

UNITED STATES BANKRUPTCY COURT
Eastern District of California
Honorable René Lastreto II
Hearing Date: Thursday, May 4, 2017
Place: U.S. Courthouse, 510 19th Street
Bakersfield, 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.

9:00 A.M.

1. [10-61900](#)-B-13 EDWARD/DEBRA COPELAND MOTION TO AVOID LIEN OF
CAPITAL ONE BANK (USA), N.A.
PK-11
EDWARD COPELAND/MV 4-13-17 [[266](#)]
PATRICK KAVANAGH/Atty. for dbt.

This matter will proceed as scheduled.

Unless opposition is presented at the hearing, the court intends to enter the respondent's default 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.

2. [10-61900](#)-B-13 EDWARD/DEBRA COPELAND MOTION TO AVOID LIEN OF FIA
CARD SERVICES
PK-12 4-13-17 [[273](#)]
EDWARD COPELAND/MV
PATRICK KAVANAGH/Atty. for dbt.

This matter will proceed as scheduled.

Unless opposition is presented at the hearing, the court intends to enter the respondent's default 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.

3. [17-10103](#)-B-13 PAUL/MANJIT GILL
MHM-1
MICHAEL MEYER/MV
NEIL SCHWARTZ/Atty. for dbt.

MOTION TO DISMISS CASE
3-15-17 [[19](#)]

Unless the trustee's motion is withdrawn before the hearing, the motion will be granted without oral argument for cause shown. The court will issue an 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 respondent's default will be entered. Federal Rule of Civil Procedure 55, made applicable by Federal Rule of Bankruptcy Procedure 7055, governs default matters and is applicable to contested matters under Federal Rule of Bankruptcy Procedure 9014(c). Upon default, factual allegations will be taken as true (except those relating to amount of damages). *Televideo Systems, Inc. v. Heidenthal* (826 F.2d 915, 917 (9th Cir., 1987)). Constitutional due process requires that a plaintiff make a prima facie showing that they are entitled to the relief sought, which the movant has done here.

The record shows that the debtor has failed to cooperate with the trustee as required. The debtor failed to provide the documentation as requested by the trustee:

- a.) 2016 tax returns- personal and business;
- b.) Recent mortgage statement with principal balance for debtor's residence;
- c.) inventory list-purchase price, date of purchase and current value;
- d.) purchase contract for (2) 2015 Kenworth T680;
- e.) purchase contract for (2) 2014 Utility trailers;
- f.) purchase contract for 2012 Honda Civic;
- g.) accounts receivable at the time of filing;
- h.) corporation formation documents;
- i.) licenses, insurance for the business.

In addition, the debtor has failed to appear at the scheduled 341 Meeting of Creditors and has failed to provide Credit Counseling Certificate.

Accordingly, the case will be dismissed.

4. [17-10906](#)-B-13 DORA HERNANDEZ
RSW-1
DORA HERNANDEZ/MV
ROBERT WILLIAMS/Atty. for dbt.

MOTION TO VALUE COLLATERAL OF
WESTAMERICA BANK
4-21-17 [[13](#)]

This matter will proceed as scheduled. Unless opposition is presented at the hearing, the court intends to grant the motion based on well-pled facts as follows.

This motion to value respondent's collateral was served as a preliminary matter. If no appearance in opposition is presented at the hearing, the respondent's default will be entered. Federal Rule of Civil Procedure 55, made applicable by Federal Rule of Bankruptcy Procedure 7055, governs default matters and is applicable to contested matters under Federal Rule of Bankruptcy Procedure 9014(c). Upon default, factual allegations will be taken as true (except those relating to amount of damages). *Televideo Systems, Inc. v. Heidenthal* (826 F.2d 915, 917 (9th Cir., 1987)). Constitutional due process requires that a plaintiff make a prima facie showing that they are entitled to the relief sought, which the movant has done here.

The debtor is competent to testify as to the value of the 2012 Chevrolet Impala LT. Based on the evidence presented, the respondent's secured claim will be fixed at \$5,000. The proposed order submitted after the hearing shall specifically identify the collateral, and if applicable, the proof of claim to which it relates and will be effective upon confirmation of the chapter 13 plan.

5. [17-10223](#)-B-13 STEPHEN/ROSALIE TRUJILLO MOTION TO DISMISS CASE
MHM-1 3-14-17 [[20](#)]
MICHAEL MEYER/MV
ROBERT WILLIAMS/Atty. for dbt.

Unless the trustee's motion is withdrawn before the hearing, the motion will be granted without oral argument for cause shown. The court will issue an order. No appearance is necessary.

The chapter 13 trustee's motion to dismiss was fully noticed in compliance with the Local Rules of Practice. The debtors' tardy response is not supported by evidence that the default has been cured and the trustee's motion has not been withdrawn. The record shows that there is a material default in the chapter 13 plan payments that has not been cured. In addition, the debtors have failed to appear at the §341 meeting of creditors. The case will be dismissed.

6. [17-10336](#)-B-13 ROBERT DUNCAN
APN-1
WELLS FARGO BANK, N.A./MV
MARK ZIMMERMAN/Atty. for dbt.
AUSTIN NAGEL/Atty. for mv.

OBJECTION TO CONFIRMATION OF
PLAN BY WELLS FARGO BANK, N.A.
3-7-17 [[19](#)]

The objection to confirmation was noticed as a preliminary hearing and will proceed as scheduled unless withdrawn prior to the hearing. The record shows that the objecting party holds a junior deed of trust on the debtor's home that has been provided for in the plan in class 4, to be paid directly by the debtor. Accordingly, upon confirmation of the chapter 13 plan, the automatic stay will be modified for this claim to permit enforcement of the creditor's remedies with regard to the collateral in the event of a default under applicable law. No attorney's fees will be awarded in relation to this motion.

7. [17-10349](#)-B-13 TRACY FLAHERTY
MHM-1
MICHAEL MEYER/MV
ROBERT WILLIAMS/Atty. for dbt.

MOTION TO DISMISS CASE
3-14-17 [[18](#)]

Unless the trustee's motion is withdrawn before the hearing, the motion will be granted without oral argument for cause shown. The court will issue an order. No appearance is necessary.

The chapter 13 trustee's motion to dismiss was fully noticed in compliance with the Local Rules of Practice. The debtor's tardy response is not supported by evidence that the default has been cured and the trustee's motion has not been withdrawn. The record shows that there is unreasonable delay that is prejudicial to creditors, including, failure to provide the trustee with the following required documentation: 2016 State and Federal Tax Return; Business Case Questionnaire; Profit and Loss statements for the six months prior to filing. The case will be dismissed.

8. [17-10350](#)-B-13 ISAIAH JONES
MHM-1
MICHAEL MEYER/MV
LAUREN RODE/Atty. for dbt.

MOTION TO DISMISS CASE
3-15-17 [[18](#)]

Unless the trustee's motion is withdrawn before the hearing, the motion will be granted without oral argument for cause shown. The court will issue an order. No appearance is necessary.

The chapter 13 trustee's motion to dismiss was fully noticed in compliance with the Local Rules of Practice. The debtor's response is not supported by evidence that the default has been cured and the trustee's motion has not been withdrawn. The record shows that there is unreasonable delay that is prejudicial to creditors, including, failure to provide the trustee with the required documentation and failure to confirm a plan. The case will be dismissed.

9. [17-10753](#)-B-13 JOHN REYNOLDS,

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
4-7-17 [[16](#)]

SUSAN SALEHI/Atty. for dbt.
FILING FEE PAID 4/10/17
\$156.00

The OSC will be vacated. No appearance is necessary.

The OSC was issued for the debtor's failure to make the payment due April 3, 2017. The delinquent payment was made on or about April 10, 2017. The OSC will be vacated and the case will remain pending because the payment was made. However as a sanction, the court will modify the order permitting the payment of filing fees in installments to provide that if future installments are not received by the due date, the case will be dismissed without further notice or hearing.

10. [16-11473](#)-B-13 SHELBY/CAROL KING

CONTINUED OBJECTION TO CLAIM
OF NORTHERN CALIFORNIA
COLLECTION SERVICES,
CLAIM NUMBER 8
1-12-17 [[113](#)]

LKW-5
SHELBY KING/MV

LEONARD WELSH/Atty. for dbt.
RESPONSIVE PLEADING

This matter will be continued to June 6, 2017, at 9:00 a.m., to be heard with the modified plan filed April 21, 2017, which provides for this claim in Class 6 and includes it in the "Additional Provisions" at 6.01(e). The court will enter an order. No appearance is necessary.

11. [16-14377](#)-B-13 CECILE CORTEZ

MOTION TO CONFIRM PLAN
3-9-17 [[25](#)]

DMG-1
CECILE CORTEZ/MV
D. GARDNER/Atty. for dbt.
RESPONSIVE PLEADING

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

This motion to confirm or modify a chapter 13 plan was fully noticed in compliance with the Local Rules of Practice; the trustee has withdrawn his opposition. No other party filed an opposition and those respondents' default will be entered. The confirmation order shall include the docket control number of the motion and it shall reference the plan by the date it was filed.

12. [17-10778](#)-B-13 DAVID/LATUNJIA JOHNSON ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
4-10-17 [[20](#)]

PATRICK KAVANAGH/Atty. for dbt.
\$79.00 INSTALLMENT PAYMENT

The OSC will be vacated. No appearance is necessary.

The OSC was issued for the debtor's failure to make the payment due April 5, 2017. The delinquent payment was made on or about April 17, 2017. The OSC will be vacated and the case will remain pending because the payment was made. However as a sanction, the court will modify the order permitting the payment of filing fees in installments to provide that if future installments are not received by the due date, the case will be dismissed without further notice or hearing.

13. [17-10881](#)-B-13 ROBERT BROOKS ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
3-27-17 [[14](#)]

JESUS ZUNIGA/Atty. for dbt.
FILING FEE PAID IN FULL
4/3/17

The OSC will be vacated. No appearance is necessary.

The OSC was issued for the debtor's failure to pay the filing fee in this case. The delinquent payment was made on or about April 3, 2017. The OSC will be vacated and the case will remain pending because the payment was made.

14. [13-15286](#)-B-13 RONALD/PENELOPE SHERER MOTION FOR COMPENSATION FOR
LKW-4 LEONARD K. WELSH, DEBTORS
RONALD SHERER/MV ATTORNEY(S)
3-17-17 [[46](#)]

LEONARD WELSH/Atty. for dbt.

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

This matter was fully noticed in compliance with the Local Rules of Practice and there is no opposition. 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. Accordingly, the respondents' defaults will be entered.

15. [16-13489](#)-B-13 JIMMY CANNON
MHM-3
MICHAEL MEYER/MV
PHILLIP GILLET/Atty. for dbt.

MOTION TO DISMISS CASE
3-29-17 [[70](#)]

Unless it is withdrawn before the hearing, this matter will proceed as scheduled.

The trustee's motion to dismiss the case was filed on the grounds of unreasonable delay that is prejudicial to creditors based on failure to file and set for hearing a chapter 13 plan. However, according to the debtor's timely response, the current proposed plan was the initial plan which the docket shows was filed on October 7, 2017, and served on creditors by the BNC on October 11, 2017. No objection to the plan has been sustained.

The debtor acknowledges being delinquent in an amount less than one plan payment.

16. [17-10199](#)-B-13 GARY WRIGHT AND KIM
MHM-1 GRIFFIN-WRIGHT
MICHAEL MEYER/MV
ROBERT WILLIAMS/Atty. for dbt.

MOTION TO DISMISS CASE
3-14-17 [[18](#)]

Unless the trustee's motion is withdrawn before the hearing, the motion will be granted without oral argument for cause shown. The court will issue an 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. The record shows that there is unreasonable delay that is prejudicial to creditors, based on the debtors' failure to provide the required documents to the trustee. Accordingly, the case will be dismissed.

9:30 A.M.

1. [16-13002](#)-B-12 WILLIAM/TRACY GREENLEE CONTINUED STATUS CONFERENCE
RE:
CHAPTER 12 VOLUNTARY PETITION
8-17-16 [[1](#)]

LEONARD WELSH/Atty. for dbt.

This matter will proceed as scheduled. If the debtors' motion to dismiss (number 2 on this calendar) is granted, the status conference will be dropped from calendar.

2. [16-13002](#)-B-12 WILLIAM/TRACY GREENLEE MOTION TO DISMISS CASE
LKW-7 4-13-17 [[120](#)]
WILLIAM GREENLEE/MV
LEONARD WELSH/Atty. for dbt.

This matter will proceed as scheduled.

Unless opposition is presented at the hearing, the court intends to enter the respondents' defaults and grant the motion pursuant to §1208(b). 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.

3. [17-11028](#)-B-11 PACE DIVERSIFIED STATUS CONFERENCE RE: CHAPTER
CORPORATION 11 VOLUNTARY PETITION
3-23-17 [[1](#)]
T. BELDEN/Atty. for dbt.

This matter will proceed as scheduled.

4. [17-11028](#)-B-11 PACE DIVERSIFIED

BBR-3 CORPORATION
PACE DIVERSIFIED
CORPORATION/MV

T. BELDEN/Atty. for dbt.
RESPONSIVE PLEADING

CONTINUED AMENDED MOTION TO USE
CASH COLLATERAL, AMENDED
MOTION FOR A FINAL HEARING ON

USE OF CASH COLLATERAL
4-3-17 [[45](#)]

This matter will proceed as scheduled. The parties shall address the following issues bearing in mind their respective evidentiary burdens pursuant to 11 USCA §363(p):

1. The status of the Gardner Lease reserves previously ordered segregated;
2. Proposals for adequately protecting interests in future Gardner Lease payments;
3. Mechanisms by which the debtor may provide adequate protection of co-tenant interests and claims under the Olcese Lease;
4. Rent payments to insiders.

5. [17-10238](#)-B-11 SILO CITY, INC.

JACOB EATON/Atty. for dbt.

CONTINUED STATUS CONFERENCE
RE:
CHAPTER 11 VOLUNTARY PETITION
1-25-17 [[1](#)]

This matter will proceed as scheduled.

6. [17-10443](#)-B-11 ASHO ASSOCIATES, INC.

TODD TUROCI/Atty. for dbt.

CONTINUED STATUS CONFERENCE
RE:
CHAPTER 11 VOLUNTARY PETITION
2-10-17 [[1](#)]

Based on the debtor's non-responsive status report this matter will be continued to June 8, 2017, at 9:30 a.m. The debtor's attorney, Todd Turoci, shall appear at the hearing. Telephonic appearances will not be permitted at the continued hearing.

The court intends to issue an Order to Show Cause as to whether the case should be converted or dismissed based on 11 U.S.C.A. §1112(b)(4)(E) and whether sanctions should be ordered against the debtor and counsel for failure to comply with the court's order that the debtor provide the information specified by the court at the hearing held April 6, 2017. The court will enter an order. No appearance is necessary on May 4, 2017.

7. [15-14685](#)-B-11 B&L EQUIPMENT RENTALS,
LKW-46 INC.
B&L EQUIPMENT RENTALS, INC./MV

MOTION TO COMPROMISE
CONTROVERSY/APPROVE SETTLEMENT
AGREEMENT WITH IVAN MEDRANO,
JESUS ALFREDO CABRERA, DAVID
MELGOZA, AND LEOPOLDO ALVAREZ
4-12-17 [[704](#)]

LEONARD WELSH/Atty. for dbt.

This matter will proceed as scheduled. Unless opposition is presented at the hearing, the court intends to enter the respondents' defaults and grant the motion. It appears that the Debtor-in-Possession has considered the factors in, *In re A & C Properties*, 784 F.2d 1377, 1381 (9th Cir. 1986):

- a. whether the settlement was negotiated in good faith;
- b. whether the trustee or debtor-in-possession reasonably believes that the compromise is the best result that can be negotiated under the facts, and;
- c. whether the settlement is fair and equitable.

Accordingly, it appears that the compromise pursuant to FRBP 9019 is a reasonable exercise of the DIP's business judgment. The order should be limited to the claims compromised as described in 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.

10:00 A.M.

1. [17-10904](#)-B-7 MANUEL FERNANDEZ AND ORDER TO SHOW CAUSE - FAILURE
 SUPHAP COFFEY TO PAY FEES
 3-28-17 [[12](#)]
- JESUS ZUNIGA/Atty. for dbt.
\$335.00 FILING FEE PAID
4/3/17

The OSC will be vacated. No appearance is necessary.

The OSC was issued for the debtor's failure to pay the filing fee in this case. The delinquent payment was made on or about April 3, 2017. The OSC will be vacated and the case will remain pending because the payment was made.

2. [16-13225](#)-B-7 BAKERSFIELD MOVING & MOTION FOR COMPENSATION BY THE
 KDG-5 STORAGE DBA RELIABLE LAW OFFICE OF KLEIN, DENATALE,
 GOLDNER, COOPER, ROSENLIB AND
 KIMBALL FOR LISA HOLDER,
 TRUSTEES ATTORNEY(S)
 4-6-17 [[89](#)]
- NEIL SCHWARTZ/Atty. for dbt.

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

This matter was fully noticed in compliance with the Local Rules of Practice and there is no opposition. 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. Accordingly, the respondents' defaults will be entered.

3. [16-13225](#)-B-7 BAKERSFIELD MOVING &
RP-1 STORAGE DBA RELIABLE
RANDELL PARKER/MV

MOTION FOR COMPENSATION FOR
RANDELL PARKER, CHAPTER 7
TRUSTEE(S)
3-30-17 [[83](#)]

NEIL SCHWARTZ/Atty. for dbt.
LISA HOLDER/Atty. for mv.

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

This matter was fully noticed in compliance with the Local Rules of Practice and there is no opposition. 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. Accordingly, the respondents' defaults will be entered.

4. [16-13225](#)-B-7 BAKERSFIELD MOVING &
RP-2 STORAGE DBA RELIABLE
RANDELL PARKER/MV

MOTION FOR ADMINISTRATIVE
EXPENSES
3-30-17 [[78](#)]

NEIL SCHWARTZ/Atty. for dbt.
LISA HOLDER/Atty. for mv.

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

This matter was fully noticed in compliance with the Local Rules of Practice and there is no opposition. 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. Accordingly, the respondents' defaults will be entered.

5. [12-14227](#)-B-7 MOISES SEPULVEDA
LKW-2
MOISES SEPULVEDA/MV
CURTIS FLOYD/Atty. for dbt.

MOTION TO AVOID LIEN OF
FINANCIAL CREDIT NETWORK, INC.
4-11-17 [[37](#)]

This matter will proceed as scheduled.

Unless opposition is presented at the hearing, the court intends to enter the respondents' defaults and grant the motion. It appears from the evidence submitted and the record that the debtor is entitled to avoid this lien that impairs an exemption to which he would otherwise have been entitled.

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.

6. [12-14227](#)-B-7 MOISES SEPULVEDA
LKW-3
MOISES SEPULVEDA/MV
CURTIS FLOYD/Atty. for dbt.

MOTION TO AVOID LIEN OF
DISCOVER BANK
4-11-17 [[43](#)]

This matter will proceed as scheduled.

Unless opposition is presented at the hearing, the court intends to enter the respondents' defaults and grant the motion. It appears from the evidence submitted and the record that the debtor is entitled to avoid this lien that impairs an exemption to which he would otherwise have been entitled.

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.

7. [12-14227](#)-B-7 MOISES SEPULVEDA
LKW-4
MOISES SEPULVEDA/MV
CURTIS FLOYD/Atty. for dbt.

MOTION TO AVOID LIEN OF
CITIBANK (SOUTH DAKOTA), N.A.
4-11-17 [[49](#)]

This matter will proceed as scheduled.

Unless opposition is presented at the hearing, the court intends to enter the respondents' defaults and grant the motion. It appears from the evidence submitted and the record that the debtor is entitled to avoid this lien that impairs an exemption to which he would otherwise have been entitled.

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.

8. [16-13427](#)-B-7 JASON/NATASHA BATSON
ABG-1
KINECTA FEDERAL CREDIT
UNION/MV
PATRICK KAVANAGH/Atty. for dbt.
MARK BLACKMAN/Atty. for mv.

MOTION FOR RELIEF FROM
AUTOMATIC STAY
3-13-17 [[85](#)]

This motion for relief from the automatic stay will be denied as moot. No appearance is necessary.

The debtors are individuals. The record does not show that the personal property collateral for this secured claim was redeemed or surrendered within the applicable time set by 11 U.S.C. §521(a)(2). Similarly, the record does not reflect that the loan was reaffirmed or that the movant denied a request to reaffirm the loan on the original contract terms. Therefore, pursuant to 11 U.S.C. §362(h), the collateral is no longer property of the estate and the automatic stay has already terminated by operation of law. No attorney fees will be awarded in relation to this motion.

9. [16-13630](#)-B-7 FELICIANO/MARIA JUAREZ MOTION TO SELL
RP-1 4-5-17 [[19](#)]
RANDELL PARKER/MV
JOSEPH PEARL/Atty. for dbt.

This motion will proceed as scheduled only for submission of higher and better bids, if any.

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. 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.

10. [17-10339](#)-B-7 FELIX/AZUCENA VILLALOVOS MOTION FOR RELIEF FROM
ABG-1 AUTOMATIC STAY
KINECTA FEDERAL CREDIT 3-16-17 [[12](#)]
UNION/MV
LEONARD WELSH/Atty. for dbt.
MARK BLACKMAN/Atty. for mv.
NON-OPPOSITION

This motion for relief from the automatic stay will be denied as moot. No appearance is necessary.

The debtors are individuals and filed a notice of non-opposition. The record does not show that the personal property collateral for this secured claim was redeemed or surrendered within the applicable time set by 11 U.S.C. §521(a)(2). Similarly, the record does not reflect that the loan was reaffirmed or that the movant denied a request to reaffirm the loan on the original contract terms. Therefore, pursuant to 11 U.S.C. §362(h), the collateral is no longer property of the estate and the automatic stay has already terminated by operation of law. No attorney fees will be awarded in relation to this motion.

11. [11-62960](#)-B-7 JOSE/MARIA ALVAREZ MOTION TO AVOID LIEN OF FIA
RSW-3 CARD SERVICES, N.A.
JOSE ALVAREZ/MV 4-20-17 [[30](#)]
ROBERT WILLIAMS/Atty. for dbt.

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

The record does not establish that the motion was served on the named respondent in compliance with Federal Rule of Bankruptcy Procedure 7004(h) (FDIC Insured Depository Institution). *In re Villar*, 317 B.R. 88 (9th Cir. BAP 2004). It appears that the named respondent is no longer in existence having been merged out with Bank of America, and the motion was mailed to "Bank Of America/FIA, PO Box 17054, Wilmington, DE 19850," however it was not directed to an officer of Bank of America nor was it mailed certified as required by FRBP 7004.

12. [12-15864](#)-B-7 GEORGE JOHNS
RSB-2
GEORGE JOHNS/MV
R. BELL/Atty. for dbt.

MOTION TO AVOID LIEN OF
CITIBANK (SOUTH DAKOTA) N.A.
3-22-17 [[40](#)]

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

This matter was fully noticed in compliance with the Local Rules of Practice and there is no opposition. 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. Accordingly, the respondents' defaults will be entered. It appears from the evidence submitted and the record that the debtor is entitled to avoid this lien that impairs an exemption to which he would otherwise have been entitled.

13. [12-15864](#)-B-7 GEORGE JOHNS
RSB-3
GEORGE JOHNS/MV
R. BELL/Atty. for dbt.

MOTION TO AVOID LIEN OF JP
MORGAN CHASE BANK N.A.
3-22-17 [[45](#)]

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

This matter was fully noticed in compliance with the Local Rules of Practice and there is no opposition. 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. Accordingly, the respondents' defaults will be entered. It appears from the evidence submitted and the record that the debtor is entitled to avoid this lien that impairs an exemption to which he would otherwise have been entitled.

14. [14-11265](#)-B-7 BETTY BUMGARNER

AED-2

BETTY BUMGARNER/MV

ASHTON DUNN/Atty. for dbt.

MOTION TO AVOID LIEN OF
CAPITAL

ONE BANK (USA), N.A.

4-5-17 [[26](#)]

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

The record does not establish that the motion was served on the named respondent in compliance Federal Rule of Bankruptcy Procedure 7004(h) (FDIC Insured Depository Institution). *In re Villar*, 317 B.R. 88 (9th Cir. BAP 2004). The motion was not served on an officer of the respondent.

15. [14-11265](#)-B-7 BETTY BUMGARNER

AED-2

BETTY BUMGARNER/MV

ASHTON DUNN/Atty. for dbt.

MOTION TO AVOID LIEN OF
PROFESSIONAL COLLECTION
CONSULTANTS

4-5-17 [[32](#)]

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

First, the moving papers do not include an appropriate docket control number as required by LBR 9014-1(c). The document that substantively constitutes the motion is erroneously captioned "Notice of Motion to Avoid Lien." That document has a DC# that was previously used. (The actual notice which is captioned "Notice of Hearing on Motion to Avoid Lien of Professional Collection Consultants (PCC)," and other documents, do have a new DC#.)

Second, The record does not establish that the motion was served on the named respondent in compliance with Federal Rule of Bankruptcy Procedure 7004(b)(3) (corporation, partnership or unincorporated association). *In re Villar*, 317 B.R. 88 (9th Cir. BAP 2004). Service on an employee or attorney does not constitute service on a corporation. Information regarding service on a corporation may be obtained from the California Secretary of State's Internet Website, see <http://kepler.sos.ca.gov/>. For a directory of FDIC Insured Institutions, see <http://www3.fdic.gov/idasp/main.asp>. Litigants are encouraged to attach a copy of their information source (web page, etc.) to the proof of service to assist the court in evaluating compliance with Rule 7004.

16. [14-11265](#)-B-7 BETTY BUMGARNER

AED-2

BETTY BUMGARNER/MV

ASHTON DUNN/Atty. for dbt.

MOTION TO AVOID LIEN OF
CAPITAL
ONE BANK (USA), N.A.
4-4-17 [[38](#)]

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

The record does not establish that the motion was served on the named respondent in compliance Federal Rule of Bankruptcy Procedure 7004(h) (FDIC Insured Depository Institution). *In re Villar*, 317 B.R. 88 (9th Cir. BAP 2004). The motion was not served on an officer of the respondent.

In addition, the moving papers do not include an appropriate docket control number as required by LBR 9014-1(c). AED-2 was previously used for a different motion.

17. [16-12266](#)-B-7 AVTAR SINGH

DJP-3

TRUDI MANFREDO/MV

MARK ZIMMERMAN/Atty. for dbt.

DON POOL/Atty. for mv.

MOTION TO COMPROMISE
CONTROVERSY/APPROVE SETTLEMENT
AGREEMENT WITH PRITPAL NAGRA
4-6-17 [[62](#)]

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 from the moving papers that the trustee has considered the standards of *In re A & C Properties*, 784 F.2d 1377 (9th Cir. 1986), and that the compromise pursuant to FRBP 9019 is a reasonable exercise of the trustee's business judgment. The order should be limited to the claims compromised as described in the motion.

18. [17-10869](#)-B-7 VALERIE CIVELLI
APN-1
SANTANDER CONSUMER USA,
INC./MV
NEIL SCHWARTZ/Atty. for dbt.
AUSTIN NAGEL/Atty. for mv.

MOTION FOR RELIEF FROM
AUTOMATIC STAY
3-30-17 [[11](#)]

This motion for relief from the automatic stay will be granted without oral argument based upon well-pled facts. The moving party shall submit a proposed order. No appearance is necessary.

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

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

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

19. [17-10976](#)-B-7 ROBERTO TOLENTINO

WILLIAM EDWARDS/Atty. for dbt.
FILING FEE PAID \$335.00
4/6/17

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
4-3-17 [[11](#)]

The OSC will be vacated. The record shows that the required fee has been paid in full. No appearance is necessary.

20. [17-10690](#)-B-7 JOSE MANZANAREZ
VVF-1
AMERICAN HONDA FINANCE
CORPORATION/MV
ROBERT WILLIAMS/Atty. for dbt.
VINCENT FROUNJIAN/Atty. for mv.
AMERICAN HONDA FINANCE
CORPORATION VS.

MOTION FOR RELIEF FROM
AUTOMATIC STAY AND/OR MOTION
FOR ADEQUATE PROTECTION
4-14-17 [[10](#)]

This matter will proceed as scheduled. Unless opposition is presented at the hearing, the court intends to enter the debtor and the trustee's defaults and grant in part, and deny in part, the motion for relief from stay.

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 request for adequate protection will be denied without prejudice. Adequate protection is unnecessary in light of the relief granted herein.

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

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 movant shall submit a proposed order after hearing that specifically describes the property or action to which the order relates.

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

21. [17-10393](#)-B-7 JAMETTE BELL
PK-1
NTAR ENTERPRISE LLC/MV

MOTION TO CONFIRM TERMINATION
OR ABSENCE OF STAY AND/OR
MOTION FOR RELIEF FROM
AUTOMATIC STAY
4-7-17 [[31](#)]

PATRICK KAVANAGH/Atty. for mv.
RESPONSIVE PLEADING

This matter will proceed as scheduled. The debtor has filed an opposition to the motion.

22. [16-14597](#)-B-7 JOE/KAYLA FULLER

MOTION FOR RELIEF FROM

AP-1
BANK OF AMERICA, N.A./MV
NEIL SCHWARTZ/Atty. for dbt.
JAMIE HANAWALT/Atty. for mv.

AUTOMATIC STAY
3-30-17 [[19](#)]

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 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.

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).

11:00 A.M.

1. [16-14628](#)-B-7 JORGE RODRIGUEZ

REAFFIRMATION AGREEMENT WITH
CALIFORNIA AUTO FINANCE
3-10-17 [[15](#)]

R. BELL/Atty. for dbt.

Approval of the Reaffirmation Agreement will be denied. No appearance is necessary.

Although on its face the reaffirmation agreement appears to show there is no presumption of hardship, the bankruptcy schedules show that the debtor is an agricultural worker with a 6-year old daughter who rents a home. The debtor lists DSO support and payments on another vehicle in schedule J. The debtor does not list any life insurance payments and budgets only \$50 a month for medical and dental expenses. Many of the debtor's expenses are likely to increase during the 24 months that he will remain obligated for payments on the 2004 Chevy Suburban, at 48% interest, and the court deems these facts to constitute the presumption of an undue hardship which has not been rebutted in the reaffirmation agreement. Although the debtor's attorney executed the agreement, the attorney could not affirm that, (a) the agreement was not a hardship and, (b) the debtor would be able to make the payments.

2. [17-10129](#)-B-7 IGNACIO/MARIA MORENO

REAFFIRMATION AGREEMENT WITH
ACAR LEASING LTD
3-17-17 [[13](#)]

D. GARDNER/Atty. for dbt.

This reaffirmation agreement will be dropped from calendar without a disposition. Debtors' counsel will inform debtors that no appearance is necessary.

The agreement relates to a lease of personal property. The parties are directed to the provisions of 11 U.S.C. § 365(p)(2). This case was filed January 17, 2017, and the lease was not assumed by the chapter 7 trustee within 60 days, 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.

1:30 P.M.

1. [16-12965](#)-B-7 GREG SCOGGINS
[16-1098](#)
SCOGGINS V. EDUCATIONAL CREDIT
MANAGEMENT CORPORATION
SUSAN SALEHI/Atty. for pl.
JUDGMENT 2/23/17, CLOSED
3/13/17

PRE-TRIAL CONFERENCE RE:
COMPLAINT
10-11-16 [[1](#)]

This matter will be dropped from calendar. The record shows that this adversary proceeding has been settled by stipulation of the parties and order of the court entered February 23, 2017 and has already been closed. No appearance is necessary.

2. [16-11473](#)-B-13 SHELBY/CAROL KING
[17-1023](#)
INTERNATIONAL FIDELITY
INSURANCE COMPANY V. KING ET
ROBERT BERENS/Atty. for pl.
RESPONSIVE PLEADING

STATUS CONFERENCE RE:
COMPLAINT
3-8-17 [[1](#)]

This matter will proceed as scheduled.