

UNITED STATES BANKRUPTCY COURT
Eastern District of California
Honorable René Lastreto II
Hearing Date: Wednesday, April 10, 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. [18-13218](#)-B-7 **IN RE: VAN LAI**
[VKL-4](#)

MOTION TO RECONSIDER
3-26-2019 [\[212\]](#)

VAN LAI/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).

Debtor Van Kim Lai ("Debtor") asks this court to set aside the default entered against Debtor on the chapter 7 trustee's ("Trustee") Motion to Sell the vacant land APN: 026-091-032 (RH-3). Debtor argues that "due to lack of service of the motion, neither Debtor nor corporation GLVM had knowledge of the hearing scheduled for March 5, 2019 to file opposition and did not know to appear for the hearing" Doc. #212.

Trustee's motion was set on less than 28 days' notice, and any opposition to be presented was to be done at the hearing on March 5, 2019. Doc. #169.

The matter was called. Debtor was not present, and no party opposed the granting of the motion. The court notes that despite Debtor's argument that service could not be completed at that address, this motion, and every motion or document Debtor has filed with the court, contains the Los Banos house address: 1521 S. 7th Street Los

Banos, CA 93635. To the court's knowledge, Debtor has not filed a change of address with the court.

The court must first address the procedural deficiencies, which are enough alone to warrant denying the motion, though there are other reasons.

First, the language in the notice is incorrect. Local Rule of Practice ("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 served and filed on March 26, 2019 and set for hearing on April 10, 2019. Doc. #213. April 10, 2019 is less than 28 days after March 26, 2019, and therefore this hearing was set on less than 28 days' notice under LBR 9014-1(f)(2). The notice stated that written opposition was required and must be filed at least 14 days preceding the date of the hearing. Doc. #214. That is incorrect. Because the hearing was set on 14 days' notice, the notice should have stated that no written opposition was required. 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.

Second, 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 the court overlooked these procedural errors, this motion is DENIED on its merits. There are several reasons for this.

First, the court will not upset a bona fide sale. Debtor's motion says nothing about any improprieties in the sale process. Debtor claims the property was worth more than the sale price but that is meaningless since no one appeared and bid anything close to the value the debtor believes is appropriate.

Second, Debtor cannot continue to say that service at the Los Banos residence is improper due to the Post Office's inability to deliver mail. Debtor did not update her address and continues to use that same address on all documents filed with the court including the address used on this motion. Though the motion says nothing about this, the court is aware of Debtor's contention that she was "locked" out of the adjacent property (a single-family home) so the post office could not use the mail slot. The court has already dealt with that contention and finds it meritless. Debtor admits she was out of town for an extended period in Las Vegas and did not receive

mail. It is the debtor's responsibility to pursue her case, not the court's or the Trustee's.

Third, Debtor made representations at previous hearings that she was "fine" with the sale of the vacant lot. Now she decides to change her mind. She is estopped from doing so. In addition to not being present at the sale hearing, she has affirmatively represented that the sale of the vacant lot should proceed. She has previously said she is more concerned with the single-family residence. The sale of that property was approved but the sale could not be completed. Both the purchasers of the vacant lot and the trustee have relied on the debtor's actions and representations in proceeding with the lot sale. That reliance precludes the debtor from now trying to interfere with a court approved sale. The sale process is proceeding in reliance on the debtor's representations. It would be harmful to case administration and the innocent third-party purchaser for the sale to be aborted at this time.

Fourth, the purported transfer of the property at 1521 S. 7th St. to "GLVM, a nonprofit corporation" is unexplained. Debtor's Statement of Financial Affairs (doc. #66) includes a reference to a purported transfer six months before the bankruptcy case was filed. But, the Trustee has examined the debtor and has considered the property of the estate. This entity may not have record title since this entity was not mentioned in the previous sales motions. But even if it did have record title, there is no evidence supporting the motion showing the nature of the purported transaction, the consideration that GLVM paid or anything else pertinent to the issues before the court on the sale motion.

The motion is DENIED.

2. [18-12341](#)-B-7 **IN RE: DANNY/ROBIN MARSHALL**
[NES-1](#)

MOTION TO COMPEL ABANDONMENT
3-14-2019 [\[49\]](#)

DANNY MARSHALL/MV
NEIL SCHWARTZ

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

DISPOSITION: Denied without prejudice.

ORDER: The court will issue an order.

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

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

fourteen (14) days preceding the date or continued date of the hearing.

This motion was served on March 13, 2019 (doc. #52), filed with the court on March 14, 2019, and set for hearing on April 10, 2019 (doc. #50). April 10, 2019 is 28 days after March 13, 2019, and therefore this hearing was set on 28 days' notice under LBR 9014-1(f)(1). The notice stated that written opposition was not required, but opposition, if any, must be presented at the hearing. Doc. #50. That is incorrect. Because the hearing was set on 28 days' notice, the notice should have stated that written opposition was required and must be served on the necessary parties and filed with the court at least 14 days prior to the hearing. Because this motion was filed, served, and noticed on 28 days' notice, the language of LBR 9014-1(f)(1)(B) needed to have been included in the notice.

3. [18-13758](#)-B-7 **IN RE: DONNIE/KELLY BROOKS**
[FW-2](#)

MOTION TO SELL
3-15-2019 [\[52\]](#)

JAMES SALVEN/MV
STEPHEN LABIAK
PETER FEAR/ATTY. FOR MV.

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Granted.

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

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

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

Proposed sales under 11 U.S.C. § 363(b) are reviewed to determine whether they are: (1) in the best interests of the estate resulting from a fair and reasonable price; (2) supported by a valid business judgment; and (3) proposed in good faith. In re Alaska Fishing Adventure, LLC, No. 16-00327-GS, 2018 WL 6584772, at *2 (Bankr. D. Alaska Dec. 11, 2018); citing 240 North Brand Partners, Ltd. v. Colony GFP Partners, LP (In re 240 N. Brand Partners, Ltd.), 200 B.R. 653, 659 (9th Cir. BAP 1996) citing In re Wilde Horse

Enterprises, Inc., 136 B.R. 830, 841 (Bankr. C.D. Cal. 1991). In the context of sales of estate property under § 363, a bankruptcy court "should determine only whether the trustee's judgment was reasonable and whether a sound business justification exists supporting the sale and its terms." Alaska Fishing Adventure, LLC, 2018 WL 6584772, at *4, quoting 3 Collier on Bankruptcy ¶ 363.02[4] (Richard Levin & Henry J. Sommer eds., 16th ed.). "[T]he trustee's business judgment is to be given great judicial deference.'" Id., citing In re Psychometric Systems, Inc., 367 B.R. 670, 674 (Bankr. D. Colo. 2007), citing In re Bakalis, 220 B.R. 525, 531-32 (Bankr. E.D.N.Y. 1998).

The chapter 7 trustee asks this court for authorization to sell: debtors' residence located at 2202 Albarino Court, Tulare, CA; a 2016 Jeep Wrangler; all interests in joint debtors' insurance business, including accounts receivable to debtors Donnie Brooks and Kelly Brooks ("Estate Assets"), subject to higher and better bids at the hearing, for \$50,000.00. Doc. #54. Selling the Estate Assets at this price, rather than selling the real property through a real estate agent and the vehicle at auction, when factoring in costs of sale, will yield a greater return to the estate. Id.

It appears that the sale of the Estate Assets is in the best interests of the estate, for a fair and reasonable price, supported by a valid business judgment, and proposed in good faith.

Any party wishing to overbid must deposit with trustee's counsel certified monies in the amount of \$161,000.00 prior to or at the time of the hearing. Unsuccessful bidders' deposits will be returned at the end of the hearing. The successful bidder's deposit will be applied toward the purchase price. Overbidders must provide written proof of the financial ability to close the sale within 15 days of the delivery of a certified copy of the court's order approving this motion, can execute a purchase agreement for the property, and provide written proof of financial ability to cover the overbid amount. Overbidders must be aware that in the event the successful overbidder fails to close the sale within 15 days of the delivery of a certified copy of the Court's order approving the sale for any reason, \$50,000.00 of the deposit noted above becomes non-refundable. Overbidders must be present at the hearing, make overbids in the amount of \$1,000.00, be aware that their deposit will be forfeited if they do not timely close the sale, and acknowledge that no warranties or representations are included with the property; it is sold "as-is."

Because of the additional complexity and cost of selling the proposed assets to someone other than the Debtor, any such overbids shall not be considered an equivalent bid unless the bid is \$10,000 more than the bid by Debtor, plus the amount necessary to pay all liens and exemption on the Property and any closing costs (which amount shall be determined by obtaining payoffs from the respective lenders and the closing costs amount from Stewart Title), thus the opening bid of a competing bidder would be \$161,000 (equivalent to \$51,000 from Debtor) plus an amount sufficient to pay all liens and closing costs.

4. [18-14761](#)-B-7 **IN RE: MYLENE RUCKER**
[CGL-2](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
3-27-2019 [\[30\]](#)

UMPQUA BANK/MV
CRYSTLE LINDSEY
GEORGE LAZAR/ATTY. FOR MV.
DISCHARGED 3/25/19

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Granted in part as to the trustee's interest
and denied as moot in part as to the debtor's
interest, unless opposed at the hearing.

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 for relief from stay was noticed pursuant to LBR 9014-1(f)(2) and written opposition was not required. Unless opposition is presented at the hearing, the court intends to enter the debtor's and the trustee's defaults and enter the following ruling. 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 DENIED AS MOOT as to the debtor pursuant to 11 U.S.C. § 362(c)(2)(C). The debtor's discharge was entered on March 25, 2019. Docket #28. The motion will be GRANTED IN PART for cause shown as to the chapter 7 trustee.

The automatic stay is terminated as it applies to the movant's right to enforce its remedies against the subject property under applicable nonbankruptcy law. The order shall provide the motion is DENIED AS MOOT as to the debtor. The proposed order shall specifically describe the property or action to which the order relates. The collateral is a parcel of real property commonly known as 2305 W. Midvalley Ave., Visalia, CA 93277. Doc. #33. The collateral has a value of \$470,000.00 and the amount owed is \$509,074.19. Doc. #35.

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

A waiver of Federal Rule of Bankruptcy Procedure 4001(a)(3) will not be granted. The movant has shown no exigency.

Unless the court expressly orders otherwise, the proposed order shall not include any other relief. If the proposed order includes extraneous or procedurally incorrect relief that is only available

in an adversary proceeding then the order will be rejected. See *In re Van Ness*, 399 B.R. 897 (Bankr. E.D. Cal. 2009).

5. [19-10467](#)-B-7 **IN RE: REBECCA STAFFORD**
[JHW-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
3-8-2019 [\[10\]](#)

SANTANDER CONSUMER USA INC./MV
TIMOTHY SPRINGER
JENNIFER WANG/ATTY. FOR MV.

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

DISPOSITION: Granted.

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

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

The proposed order shall specifically describe the property or action to which the order relates. The collateral is a 2010 Chrysler Town & Country. Doc. #15. The collateral has a value of \$7,950.00 and debtor owes \$24,485.18. *Id.*

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

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

6. [19-10275](#)-B-7 **IN RE: JOEL CERVANTEZ**
[JCW-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
3-1-2019 [\[17\]](#)

BANK OF AMERICA, N.A./MV
MARK ZIMMERMAN
JENNIFER WONG/ATTY. FOR MV.
RESPONSIVE PLEADING

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
shall submit a proposed order after hearing.

This motion for relief from stay was fully noticed in compliance with the Local Rules of Practice. The matter is being called to address the ambiguity in the debtor's non-opposition filed on March 8, 2019 (Doc. #23/DCN JCW-1), which lists the creditor as Ford Motor Credit Company and not Bank of America, the movant on this motion.

The court intends to enter the following ruling. The trustee's default 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 collateral is a parcel of real property commonly known as 2269 Miya Ct. Hanford, CA 93230. Doc. #19. The collateral has a value of \$230,000.00 and the amount owed is \$270,829.63. Doc. #21.

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

A waiver of Federal Rule of Bankruptcy Procedure 4001(a)(3) will not be granted. The movant has shown no exigency.

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

7. [19-10080](#)-B-7 **IN RE: ROGER VAN TASSEL**
[JCW-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
3-7-2019 [\[25\]](#)

WELLS FARGO BANK, N.A./MV
ERIC ESCAMILLA
JENNIFER WONG/ATTY. FOR MV.

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

DISPOSITION: Granted.

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

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

The proposed order shall specifically describe the property or action to which the order relates. The collateral is a parcel of real property commonly known as 213 Starcrest Dr. Pikeville, NC 27863. Doc. #27. The collateral has a value of \$153,000.00 and the amount owed is \$134,421.99. Doc. #29.

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

A waiver of Federal Rule of Bankruptcy Procedure 4001(a)(3) will not be granted. The movant has shown no exigency.

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).

11:00 AM

1. [19-10209](#)-B-7 **IN RE: JOSE AGUILAR**

REAFFIRMATION AGREEMENT WITH FLAGSHIP CREDIT ACCEPTANCE
3-4-2019 [\[12\]](#)

THOMAS GILLIS

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

DISPOSITION: Denied.

ORDER: The court will issue an order.

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

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

2. [19-10150](#)-B-7 **IN RE: JORDAN/SAMANTHA HUGHES**

PRO SE REAFFIRMATION AGREEMENT WITH TUCOEMAS FEDERAL CREDIT
UNION
3-12-2019 [\[16\]](#)

SCOTT LYONS

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

DISPOSITION: Dropped.

ORDER: The court will issue an order.

Debtors' counsel will inform debtors that no appearance is necessary.

The court is not approving or denying approval of the reaffirmation agreement. All parties have failed to sign the reaffirmation agreement. 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 debtors' 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). The reaffirmation agreement, in the absence of a declaration by debtor(s)' counsel, does not meet the requirements of 11 U.S.C. §524(c) and is not enforceable.

The debtors shall have 14 days to refile the reaffirmation agreement properly signed and endorsed by the attorney.

3. [19-10381](#)-B-7 **IN RE: LINDA GONZALES**

PRO SE REAFFIRMATION AGREEMENT WITH NOBLE CREDIT UNION
3-19-2019 [\[14\]](#)

LAYNE HAYDEN

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

DISPOSITION: Dropped.

ORDER: The court will issue an order.

Debtor's counsel will inform debtor that no appearance is necessary.

The court is not approving or denying approval of the reaffirmation agreement. Debtor(s) was (were) represented by counsel when she 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). The reaffirmation agreement, in the absence of a declaration by debtor's counsel, does not meet the requirements of 11 U.S.C. §524(c) and is not enforceable.

The debtor shall have 14 days to refile the reaffirmation agreement properly signed and endorsed by the attorney.

1:30 PM

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

CONTINUED STATUS CONFERENCE RE: COMPLAINT 19-01011
1-17-2019 [\[1\]](#)

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

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

DISPOSITION: Continued to May 9, 2019 at 11:00 a.m.

ORDER: The court will issue an order.

Pursuant to the parties' joint status report, and the fact that this adversary proceeding and a related adversary proceeding (Adversary Proceeding no. 19-01012-B, Hardcastle Specialties, Inc. v. Shannon King) will be consolidated (see doc. #20), this status conference shall be continued to May 9, 2019 at 11:00 a.m.

2. [18-14338](#)-B-7 **IN RE: STEPHANIE HOLM**
[19-1017](#)

STATUS CONFERENCE RE: COMPLAINT
1-31-2019 [\[1\]](#)

HOLM V. CITIBANK, N.A.
KELLY BRESSO/ATTY. FOR PL.

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

DISPOSITION: Continued to June 12, 2019 at 1:30 p.m.

ORDER: The court will issue an order.

Plaintiff has filed a motion for default judgment. Doc. #12. That motion is set for hearing on June 12, 2019 at 1:30 p.m. Therefore this status conference is continued to that date and time to be heard in conjunction with that motion.

3. [18-14338](#)-B-7 **IN RE: STEPHANIE HOLM**
[19-1018](#)

STATUS CONFERENCE RE: COMPLAINT
1-31-2019 [\[1\]](#)

HOLM V. BANK OF AMERICA, N.A.
KELLY BRESSO/ATTY. FOR PL.
RESPONSIVE PLEADING

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

DISPOSITION: Dropped from calendar.

NO ORDER REQUIRED: The proceeding closed March 22, 2019. Doc. #7.

4. [18-14338](#)-B-7 **IN RE: STEPHANIE HOLM**
[19-1019](#)

STATUS CONFERENCE RE: COMPLAINT
1-31-2019 [\[1\]](#)

HOLM V. CITIBANK, N.A.
KELLY BRESSO/ATTY. FOR PL.

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

DISPOSITION: Continued to June 12, 2019 at 1:30 p.m.

ORDER: The court will issue an order.

Plaintiff has filed a motion for default judgment. Doc. #12. That motion is set for hearing on June 12, 2019 at 1:30 p.m. Therefore this status conference is continued to that date and time to be heard in conjunction with that motion.

5. [18-11357](#)-B-13 **IN RE: ENRIQUE/GUADALUPE REYES**
[JAM-3](#)

PRE-TRIAL CONFERENCE RE: OBJECTION TO CLAIM OF STATE OF
CALIFORNIA FRANCHISE TAX BOARD, CLAIM NUMBER 2
6-4-2018 [\[38\]](#)

ENRIQUE REYES/MV
JAMES MICHEL
RESPONSIVE PLEADING

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

DISPOSITION: Continued to May 15, 2019 at 1:30 p.m.

NO ORDER REQUIRED: The court already issued an order. Doc. #228.

6. [11-10171](#)-B-13 **IN RE: DWAYNE/RENEE KENNEDY**
[19-1020](#)

STATUS CONFERENCE RE: COMPLAINT
2-4-2019 [[1](#)]

KENNEDY ET AL V. HSBC BANK
NEVADA, N.A. ET AL
GABRIEL WADDELL/ATTY. FOR PL.

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

DISPOSITION: Continued to April 24, 2019 at 1:30 p.m.

ORDER: The court will issue an order.

Defendant has not yet answered the complaint, and pursuant to the stipulation (doc. #7), has until April 5, 2019 to do so. Therefore this matter is continued to April 24, 2019 at 1:30 p.m.

7. [18-14878](#)-B-7 **IN RE: JOSE RODRIGUEZ**
[19-1022](#)

STATUS CONFERENCE RE: COMPLAINT
2-5-2019 [[1](#)]

NOBLE FEDERAL CREDIT UNION V.
RODRIGUEZ
RUSSELL REYNOLDS/ATTY. FOR PL.
RESPONSIVE PLEADING

NO RULING.

8. [17-13297](#)-B-7 **IN RE: ROBERT BENDER AND DEBORAH HALLE**
[17-1088](#) [DMG-3](#)

MOTION TO COMPEL
3-25-2019 [[70](#)]

ICON ENTERTAINMENT GROUP, INC.
V. BENDER ET AL
D. GARDNER/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 the court's scheduling order (doc. #67) 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. The court will issue an order if a further hearing is necessary.

This motion is GRANTED. Federal Rule of Civil Procedure 37(a)(1), made applicable in bankruptcy adversary proceedings by Federal Rule of Bankruptcy Procedure 7037, states:

On notice to other parties and all affected persons, a party may move for an order compelling disclosure or discovery. The motion must include a certification that the movant has in good faith conferred or attempted to confer with the person or party failing to make disclosure or discovery in an effort to obtain it without court action.

The court finds that movant has made a good faith effort to attempt to confer with the plaintiff in order to obtain the requested documents. Plaintiff's declaration states that he requested production of documents on February 15, 2019, seeking a production of documents on March 15, 2019. Doc. #72. Plaintiff did not produce the requested documents, neither did they provide responses to the production of documents. Id. Defendant's counsel spoke with Plaintiff's counsel on or about March 18, 2019, who indicated that he had communicated with Plaintiff and would possibly know whether the Plaintiff would comply with the document request during that week. Id. Nothing happened after that communication.

It is therefore ordered that Plaintiff shall comply with the Defendants' request for production of documents not later than 7 calendar days after an order granting this motion is issued and served on Plaintiff. The response shall not include objections since the plaintiff waived that right by failing to timely respond or request an extension. The court notes the movant did not request attorney's fees and none will be awarded for this motion.

Failure to comply may result in an order imposing sanctions including movant's attorney's fees upon further motion.

9. [17-13797](#)-B-9 **IN RE: TULARE LOCAL HEALTHCARE DISTRICT**
[17-1095](#)

CONTINUED STATUS CONFERENCE RE: NOTICE OF REMOVAL
12-28-2017 [[1](#)]

HEALTHCARE CONGLOMERATE
ASSOCIATES, LLC V. TULARE
HAGOP BEDOYAN/ATTY. FOR PL.
DISMISSED 2/21/19, CLOSED 3/11/19

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

DISPOSITION: Dropped from calendar.

NO ORDER REQUIRED: An order dismissing the case has already been entered. Doc. #178.

10. [17-13797](#)-B-9 **IN RE: TULARE LOCAL HEALTHCARE DISTRICT**
[17-1095](#) [OHS-1](#)

CONTINUED MOTION FOR REMAND
1-24-2018 [[17](#)]

HEALTHCARE CONGLOMERATE
ASSOCIATES, LLC V. TULARE
HAGOP BEDOYAN/ATTY. FOR MV.
DISMISSED 2/21/19, CLOSED 3/11/19

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

DISPOSITION: Dropped from calendar.

NO ORDER REQUIRED: An order dismissing the case has already been entered. Doc. #178.

11. [17-13797](#)-B-9 **IN RE: TULARE LOCAL HEALTHCARE DISTRICT**
[17-1095](#) [OHS-2](#)

CONTINUED MOTION TO DISMISS COUNTERCLAIM
1-29-2018 [[21](#)]

HEALTHCARE CONGLOMERATE
ASSOCIATES, LLC V. TULARE
HAGOP BEDOYAN/ATTY. FOR MV.
DISMISSED 2/21/19, CLOSED 3/11/19

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

DISPOSITION: Dropped from calendar.

NO ORDER REQUIRED: An order dismissing the case has already been entered. Doc. #178.

12. [17-13797](#)-B-9 **IN RE: TULARE LOCAL HEALTHCARE DISTRICT**
[17-1095](#) [OHS-3](#)

CONTINUED MOTION TO STRIKE
1-29-2018 [\[26\]](#)

HEALTHCARE CONGLOMERATE
ASSOCIATES, LLC V. TULARE
HAGOP BEDOYAN/ATTY. FOR MV.
DISMISSED 2/21/19, CLOSED 3/11/19

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

DISPOSITION: Dropped from calendar.

NO ORDER REQUIRED: An order dismissing the case has already been entered. Doc. #171

13. [17-13797](#)-B-9 **IN RE: TULARE LOCAL HEALTHCARE DISTRICT**
[WW-32](#)

CONTINUED MOTION FOR EXAMINATION AND FOR PRODUCTION OF
DOCUMENTS
5-30-2018 [\[539\]](#)

TULARE LOCAL HEALTHCARE
DISTRICT/MV
RILEY WALTER
DROPPED FROM CALENDAR PER ECF ORDER #1156

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

DISPOSITION: Dropped from calendar.

NO ORDER REQUIRED: An order dismissing the matter has already been entered. Doc. #1156.

14. [17-13797](#)-B-9 **IN RE: TULARE LOCAL HEALTHCARE DISTRICT**
[18-1005](#) [WW-1](#)

CONTINUED MOTION FOR SUMMARY JUDGMENT
7-2-2018 [\[45\]](#)

TULARE LOCAL HEALTHCARE
DISTRICT V. HEALTHCARE
RILEY WALTER/ATTY. FOR MV.
DISMISSED 2/22/19, CLOSED 3/11/19

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

DISPOSITION: Dropped from calendar.

NO ORDER REQUIRED: An order dismissing the case has already been entered. Doc. #96.