule J, it does appear that this debt should not have been included in the statement is actually included and there is a net income of \$24 after payment of this debt.

1:30 P.M.

1. [16-12310](#)-B-13 ROBIN RANK  
[16-1092](#)  
MCT GROUP, INC. V. RANK  
ALAN WILLIAMS/Atty. for pl.  
RESPONSIVE PLEADING

CONTINUED STATUS CONFERENCE RE:  
COMPLAINT  
9-23-16 [[1](#)]

If a stipulation and judgment are not filed prior to this hearing then it will proceed as scheduled.

If a stipulation and judgment are filed prior to this hearing then it will be dropped from calendar as settled and no appearance will be necessary.

2. [16-10016](#)-B-13 KEVIN DAVEY  
[16-1074](#) BTN-1  
DAVEY V. OCWEN LOAN SERVICING,  
LLC ET AL  
BENJAMIN NICHOLSON/Atty. for mv.

MOTION FOR LEAVE TO FILE  
CROSS-CLAIM  
2-8-17 [[122](#)]

The motion will be granted without oral argument based upon well-pled facts. The moving party shall submit a proposed order. No appearance is necessary.

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.

3. [16-13955](#)-B-7 ROBERT FETTIG  
[17-1002](#)  
TUCOEMAS FEDERAL CREDIT UNION  
V. FETTIG  
E. GUBLER/Atty. for pl.

STATUS CONFERENCE RE: COMPLAINT  
1-13-17 [[1](#)]

**The status conference will be vacated. No appearance is necessary. The record shows that the complaint was timely and properly served and the defendant did not file a response.**

**The plaintiff shall file a request for entry of default within 30 days and, pursuant to normal procedure, file a request for a prove up hearing at which it will submit evidence proving its case, including a copy of the state court judgment.**

4. [16-10169](#)-B-13 FRANK/MARY ANNE DORES  
AMM-6

RESCHEDULED MOTION FOR  
COMPENSATION BY THE LAW OFFICE  
OF SCHNIFF HARDIN LLP FOR  
MATTHEW F. PREWITT, CREDITORS  
ATTORNEY(S)  
12-22-16 [[290](#)]

PETER FEAR/Atty. for dbt.  
RESPONSIVE PLEADING

**This motion will be continued to May 25, 2017, at 1:30 p.m., by stipulation of the parties and order of the court. No appearance is necessary.**