

UNITED STATES BANKRUPTCY COURT
Eastern District of California
Honorable René Lastreto II
Hearing Date: Wednesday, April 25, 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. [17-14800](#)-B-7 IN RE: BRENDA HEARON
[PPR-2](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
3-26-2018 [\[24\]](#)

STATEBRIDGE COMPANY, LLC/MV
SYLVIA BLUME/ATTY. FOR MV.

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

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

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

This motion for relief from stay was fully noticed in compliance with the Local Rules of Practice and there was no opposition. The 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 April 17, 2018. Document No. 30. The motion will be GRANTED IN PART for cause shown as to the chapter 7 trustee.

The automatic stay is terminated as it applies to the movant's right to enforce its remedies against the subject property under applicable nonbankruptcy law. The proposed order shall specifically describe the property or action to which the order relates. The order shall provide the motion is DENIED AS MOOT as to the debtor. 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.

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).

2. [18-10102](#)-B-7 **IN RE: ADELA AGTARAP**
[RAS-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
3-14-2018 [[26](#)]

U.S. BANK NATIONAL
ASSOCIATION/MV
SEAN FERRY/ATTY. FOR MV.

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

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

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

This motion for relief from stay was fully noticed in compliance with the Local Rules of Practice and there was no opposition. The 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 April 17, 2018. Docket #34. The motion will be GRANTED IN PART for cause shown as to the chapter 7 trustee.

The automatic stay is terminated as it applies to the movant's right to enforce its remedies against the subject property under applicable nonbankruptcy law. The proposed order shall specifically describe the property or action to which the order relates. The order shall provide the motion is DENIED AS MOOT as to the debtor. 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.

The request for attorney's fees is denied pursuant to 11 U.S.C. § 506(b). Debtor has no equity in the property.

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).

3. 18-10807-B-7 **IN RE: NANCY MC FADIN**
GHW-1

MOTION FOR RELIEF FROM AUTOMATIC STAY
4-9-2018 [25]

FEDERAL NATIONAL MORTGAGE
ASSOCIATION/MV
GLENN WECHSLER/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 movant, Federal National Mortgage Association, seeks relief from the automatic stay in order to proceed with an unlawful detainer action in California state court. Doc. #25. Prior to the debtor filing bankruptcy, movant successfully purchased the subject real property at a foreclosure sale on December 27, 2017. *Id.* The deed was recorded pre-petition, and the debtor was served with a three day "Notice to Quit" pursuant to California law. *Id.* The subject real property is therefore not property of the estate and is not subject to the automatic stay.

"After a prepetition foreclosure sale of the debtor's property and prepetition recordation of the trustee's deed, the debtor no longer holds equitable or legal title to the property and the filing of a petition cannot reinstate the debtor's title." *In re Richter*, 525 B.R. 735, 758 (C.D. Cal. Bankr. 2015) (citing *In re Edwards*, 454 B.R. 100, 106 (9th Cir. B.A.P. 2011)). Prepetition foreclosure sales are subject to debtor's statutory right of redemption. *In re Richter*, 525 B.R. at 759. However, in a non-judicial foreclosure sale, which the sale in this case was, a statutory right of redemption does not exist. *Id.* at 741. Because debtor is still occupying the premises, cause exists to lift the stay.

Actions taken in violation of the automatic stay are void. However, an action taken in violation of the automatic stay that would otherwise be void may be declared valid if cause exists for retroactive annulment of the stay. *In re Cruz*, 516 B.R. 594, 603 (9th Cir. B.A.P. 2014) citing *Schwartz v. United States (In re Schwartz)*, 954 F. 2d 569, 573 (9th Cir. 1992). The bankruptcy court must consider the (1) whether the creditor was aware of the

bankruptcy petition and automatic stay and (2) whether the debtor engaged in unreasonable conduct. Cruz, 516 B.R. at 603 citing Fjelsted v. Lien (In re Fjelsted), 293 B.R. 12, 24 (9th Cir. B.A.P. 2003) and Nat'l Envtl. Waste Corp. v. City of Riverside (In re Nat's Envtl. Waste Corp), 129 F. 3d 1052, 1055 (9th Cir. 1997). The courts in the ninth circuit apply the "Fjelsted factors" when stay annulment is at issue, but not all factors need to be applied. See, 293 B.R. at 25.

Here the court finds "cause" exists to validate the state court unlawful detainer judgment. First, this case was filed one day before the unlawful detainer judgment was entered. There is no reason to find the movant here knew of the bankruptcy case on this record and went ahead with the unlawful detainer anyway. Second, movant claims to have purchased the property at issue at a valid foreclosure sale. Since the movant has apparently gone through all procedural steps to terminate the debtor's tenancy here, there would be prejudice to movant if he had to try the unlawful detainer case again. Third, the debtor essentially lost any interest in the property at issue when the foreclosure sale occurred. Neither the debtor nor the estate had a legal interest in the property when this case was filed. There is no benefit to prolonging the eviction process for either the debtor or the estate. Fourth, annulling the stay to validate the judgment promotes judicial economy and efficiency. But for the filing of this case, a state court with jurisdiction would have entered judgment the next day.

The motion is GRANTED and the automatic stay is modified to permit the movant to complete the eviction process as permitted by non-bankruptcy law. The stay is annulled as to movant only as necessary to validate the state court unlawful detainer judgment.

The 14-day stay of Fed. R. Bankr. P. 4001(a)(3) will be ordered waived because the unlawful detainer action has been finally adjudicated before this bankruptcy was filed.

4. [16-14109](#)-B-7 **IN RE: MARCOS MUNOZ**
[JES-1](#)

MOTION TO COMPEL
3-15-2018 [[41](#)]

JAMES SALVEN/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.

This motion is GRANTED. Debtor shall turnover the 2016 Federal and State Tax Returns and any funds received; or in the alternative, to provide the trustee with the data necessary to complete the returns, within 30 days of the entry of this order.

5. [15-13712](#)-B-7 **IN RE: LEO LOOZA**
[JDW-4](#)

MOTION TO AVOID LIEN OF CACH, LLC
3-13-2018 [\[55\]](#)

LEO LOOZA/MV
JOEL WINTER

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Denied without prejudice.

ORDER: The court will issue the order.

This motion is DENIED WITHOUT PREJUDICE for failure to comply with Local Bankruptcy Rule ("LBR") 9014-1(e). Rule 9014-1(e)(2) requires a proof of service, in the form of a certificate of service, to be filed with the Clerk of the court concurrently with the pleadings or documents served, or not more than three days after the papers are filed. This motion and its supporting documents were filed on March 13, 2018. No proof of service has been filed since, and it is long past the three day deadline.

This is the fourth time this motion has been denied without prejudice for procedural reasons and the second time it has been denied for lack of a timely filed proof of service. See JDW-2 (doc. #42). If the debtor prosecutes this motion again and it is denied for procedural reasons, the court will exercise its powers under 11 U.S.C. § 105, Federal Rule of Civil Procedure 41(b) (applicable to contested matters under Federal Rule of Bankruptcy Procedure 9014(c)), and LBR 9014-1(l) and dismiss the motion with prejudice.

This motion is DENIED WITHOUT PREJUDICE.

6. [18-10313](#)-B-7 **IN RE: KERRY/APRIL BLANTON**
[AP-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
3-16-2018 [\[12\]](#)

WELLS FARGO BANK, N.A./MV
D. GARDNER
JAMIE HANAWALT/ATTY. FOR MV.

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

DISPOSITION: Granted in part and denied 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 debtors' 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.

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.

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 non-bankruptcy law. No more, no less.

The request for attorney fees is DENIED pursuant to 11 U.S.C. § 506(b) for lack of equity in the collateral.

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. [17-14920](#)-B-7 **IN RE: VARDGES GASPARYAN**
[BDA-2](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
3-22-2018 [[29](#)]

FINANCIAL SERVICES VEHICLE
TRUST/MV
JACOB EATON
BRET ALLEN/ATTY. FOR MV.

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

DISPOSITION: Denied as moot.

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

This motion relates to an executory contract or lease of personal property. The case was filed on December 29, 2017 and the lease was not assumed by the chapter 7 trustee within the time prescribed in 11 U.S.C. § 365(d)(1). Pursuant to § 365(p)(1), the leased property is no longer property of the estate and the automatic stay under § 362(a) has already terminated by operation of law.

Movant may submit an order denying the motion, and confirming that the automatic stay has already terminated on the grounds set forth above. No other relief is granted. No attorney fees will be awarded in relation to this motion.

8. [12-18624](#)-B-7 **IN RE: MIGUEL/DANNIELLE RODRIGUEZ**
[SAH-2](#)

MOTION TO AVOID LIEN OF DISCOVER BANK
4-10-2018 [[58](#)]

MIGUEL RODRIGUEZ/MV
SUSAN HEMB

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 Discover Bank for the sum of \$4,557.69 on March 1, 2012. Doc. #61. The abstract of judgment was recorded with Madera County on March 15, 2012. *Id.* That lien attached to the debtor's interest in a residential real property in Madera, 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 \$230,742.00 as of the petition date. Doc. #1, Schedule B. The unavoidable liens totaled \$405,702.00 on that same date, consisting of a first deed of trust in favor of Capital One N.A. (doc. #1, Schedule D) and a second deed of trust in favor of Wells Fargo Bank N.A. (doc. #1, Schedule D). The debtor claimed an exemption pursuant to Cal. Civ. Proc. Code § 703.140(b)(1) in the amount of \$25,575.00. Doc. #49.

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).

9. [18-10324](#)-B-7 **IN RE: RASHAD ALKOBODI**
[APN-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
3-14-2018 [[17](#)]

TOYOTA MOTOR CREDIT
CORPORATION/MV
MARK ZIMMERMAN
AUSTIN NAGEL/ATTY. FOR MV.
RESPONSIVE PLEADING

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

DISPOSITION: Granted.

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

This motion for relief from stay was fully noticed in compliance with the Local Rules of Practice and the debtor filed non-opposition to the motion. 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.

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).

10. [16-12226](#)-B-7 **IN RE: MICHAEL GRIFFIN AND NANCY PAGE-GRIFFIN**
[JES-2](#)

MOTION TO COMPEL
3-15-2018 [\[88\]](#)

JAMES SALVEN/MV
F. GIST
ROBERT HAWKINS/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.

This motion is GRANTED. Debtor shall turnover the 2016 Federal and State Tax Returns and any funds received; or in the alternative, to provide the trustee with the data necessary to complete the returns, within 30 days of the entry of this order.

11. [17-14329](#)-B-7 **IN RE: CHARLES/GWENEVA SAWYER**
[RWR-3](#)

MOTION TO SELL AND/OR MOTION TO PAY
3-22-2018 [\[35\]](#)

JAMES SALVEN/MV
DAVID JENKINS
RUSSELL REYNOLDS/ATTY. FOR MV.

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

DISPOSITION: Granted.

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

The motion was fully noticed in compliance with the Local Rules of Practice and no opposition was filed. 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.

This motion is GRANTED. It appears that the sale is a reasonable exercise of the trustee's business judgment. The trustee shall submit a proposed order after the hearing. The court authorizes trustee to pay the broker fee of 10%. The court finds that this amount is fair, reasonable, and customary for these types of sales.

The court may order the waiver of Federal Rule of Bankruptcy Procedure 6004(h) depending on the outcome of this hearing.

12. [18-10329](#)-B-7 **IN RE: THOMAS BAILEY**
[RAS-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
3-21-2018 [\[21\]](#)

U.S. BANK NATIONAL
ASSOCIATION/MV
TIMOTHY SPRINGER
SEAN FERRY/ATTY. FOR MV.

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

DISPOSITION: Denied without prejudice.

ORDER: The court will issue an order.

The motion will be DENIED WITHOUT PREJUDICE. The form and/or content of the notice does not comply with LBR 9014-1(d)(3)(B)(iii).

Counsel is reminded that new Local Rules became effective September 26, 2017. New Rule 9014-1(d)(3)(B) in particular requires the moving party to include more information in Notices than the old Rule 9014-1(d)(3) did. The court urges counsel to review the new rules in order to be compliant in future matters. The new rules can be accessed on the court's website at <http://www.caeb.circ9.dcn/LocalRules.aspx>.

13. [18-10329](#)-B-7 **IN RE: THOMAS BAILEY**
[TGM-2](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
3-27-2018 [\[28\]](#)

DEUTSCHE BANK NATIONAL TRUST
COMPANY/MV
TIMOTHY SPRINGER
TYNEIA MERRITT/ATTY. FOR MV.

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

DISPOSITION: Continued to May 30, 2018 at 9:30 a.m.

ORDER: The court will issue an order.

Pursuant to the stipulation signed by both parties (doc. #38), this matter is continued to May 30, 2018 at 9:30 a.m.

14. [18-10633](#)-B-7 **IN RE: CANDACE MACIAS**
[APN-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
3-14-2018 [\[9\]](#)

SANTANDER CONSUMER USA INC./MV
ALLAN WILLIAMS
AUSTIN NAGEL/ATTY. FOR MV.

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

DISPOSITION: Granted.

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

This motion for relief from 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 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).

15. [17-10838](#)-B-7 **IN RE: CHARLES/KAREN WILKINS**
[RHT-5](#)

MOTION TO SELL AND/OR MOTION FOR COMPENSATION FOR GUARANTEE
REAL ESTATE, BROKER(S)
4-3-2018 [[57](#)]

ROBERT HAWKINS/MV
JAMES MILLER
ROBERT HAWKINS/ATTY. FOR MV.

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

DISPOSITION: Granted.

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

The motion was fully noticed in compliance with the Local Rules of Practice and no opposition was filed. 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.

This motion is GRANTED. It appears that the sale is a reasonable exercise of the trustee's business judgment. The trustee shall submit a proposed order after the hearing. The court authorizes trustee to pay the broker fee of 6%. The court finds that this amount is fair, reasonable, and customary for these types of sales.

16. [17-14838](#)-B-7 **IN RE: LETICIA RIVERA**
[AP-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
3-22-2018 [\[25\]](#)

U.S. BANK NATIONAL
ASSOCIATION/MV
EDDIE RUIZ
JAMIE HANAWALT/ATTY. FOR MV.
DISCHARGED

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

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

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

This motion for relief from stay was fully noticed in compliance with the Local Rules of Practice and there was no opposition. The 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 April 5, 2018. Docket #32. The motion will be GRANTED IN PART for cause shown as to the chapter 7 trustee.

The automatic stay is terminated as it applies to the movant's right to enforce its remedies against the subject property under applicable nonbankruptcy law. The proposed order shall specifically describe the property or action to which the order relates. The order shall provide the motion is DENIED AS MOOT as to the debtor.

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).

17. [18-10240](#)-B-7 **IN RE: ROBERT/ANNA BUCHANAN**
[PFT-1](#)

OPPOSITION RE: TRUSTEE'S MOTION TO DISMISS FOR FAILURE TO
APPEAR AT SEC. 341(A) MEETING OF CREDITORS
3-6-2018 [\[9\]](#)

TIMOTHY SPRINGER

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

DISPOSITION: Conditionally denied.

ORDER: The court will issue the order.

Trustee's motion to dismiss is CONDITIONALLY DENIED.

The debtors shall attend the meeting of creditors rescheduled for May 21, 2018 at 9:00 a.m. If the debtors fail 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 debtors' discharge or file motions for abuse, other than presumed abuse, under § 707, is extended to 60 days after the conclusion of the meeting of creditors.

18. [10-10544](#)-B-7 **IN RE: JUAN OROZCO MACIEL**
[TPH-4](#)

MOTION TO AVOID LIEN OF FORD MOTOR CREDIT COMPANY LLC
3-27-2018 [\[42\]](#)

JUAN OROZCO MACIEL/MV
THOMAS HOGAN

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) requires the movant to notify the respondents that opposition 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. Written opposition is not required on motions set on less than 28 days' notice, but at least 14 days' notice, pursuant to LBR 9014-1(f)(2).

This motion was filed on March 27, 2018 and set for hearing on April 25, 2018. Doc. #43. March 27, 2018 is 29 days before April 25, 2018,

therefore this hearing was set on at least 28 days' notice under LBR 9014-1(f)(1). The language in the notice did not state that written opposition was required and must be filed at least 14 days preceding the date of the hearing, but instead informed the respondent that no written opposition was required. Doc. #43. In fact the notice incorrectly states: "...this is an 'expedited' motion." *Id.* Because this motion was filed, served, and noticed on at least 28 days' notice, the language of LBR 9014-1(f)(1)(B) needed to have been included in the notice. Because it was not, this motion is DENIED WITHOUT PREJUDICE.

19. [10-10544](#)-B-7 **IN RE: JUAN OROZCO MACIEL**
[TPH-5](#)

MOTION TO AVOID LIEN OF NORTHERN CALIFORNIA COLLECTION
SERVICE, INC.
3-27-2018 [\[48\]](#)

JUAN OROZCO MACIEL/MV
THOMAS HOGAN

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) requires the movant to notify the respondents that opposition 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. Written opposition is not required on motions set on less than 28 days' notice, but at least 14 days' notice, pursuant to LBR 9014-1(f)(2).

This motion was filed on March 27, 2018 and set for hearing on April 25, 2018. Doc. #49. March 27, 2018 is 29 days before April 25, 2018, therefore this hearing was set on at least 28 days' notice under LBR 9014-1(f)(1). The language in the notice did not state that written opposition was required and must be filed at least 14 days preceding the date of the hearing, but instead informed the respondent that no written opposition was required. Doc. #49. In fact the notice incorrectly states: "...this is an 'expedited' motion." *Id.* Because this motion was filed, served, and noticed on at least 28 days' notice, the language of LBR 9014-1(f)(1)(B) needed to have been included in the notice. Because it was not, this motion is DENIED WITHOUT PREJUDICE.

20. [12-15547](#)-B-7 **IN RE: DONNA/EVERETT DAVIS**
[RH-10](#)

MOTION FOR COMPENSATION FOR ROBERT HAWKINS, TRUSTEES
ATTORNEY(S)
3-28-2018 [[298](#)]

GARY HUSS

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

DISPOSITION: Granted.

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

This motion has been set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of the creditors, the debtor, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014- 1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument.

The motion will be GRANTED. Trustee's attorney, Robert Hawkins, requests fees of \$10,000.00 and costs of \$1,167.04 for a total of \$11,167.04 for services rendered as trustee's counsel from July 12, 2017 through the date of this motion.

11 U.S.C. § 330 (a)(1) (A) & (B) permits approval of "reasonable compensation for actual necessary services rendered by . . .[a] professional person" and "reimbursement for actual, necessary expenses." Movant's services included, without limitation: (1) Review of trust documents, title interests, and deeds of property, (2) Attending various hearings dealing with resolution of various issues facing the debtor, (3) Preparing motions and order, and (4) Attending BDRP. The court finds the services reasonable and necessary and the expenses requested actual and necessary.

Robert Hawkins, trustee's attorney, shall be awarded \$10,000.00 in fees and \$1,167.04 in costs.

21. [18-10751](#)-B-7 **IN RE: MARGARET FACCHINO**
[BPC-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
4-5-2018 [[12](#)]

THE GOLDEN 1 CREDIT UNION/MV
TIMOTHY SPRINGER
JEANNIE KIM/ATTY. FOR MV.

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

DISPOSITION: Denied without prejudice.

ORDER: The court will issue an order.

The motion will be DENIED WITHOUT PREJUDICE. The form and/or content of the notice do not comply with LBR 9014-1(d)(3)(B)(iii).

Counsel is reminded that new Local Rules became effective September 26, 2017. New Rule 9014-1(d)(3)(B) in particular requires the moving party to include more information in Notices than the old Rule 9014-1(d)(3) did. The court urges counsel to review the new rules in order to be compliant in future matters. The new rules can be accessed on the court's website at <http://www.caeb.circ9.dcn/LocalRules.aspx>.

22. [17-14354](#)-B-7 **IN RE: MARIO/VIDELIA GUERRA**
[APN-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
3-20-2018 [[18](#)]

NISSAN MOTOR ACCEPTANCE
CORPORATION/MV
STEPHEN LABIAK
AUSTIN NAGEL/ATTY. FOR MV.
DISCHARGED

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

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

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

This motion for relief from stay was fully noticed in compliance with the Local Rules of Practice and there was no opposition. The motion will be DENIED AS MOOT as to the debtors pursuant to 11 U.S.C. § 362(c)(2)(C). The debtors' discharge was entered on March 5, 2018. Docket #16. The motion will be GRANTED IN PART for cause shown as to the chapter 7 trustee.

The automatic stay is terminated as it applies to the movant's right to enforce its remedies against the subject property under applicable nonbankruptcy law. The proposed order shall specifically describe the property or action to which the order relates. The order shall provide the motion is DENIED AS MOOT as to the debtors.

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

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

23. [11-62257](#)-B-7 **IN RE: FRANCES ALARCON**
[TCS-6](#)

MOTION TO AVOID LIEN OF COMMERCIAL TRADE, INC.
3-28-2018 [\[75\]](#)

FRANCES ALARCON/MV
TIMOTHY SPRINGER

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) requires the movant to notify the respondents that opposition 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. Written opposition is not required on motions set on less than 28 days' notice, but at least 14 days' notice, pursuant to LBR 9014-1(f)(2).

This motion was filed on March 28, 2018 and set for hearing on April 25, 2018. Doc. #76. March 28, 2018 is 28 days before April 25, 2018, therefore this hearing was set on at least 28 days' notice under LBR 9014-1(f)(1). The language in the notice did not state that written opposition was required and must be filed at least 14 days preceding the date of the hearing, but instead informed the respondent that no written opposition was required. Doc. #76. In fact the notice incorrectly states: "...this is an 'expedited' motion." *Id.* Because this motion was filed, served, and noticed on at least 28 days' notice, the language of LBR 9014-1(f)(1)(B) needed to have been included in the notice. Because it was not, this motion is DENIED WITHOUT PREJUDICE.

24. [11-62257](#)-B-7 **IN RE: FRANCES ALARCON**
[TCS-7](#)

MOTION TO AVOID LIEN OF COMMERCIAL TRADE, INC.
4-3-2018 [\[83\]](#)

FRANCES ALARCON/MV
TIMOTHY SPRINGER

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

DISPOSITION: Denied without prejudice.

ORDER: 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).

The court notes that the declaration filed in support of the motion does not state clearly how the debtor is entitled to their claimed exemption in property located on Grove Avenue in Fresno, CA. Doc. #85. Debtor has that burden on these motions. Morgan v. FDIC (In re Morgan), 149 BR 147, 152 (9th Cir. B.A.P. 1993). This is true even in the absence of an objection to the exemption. *Id.* The declaration states that debtor owns the property; not that they reside there or resided there when the petition was filed. The court did review the petition filed in 2011 (FRE 201) and notes the 5838 E Grove Avenue Street address was the address on the petition. However, the court is not required to marshal the facts for a moving party. The motion is DENIED WITHOUT PREJUDICE.

25. [11-62257](#)-B-7 **IN RE: FRANCES ALARCON**
[TCS-8](#)

MOTION TO AVOID LIEN OF CAPITAL COLLECTIONS, LLC
4-3-2018 [\[88\]](#)

FRANCES ALARCON/MV
TIMOTHY SPRINGER

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

DISPOSITION: Denied without prejudice.

ORDER: 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).

The court notes that the declaration filed in support of the motion does not state clearly how the debtor is entitled to their claimed exemption in property located on Grove Avenue in Fresno, CA. Doc. #90. Debtor has that burden on these motions. Morgan v. FDIC (In re Morgan), 149 BR 147, 152 (9th Cir. B.A.P. 1993). This is true even in the absence of an objection to the exemption. *Id.* The declaration states that debtor owns the property; not that they reside there or resided there when the petition was filed. The court did review the petition filed in 2011 (FRE 201) and notes the 5838 E Grove Avenue Street address was the address on the petition. However, the court is not required to marshal the facts for a moving party. The motion is DENIED WITHOUT PREJUDICE.

26. [18-10760](#)-B-7 **IN RE: SANFORD SEMCHAK & SPEIGHTS INC.**
[TGM-2](#)

MOTION TO EMPLOY CTB COMMERCIAL TRADE, INC. AS ACCOUNTS
RECEIVABLES COLLECTION AND/OR MOTION FOR COMPENSATION FOR
CTB COMMERCIAL TRADE, INC., OTHER PROFESSIONAL(S)
3-21-2018 [\[22\]](#)

RANDELL PARKER/MV
PATRICK KAVANAGH

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

DISPOSITION: Granted.

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

This motion has been set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of the creditors, the debtor, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014- 1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument.

Trustee is authorized to employ CTB Commercial Trade, Inc. ("CTB") to collect debtor's accounts receivables. The trustee proposes to compensate CTB on a percentage collected basis. The percentage is based on the amount of the claim and whether litigation is required. 11 U.S.C. § 328(a) permits employment of "professional persons" on "reasonable terms and conditions" including "contingent fee basis." The court finds the proposed arrangement reasonable in this instance. If the arrangement proves improvident, the court may allow different compensation under 11 U.S.C. § 328(a). The court makes no finding whether CTB is "a professional person."

The motion is GRANTED.

27. [18-10265](#)-B-7 **IN RE: RAYMOND/VELIA ESCOBAR**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES
4-3-2018 [[23](#)]

MARK ZIMMERMAN
\$31.00 FILING FEE PAID 4/11/18

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

DISPOSITION: The OSC will be vacated.

ORDER: The court will issue an order.

No appearance is necessary. The OSC will be vacated. The record shows that the required fee has been paid in full. \$31.00 was paid on April 11, 2018.

28. [18-10374](#)-B-7 **IN RE: MICHAEL/BARBARA BANNISTER**
[CJO-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
3-26-2018 [[19](#)]

BAYVIEW LOAN SERVICING, LLC/MV
LEONARD WELSH
CHRISTINA O/ATTY. FOR MV.

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

DISPOSITION: Denied without prejudice.

ORDER: The court will issue an order.

The motion will be DENIED WITHOUT PREJUDICE. The form and/or content of the notice does not comply with LBR 9014-1(d)(3)(B)(iii).

Counsel is reminded that new Local Rules became effective September 26, 2017. New Rule 9014-1(d)(3)(B) in particular requires the moving party to include more information in Notices than the old Rule 9014-1(d)(3) did. The court urges counsel to review the new rules in order to be compliant in future matters. The new rules can be accessed on the court's website at <http://www.caeb.circ9.dcn/LocalRules.aspx>.

29. [17-14883](#)-B-7 **IN RE: MANUEL/ELISA BARRAZA**
[UST-1](#)

CONTINUED MOTION TO DISMISS CASE PURSUANT TO 11 U.S.C.
SECTION 707(B)
3-8-2018 [[18](#)]

TRACY DAVIS/MV
DAVID JENKINS
ROBIN TUBESING/ATTY. FOR MV.
RESPONSIVE PLEADING

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.

Based on trustee's reply, the trustee will withdraw this motion
conditioned upon the debtors filing amended schedules.

Debtors included amended schedules in their response, but they were
not filed with the court.

If debtors do not file the amended schedules prior to this hearing,
then this matter will proceed.

30. [18-10786](#)-B-7 **IN RE: ROBERT RICHMOND**
[TGM-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
3-21-2018 [[14](#)]

DEUTSCHE BANK NATIONAL TRUST
COMPANY/MV
TYNEIA MERRITT/ATTY. FOR MV.
DISMISSED

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

DISPOSITION: Denied as moot.

NO ORDER REQUIRED. The case has already been dismissed on March
26, 2018 (Document No. 26).

11:00 AM

1. [18-10205](#)-B-7 **IN RE: DAVID GONZALEZ AND GABRIELA DIAZ**

PRO SE REAFFIRMATION AGREEMENT WITH DON ROBERTO JEWELERS INC
3-30-2018 [[16](#)]

THOMAS GILLIS

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

DISPOSITION: Dropped.

NO ORDER REQUIRED.

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 affirmatively represented that the agreement established a presumption of undue hardship and that his opinion the debtors were 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. [18-10125](#)-B-7 **IN RE: DAVID/GINA WRIGHT**

REAFFIRMATION AGREEMENT WITH BENEFICIAL STATE BANK
3-29-2018 [[19](#)]

MARK ZIMMERMAN

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

DISPOSITION: Dropped.

Order: The court will prepare an order.

The reaffirmation agreement is incomplete and does not meet the requirements of 11 U.S.C. § 524. It is therefore not enforceable against the debtors and cannot be approved. *In re Lopez*, 274 B.R. 854, 861-62 (9th Cir. BAP 2002), *aff'd*, 345 F.3d 701 (9th Cir. CA 2003).

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

3. [18-10535](#)-B-7 **IN RE: JOSEPH DIAS**

PRO SE REAFFIRMATION AGREEMENT WITH FAST FCU
3-27-2018 [[18](#)]

NO RULING.

4. [18-10060](#)-B-7 **IN RE: CAROLYN PEREZ**

PRO SE REAFFIRMATION AGREEMENT WITH U.S. BANK NATIONAL
ASSOCIATION
3-27-2018 [[24](#)]

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

DISPOSITION: Dropped.

NO ORDER REQUIRED.

This matter was automatically set for a hearing because the debtor is not represented by an attorney. However, this reaffirmation agreement appears to relate to a consumer debt secured by real property. Pursuant to 11 U.S.C. §524(c)(6)(B), the court is not required to hold a hearing and approve this agreement. No appearance is required.

5. [18-10664](#)-B-7 **IN RE: ANTONIA ZAVALA**

PRO SE REAFFIRMATION AGREEMENT WITH NOBLE CREDIT UNION
4-4-2018 [[16](#)]

LAYNE HAYDEN

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

DISPOSITION: Dropped.

Order: The court will prepare an order.

The court is not approving or denying approval of the reaffirmation agreement. Debtor was 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.

6. [18-10474](#)-B-7 **IN RE: MYRA RIVERA**

PRO SE REAFFIRMATION AGREEMENT WITH HYUNDAI CAPITAL AMERICA
3-21-2018 [[15](#)]

NO RULING.

7. [18-10493](#)-B-7 **IN RE: MARISSA REYES**

AMENDED REAFFIRMATION AGREEMENT WITH A-L FINANCIAL
3-27-2018 [[10](#)]

JANINE ESQUIVEL

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

DISPOSITION: Dropped.

Order: The court will prepare an order.

The reaffirmation agreement is incomplete and does not meet the requirements of 11 U.S.C. § 524. It is therefore not enforceable against the debtor and cannot be approved. *In re Lopez*, 274 B.R. 854, 861-62 (9th Cir. BAP 2002), aff'd, 345 F.3d 701 (9th Cir. CA 2003).

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

1:30 PM

1. [17-11827](#)-B-7 **IN RE: AMARJEET SINGH AND AMANDEEP SIDHU**
[17-1079](#) [RSL-1](#)

MOTION TO EXTEND TIME
3-14-2018 [[38](#)]

AMERICAN EXPRESS BANK, FSB ET
AL V. SINGH
ROBERT LAMPL/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.

This motion is GRANTED. The discovery deadline and deadline for hearing dispositive motions shall be extended to June 15, 2018. All other dates in the scheduling order (doc. #35) are unaffected.

2. [17-13527](#)-B-7 **IN RE: BEKAFA WOLDEMESKEL**
[17-1089](#)

STATUS CONFERENCE RE: AMENDED COMPLAINT
2-1-2018 [[9](#)]

KEVORKIAN V. WOLDEMESKEL
J. ARMAS/ATTY. FOR PL.
RESPONSIVE PLEADING

NO RULING.

3. [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.
RESPONSIVE PLEADING

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

DISPOSITION: Continued to June 27, 2018 at 1:30 p.m. as requested
in the status report filed by defendant counter-
claimant.

ORDER: The court will issue an order.