

UNITED STATES BANKRUPTCY COURT
Eastern District of California
Honorable René Lastreto II
Hearing Date: Thursday, June 8, 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. [17-11002](#)-B-13 JOHN/DEBBIE HARRIS MOTION TO DISMISS CASE
MHM-1 5-9-17 [[16](#)]
MICHAEL MEYER/MV
WILLIAM OLCOTT/Atty. for dbt.
RESPONSIVE PLEADING

Based on the debtors' response, this matter will proceed as scheduled. If the trustee does not withdraw the motion at the hearing or before, the court intends to grant the motion and dismiss the case on the grounds stated in the motion.

2. [17-10103](#)-B-13 PAUL/MANJIT GILL
HRH-1
BMO HARRIS BANK N.A./MV
NEIL SCHWARTZ/Atty. for dbt.
RAFFI KHATCHADOURIAN/Atty. for mv.
DISMISSED
- CONTINUED OBJECTION TO
CONFIRMATION OF PLAN BY BMO
HARRIS BANK N.A.
3-16-17 [[24](#)]

This case has already been dismissed. No appearance is necessary.

3. [17-10103](#)-B-13 PAUL/MANJIT GILL MOTION TO DISMISS CASE
MHM-2 4-10-17 [[44](#)]
MICHAEL MEYER/MV
NEIL SCHWARTZ/Atty. for dbt.
DISMISSED

This case has already been dismissed. No appearance is necessary.

4. [16-13605](#)-B-13 VICTORIA PILKINGTON MOTION TO MODIFY PLAN
RSW-2 4-7-17 [[45](#)]
VICTORIA PILKINGTON/MV
ROBERT WILLIAMS/Atty. for dbt.

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; there is no opposition and the 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.

5. [17-10605](#)-B-13 BERTHA SANCHEZ
MHM-1
MICHAEL MEYER/MV
ROBERT WILLIAMS/Atty. for dbt.

MOTION TO DISMISS CASE
4-11-17 [[26](#)]

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 there is unreasonable delay by the debtor that is prejudicial to creditors based on, failure to make all payments due under the plan, failure to appear at the scheduled 341 Meeting of Creditors, failure to provide the Trustee with the required documentation, and failure to set a plan for hearing with notice to creditors. Accordingly, the case will be dismissed.

6. [17-11005](#)-B-13 LINDA SNYDER
MHM-1
MICHAEL MEYER/MV
SUSAN SALEHI/Atty. for dbt.

MOTION TO DISMISS CASE
5-9-17 [[22](#)]

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 provide the trustee with the required documentation. Accordingly, the case will be dismissed.

7. [17-10906](#)-B-13 DORA HERNANDEZ
MHM-1
MICHAEL MEYER/MV
ROBERT WILLIAMS/Atty. for dbt.

MOTION TO DISMISS CASE
5-9-17 [[24](#)]

Based on the debtor's reply, this motion will be continued to July 13, 2017, at 9:00 a.m. If the debtor does not appear at her continued §341 meeting of creditors on June 8, 2017, then the case may be dismissed on the trustee's *ex parte* declaration. The court will enter an order. No appearance is necessary.

8. [16-11209](#)-B-13 MOISES PALMA
PLG-9
MOISES PALMA/MV
STEVEN ALPERT/Atty. for dbt.
RESPONSIVE PLEADING

MOTION TO MODIFY PLAN
5-4-17 [[105](#)]

This motion will be set for a continued hearing on July 13, 2017, at 9:00 a.m. The court will issue an order. No appearance is necessary.

The trustee has filed a detailed objection to the debtor's fully noticed motion to confirm a chapter 13 plan. Unless this case is voluntarily converted to chapter 7 or dismissed or the trustee's opposition to confirmation has been withdrawn, the debtor shall file and serve a written response not later than June 29, 2017. The response shall specifically address each issue raised in the opposition to confirmation, state whether the issue is disputed or undisputed, and include admissible evidence to support the debtor's position. If the debtor elects to withdraw this plan and file a modified plan in lieu of filing a response, then a confirmable modified plan shall be filed, served, and set for hearing, not later than July 6, 2017. If the debtor does not timely file a modified plan or a written response, the motion to confirm the plan will be denied on the grounds stated in the opposition without a further hearing.

The court notes that creditor Bank of the Ozarks filed a "Stipulation for Relief from Automatic Stay with Bank of the Ozarks" on May 23, 2017, DC# SBS-1. Although the caption indicates the stipulation will be heard on this calendar, there is no motion connected with this DC number and therefore it is not properly on the calendar. Except where specifically permitted by the FRBP, or where a request for an order approving a stipulation is made during a hearing, a written motion is required. FRBP 9013. In addition, although the debtor signed the stipulation, the chapter 13 trustee has not and there is nothing in the record to show that this pleading was served on the chapter 13 trustee.

9. [17-11420](#)-B-13 GABRIEL VALENCIA

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
5-22-17 [[28](#)]

This matter will be called as scheduled. If the installment payments now due have not been paid by the time of the hearing, the case will be dismissed. If the installment payments now due are fully paid by the time of the hearing, the OSC will be vacated.

If the OSC is vacated, 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. [17-11420](#)-B-13 GABRIEL VALENCIA
PK-1
MARTIN H. HEIN TRUST/MV
PATRICK KAVANAGH/Atty. for mv.

MOTION FOR RELIEF FROM
AUTOMATIC STAY
5-11-17 [[16](#)]

The motion will be denied without prejudice. No appearance is necessary.

The pleadings do not comply with the Local Rules of Practice for the U.S. Bankruptcy Court, Eastern District of California, Appendix II, EDC.002-901, E.D. Cal. Bankruptcy Court's Guidelines for the Preparation of Documents (effective August 12, 2015), Section IV.B. and C. The motion is accompanied by exhibits "A" through "K" consisting of a total of 42 pages that are not successively paginated, accordingly the table of contents does not provide a page number for each exhibit.

The movant requests relief *nunc pro tunc*, however the record shows that the movant was served with the bankruptcy petition on April 17, 2017, at: "Attn: Martin Hein Trust, 16031 Strbor St., Bakersfield, CA." The moving papers do not specifically identify as to which actions the court should annul the stay nor is there any evidence to support the *nunc pro tunc* request. *Wirum v. Warren (In re Warren)*, 568 F.3d 1113, 1116 n.1 (9th Cir. 2009).

11. [17-10622](#)-B-13 JENNIFER RIVAS
MHM-1
MICHAEL MEYER/MV
PATRICK KAVANAGH/Atty. for dbt.

MOTION TO DISMISS CASE
4-11-17 [[35](#)]

This motion has been withdrawn. No appearance is necessary.

12. [17-10622](#)-B-13 JENNIFER RIVAS
MHM-2
MICHAEL MEYER/MV
PATRICK KAVANAGH/Atty. for dbt.

MOTION TO DISMISS CASE
5-10-17 [[41](#)]

The trustee's motion has been withdrawn. No appearance is necessary.

13. [17-10622](#)-B-13 JENNIFER RIVAS
PK-2
JENNIFER RIVAS/MV
PATRICK KAVANAGH/Atty. for dbt.

MOTION TO VALUE COLLATERAL OF
EXETER FINANCE, CORP.
5-25-17 [[46](#)]

This matter will proceed as scheduled.

Unless opposition is presented at the hearing, the court intends to enter the respondent's default and enter the following tentative ruling. If opposition is presented at the hearing, the court will consider the opposition and whether further hearing is proper pursuant to LBR 9014-1(f)(2). The court will issue an order if a further hearing is necessary.

Tentative Ruling. This motion to value respondent's collateral was noticed in compliance with the LBR 9014-1(f)(2) and accordingly no respondent was required to respond in writing. The debtor is competent to testify as to the value of the 2013 Chevrolet Equinox. Given the absence of contrary evidence, the debtor's opinion of value may be conclusive. *Enewally v. Washington Mutual Bank (In re Enewally)*, 368 F.3d 1165, 1173 (9th Cir, 2004). The respondent's secured claim will be fixed at \$15,743. The proposed order shall specifically identify the collateral, and if applicable, the proof of claim to which it relates. The order will be effective upon confirmation of the chapter 13 plan.

14. [17-10023](#)-B-13 RODNEY/VICKI SLATER
PK-3
RODNEY SLATER/MV

PATRICK KAVANAGH/Atty. for dbt.

MOTION TO VALUE COLLATERAL OF
WILSHIRE COMMERCIAL CAPITAL,
LLC
5-19-17 [[44](#)]

This motion will be denied without prejudice. The court will enter a minute order. No appearance is necessary. The motion was not filed in compliance with LBR 9014-1(f)(1), which requires service on 28 days' notice. The language in the notice requires written response within 14 days of the hearing, therefore the motion was also not filed in compliance with LBR 9014-1(f)(2). No order shortening or modifying notice was sought or obtained.

15. [17-11124](#)-B-13 OLUSEGUN LERAMO
MHM-1
MICHAEL MEYER/MV
FRANCISCO ALDANA/Atty. for dbt.

MOTION TO DISMISS CASE
5-10-17 [[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 there has been unreasonable delay based on the failure to timely provide the trustee with required documentation; failure to set a plan for hearing with notice to creditors, and failure to provide Credit Counseling Certificates. Accordingly, the case will be dismissed.

16. [17-10531](#)-B-13 SALVADOR/EVANGELINA ORTIZ
MHM-1
MICHAEL MEYER/MV
ROBERT WILLIAMS/Atty. for dbt.
RESPONSIVE PLEADING

MOTION TO DISMISS CASE
4-26-17 [[17](#)]

This motion has been withdrawn. No appearance is necessary.

17. [14-15234](#)-B-13 JEANNE REDDIG
RSW-1
JEANNE REDDIG/MV
ROBERT WILLIAMS/Atty. for dbt.

MOTION TO MODIFY PLAN
5-2-17 [[23](#)]

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; there is no opposition and the 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.

18. [16-14636](#)-B-13 ERIKA CENDEJAS
MHM-2
MICHAEL MEYER/MV
PAULDEEP BAINS/Atty. for dbt.

MOTION TO DISMISS CASE
4-10-17 [[53](#)]

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 there is a material default in the chapter 13 plan payments that has not been cured. Accordingly, the case will be dismissed.

19. [16-13240](#)-B-13 EDWARD/SHARON RODGERS
RSW-1
EDWARD RODGERS/MV
ROBERT WILLIAMS/Atty. for dbt.

MOTION TO APPROVE LOAN
MODIFICATION
4-28-17 [[35](#)]

The motion will be granted without oral argument. The moving party shall submit a proposed order. No appearance is necessary.

This matter was fully noticed in compliance with the Local Rules of Practice and there is no opposition. The court does not approve or disapprove the terms of a mortgage modification outside of a chapter 13 plan. See *In re Wofford*, 449 B.R. 362 (Bankr. W.D. Wis. 2011). However, the court will authorize the debtors to enter into a modification agreement on terms to be negotiated between the debtors and the mortgagee so long as modification of the mortgage does not interfere with the debtors' duties and trustee's administration of the chapter 13 plan. The debtor shall continue to perform the confirmed plan until the plan is modified.

20. [17-11240](#)-B-13 DONNA ATWOOD
MHM-1
MICHAEL MEYER/MV
ROBERT WILLIAMS/Atty. for dbt.
RESPONSIVE PLEADING

MOTION TO DISMISS CASE
5-10-17 [[18](#)]

This motion has been withdrawn. No appearance is necessary.

21. [17-10849](#)-B-13 EDWARD BROERMANN
MHM-1
MICHAEL MEYER/MV
VINCENT GORSKI/Atty. for dbt.
RESPONSIVE PLEADING

MOTION TO DISMISS CASE
5-9-17 [[22](#)]

Based on the debtor's response this matter will proceed as scheduled. Unless the motion is withdrawn prior to or at the hearing, the court intends to grant the motion and dismiss the case on the grounds stated in the motion.

The declaration filed in opposition is signed by the debtor's counsel. The declaration states no basis for declarant's personal knowledge and is therefore not relevant. Second, even if relevant, the declaration only addresses two grounds raised in the trustee's motion. The other grounds have not been addressed and can each independently be a basis for dismissal.

22. [17-10350](#)-B-13 ISAIAH JONES
MHM-1
MICHAEL MEYER/MV
LAUREN RODE/Atty. for dbt.
RESPONSIVE PLEADING

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

This motion has been withdrawn. No appearance is necessary.

23. [17-10350](#)-B-13 ISAIAH JONES
MHM-2
MICHAEL MEYER/MV
LAUREN RODE/Atty. for dbt.

MOTION TO DISMISS CASE
5-11-17 [[44](#)]

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 there is a material default in the chapter 13 plan payments that has not been cured. Accordingly, the case will be dismissed.

24. [17-10751](#)-B-13 CHARANJIT MANIK
MHM-1
MICHAEL MEYER/MV
ROBERT WILLIAMS/Atty. for dbt.

MOTION TO DISMISS CASE
4-11-17 [[20](#)]

This motion has been withdrawn. No appearance is necessary.

25. [17-10751](#)-B-13 CHARANJIT MANIK
RSW-1
CHARANJIT MANIK/MV
ROBERT WILLIAMS/Atty. for dbt.

MOTION TO VALUE COLLATERAL OF
CALIFORNIA FRANCHISE TAX BOARD
5-25-17 [[34](#)]

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.

26. [17-10753](#)-B-13 JOHN REYNOLDS,
SJS-1
JOHN REYNOLDS,/MV
SUSAN SALEHI/Atty. for dbt.
RESPONSIVE PLEADING

MOTION TO CONFIRM PLAN
4-12-17 [[26](#)]

Based on the chapter 13 trustee's opposition, this matter will proceed as scheduled.

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

27. [17-11069](#)-B-7 DAVID NYBERG II AND
MHM-1 LETICIA NYBERG
MICHAEL MEYER/MV
DONALD HAYES/Atty. for dbt.
CONVERTED 5/23/17

MOTION TO DISMISS CASE
5-9-17 [[20](#)]

This case has been converted to chapter 7 and the chapter 7 trustee has supervision of these matters. No appearance is necessary.

28. [16-11473](#)-B-13 SHELBY/CAROL KING
LKW-11
SHELBY KING/MV
LEONARD WELSH/Atty. for dbt.
RESPONSIVE PLEADING

MOTION TO MODIFY PLAN
4-24-17 [[233](#)]

Based on the court's review of the record, the chapter 13 trustee's opposition to confirmation, and the debtors' reply, this matter will be continued to July 13, 2017, at 9:00 a.m. If a third modified plan is filed, served, and set for hearing, this plan will be deemed withdrawn and the July 13, 2017, continued hearing will be dropped.

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

29. [16-11473](#)-B-13 SHELBY/CAROL KING
LKW-5
SHELBY KING/MV

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

LEONARD WELSH/Atty. for dbt.
RESPONSIVE PLEADING

This objection will be overruled as moot unless the debtors file the withdrawal as directed. Based on the debtors' status report filed on June 1, 2017, this objection is being withdrawn. The debtors shall file and serve a notice of withdrawal of the objection within seven days of the hearing date. No appearance is necessary.

30. [16-11473](#)-B-13 SHELBY/CAROL KING
LKW-7
SHELBY KING/MV

CONTINUED OBJECTION TO CLAIM OF
AMERICAN EXPRESS BANK, CLAIM
NUMBER 16
1-12-17 [[125](#)]

LEONARD WELSH/Atty. for dbt.
RESPONSIVE PLEADING

Based on the debtors' status report, this matter will be continued to Thursday, August 3, 2017, at 9:00 a.m. The court will enter an order. No appearance is necessary.

If the claim is amended or this objection is withdrawn by that date, the objection will be overruled as moot and no appearance will be necessary at that continued hearing.

31. [16-11473](#)-B-13 SHELBY/CAROL KING
LKW-8
SHELBY KING/MV

CONTINUED OBJECTION TO CLAIM OF
WESTCHESTER FIRE INSURANCE
COMPANY, CLAIM NUMBER 23
1-12-17 [[132](#)]

LEONARD WELSH/Atty. for dbt.
RESPONSIVE PLEADING

Based on the respondent's and debtors' status reports, this matter will be continued to Thursday, August 3, 2017, at 9:00 a.m. The court will enter an order. No appearance is necessary.

32. [17-10778](#)-B-13 DAVID/LATUNJIA JOHNSON
MHM-1
MICHAEL MEYER/MV
PATRICK KAVANAGH/Atty. for dbt.
DISMISSED

MOTION TO DISMISS CASE
4-11-17 [[24](#)]

This case has already been dismissed. No appearance is necessary.

33. [17-10778](#)-B-13 DAVID/LATUNJIA JOHNSON
MHM-2
MICHAEL MEYER/MV
PATRICK KAVANAGH/Atty. for dbt.
DISMISSED

MOTION TO DISMISS CASE
5-10-17 [[35](#)]

This case has already been dismissed. No appearance is necessary.

34. [17-10881](#)-B-13 ROBERT BROOKS
AP-1
WELLS FARGO BANK, N.A./MV
JESUS ZUNIGA/Atty. for dbt.
JAMIE HANAWALT/Atty. for mv.

OBJECTION TO CONFIRMATION OF
PLAN BY WELLS FARGO BANK, N.A.
5-11-17 [[36](#)]

This matter will be denied as moot. The court will enter an order. No appearance is necessary.

The court intends to dismiss this case on the trustee's fully noticed unopposed motion below, at calendar number 35, DC# MHM-1.

35. [17-10881](#)-B-13 ROBERT BROOKS
MHM-1
MICHAEL MEYER/MV
JESUS ZUNIGA/Atty. for dbt.

MOTION TO DISMISS CASE
5-9-17 [[30](#)]

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 there has been unreasonable delay by the Debtor that is prejudicial to creditors based on failure to provide the trustee with the required documentation, failure to file correct form for Chapter 13 Plan as provided by the Local Rules EDC 3-080 (effective 5/1/12), and failure to complete Credit Counseling Certificates timely. Accordingly, the case will be dismissed.

36. [13-16184](#)-B-13 RICHARD/YUIKO TURNER
PK-6

MOTION FOR COMPENSATION BY THE
LAW OFFICE OF PATRICK KAVANAGH
FOR PATRICK KAVANAGH, DEBTORS
ATTORNEY(S)
5-18-17 [[45](#)]

PATRICK KAVANAGH/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. 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.

37. [17-10884](#)-B-13 MANUEL GALLEGOS
MHM-1
MICHAEL MEYER/MV
PATRICK KAVANAGH/Atty. for dbt.
RESPONSIVE PLEADING

MOTION TO DISMISS CASE
5-9-17 [[22](#)]

The motion has been withdrawn. No appearance is necessary.

38. [17-10884](#)-B-13 MANUEL GALLEGOS
RCO-1
WELLS FARGO BANK, NA/MV
PATRICK KAVANAGH/Atty. for dbt.
JASON KOLBE/Atty. for mv.

OBJECTION TO CONFIRMATION OF
PLAN BY WELLS FARGO BANK, N.A.
4-18-17 [[16](#)]

This objection will be overruled without prejudice. The court will issue an order. No appearance is necessary.

The proof of service fails to comply with LBR 9014-1(e)(3).

In addition, the pleadings do not comply with the Local Rules of Practice for the U.S. Bankruptcy Court, Eastern District of California, Appendix II, EDC.002-901, E.D. Cal. Bankruptcy Court's Guidelines for the Preparation of Documents (effective August 12, 2015), Section III.A., Section IV.A., B., C., Section V.A., and B.

39. [16-13489](#)-B-13 JIMMY CANNON
MHM-3
MICHAEL MEYER/MV
PHILLIP GILLET/Atty. for dbt.
RESPONSIVE PLEADING

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

This matter will proceed as scheduled.

40. [16-13489](#)-B-13 JIMMY CANNON
PWG-1
JIMMY CANNON/MV
PHILLIP GILLET/Atty. for dbt.
RESPONSIVE PLEADING

MOTION TO CONFIRM PLAN
5-8-17 [[80](#)]

This matter will proceed as scheduled.

41. [17-10990](#)-B-13 LAURA BRANFORD
SW-1
ALLY FINANCIAL INC./MV
NEIL SCHWARTZ/Atty. for dbt.
ADAM BARASCH/Atty. for mv.

OBJECTION TO CONFIRMATION OF
PLAN BY ALLY FINANCIAL INC.
5-3-17 [[12](#)]

This objection will proceed as scheduled. The objection and the debtor's plan contain ambiguities that must be resolved before the objection can be either sustained or overruled.

The date of the "Motor Vehicle Contract & Security Agreement" is stated in the objection as September 28, 2014, which is fewer than 910 days prior to the filing of this case. The objection states, "[T]he Debtor's Plan proposes to value the Vehicle in full payable at 4.00% with a monthly payment of \$289.60." "Value the vehicle in full" is ambiguous since the objection states (without evidence) that over \$22,000 is owed on the contract.

Also, the debtor's plan lists the claim secured by objector's collateral in Class 2.B., to be reduced based on value of \$15,725, and indicates the debt is not a "Purchase Money Security Interest."

42. [17-10199](#)-B-13 GARY WRIGHT AND KIM
MHM-1 GRIFFIN-WRIGHT
MICHAEL MEYER/MV
ROBERT WILLIAMS/Atty. for dbt.
RESPONSIVE PLEADING

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

This motion has been withdrawn. No appearance is necessary.

43. [17-10199](#)-B-13 GARY WRIGHT AND KIM
RSW-1 GRIFFIN-WRIGHT
GARY WRIGHT/MV

MOTION TO VALUE COLLATERAL OF
AMERICREDIT FINANCIAL SERVICES,
INC.

5-10-17 [[31](#)]

ROBERT WILLIAMS/Atty. for dbt.

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

This motion to value respondent's collateral 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 debtor is competent to testify as to the value of the 2007 Jeep Commander. Given the absence of contrary evidence, the debtor's opinion of value may be conclusive. *Enewally v. Washington Mutual Bank (In re Enewally)*, 368 F.3d 1165, 1173 (9th Cir, 2004). The respondent's secured claim will be fixed at \$6,600. The proposed order shall specifically identify the collateral, and if applicable, the proof of claim to which it relates. The order will be effective upon confirmation of the chapter 13 plan.

9:30 A.M.

1. [17-10443](#)-B-11 ASHO ASSOCIATES, INC.

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

TODD TUROCI/Atty. for dbt.

This matter will proceed as scheduled.

2. [17-10443](#)-B-11 ASHO ASSOCIATES, INC.

ORDER TO SHOW CAUSE WHY
SANCTIONS SHOULD NOT BE IMPOSED
AND ATTORNEY'S FEES DISGORGED
5-10-17 [[49](#)]

TODD TUROCI/Atty. for dbt.
RESPONSIVE PLEADING

This matter will proceed as scheduled.

3. [16-13849](#)-B-12 DON FALLERT

CONTINUED STATUS CONFERENCE RE:
CHAPTER 12 VOLUNTARY PETITION
10-24-16 [[1](#)]

D. GARDNER/Atty. for dbt.

Based on the debtor's status conference report, this matter will be continued to July 13, 2017, at 9:30 a.m., to be heard with the motion to confirm the plan. The court will enter an order. No appearance is necessary.

4. [15-13167](#)-B-12 DOUG KOPHAMER FARMS
LKW-21
DOUG KOPHAMER FARMS/MV
LEONARD WELSH/Atty. for dbt.

OBJECTION TO CLAIM OF ADAM
RODRIGUEZ, CLAIM NUMBER 19
4-19-17 [[355](#)]

The objection will be sustained without oral argument based on well-pled facts. The objecting party shall submit a proposed order. No appearance is necessary.

This matter was fully noticed in compliance with the Local Rules of Practice and there is no opposition. Accordingly, the 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 claim will be disallowed in full on the grounds stated in the objection. Based on the evidence submitted in support of the objection, it appears that this claimant received timely notice of the filing of the petition and was listed as an unsecured claimant in the amount of \$15,000 for a "Loan." The record shows that the claim was filed approximately 13 months after the applicable bar date without explanation for the delay or documentation to support the claim for "Wages and rent."

5. [17-11591](#)-B-11 5 C HOLDINGS, INC.

LEONARD WELSH/Atty. for dbt.

STATUS CONFERENCE RE: CHAPTER
11 VOLUNTARY PETITION
4-25-17 [[1](#)]

This matter will proceed as scheduled.

6. [17-11591](#)-B-11 5 C HOLDINGS, INC.
LKW-3
5 C HOLDINGS, INC./MV
LEONARD WELSH/Atty. for dbt.

MOTION TO EMPLOY CBIZ MHM, LLC
AS ACCOUNTANT(S)
5-25-17 [[53](#)]

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. 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. 17-10443-B-11 ASHO ASSOCIATES, INC.
UST-1
TRACY DAVIS/MV

TODD TUROCI/Atty. for dbt.
TERRI DIDION/Atty. for mv.

CONTINUED MOTION TO CONVERT
CASE FROM CHAPTER 11 TO CHAPTER
7 AND/OR MOTION TO DISMISS CASE
5-2-17 [37]

This matter will proceed as scheduled.

10:00 A.M.

1. [17-10618](#)-B-7 LAUREN HOLBROOK
JMV-1

OPPOSITION RE: TRUSTEE'S MOTION
TO DISMISS FOR FAILURE TO
APPEAR AT SEC. 341(A) MEETING
OF CREDITORS
5-8-17 [[27](#)]

The motion is conditionally denied. No appearance is necessary at this hearing. The court will issue an order.

The debtor shall attend the meeting of creditors rescheduled for June 9, 2017, at 3:30 p.m. in Bakersfield. If the debtor fails to do so, the chapter 7 trustee may file a declaration with a proposed order and the case may be dismissed without a further hearing.

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

2. 10-15127-B-7 NORMA BAKER
WEE-5
NORMA BAKER/MV
WILLIAM EDWARDS/Atty. for dbt.

MOTION TO AVOID LIEN OF CAPITAL
ONE
5-11-17 [106]

This is debtor's counsel's fourth effort to protect the debtor's homestead exemption. Three times the court has tediously gone through the local rules and provided instruction to assist counsel in accomplishing this modest goal. However, while the motion now has an appropriate docket control number, and the lack of compliance regarding filing of exhibits is not an issue because this motion is not accompanied by any evidence (which is a problem it shares with the prior motion), the record fails to show, once again, that the motion was served on anyone at all.

The court notes that, on June 1, 2017, debtor's counsel filed additional documents with the court, including evidence in the form of a declaration by the debtor of the exempt property's value, and a copy of the abstract of the judgment sought to be avoided. Also filed was a "Declaration Re Service" purporting to show that the respondent was served. LRB 9014-1(e)(2) requires certificates of proof of service be filed, "concurrently with the pleadings or documents served, or not more than three (3) days after they are filed." The motion was filed May 11, 2017. Accordingly, the "proof of service" filed June 1, 2017, was required to be filed no later than May 14, 2017.

In addition, the "proof of service" does not show that the pleadings were served on the respondent, Capital One Bank, 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). 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.

Accordingly, and consistent with the prior order, the motion is denied WITH PREJUDICE. The case shall be re-closed and an additional fee will be required to reopen the case. The court will enter an order. No appearance is necessary.

3. 10-15127-B-7 NORMA BAKER
WEE-6
NORMA BAKER/MV
WILLIAM EDWARDS/Atty. for dbt.

MOTION TO AVOID LIEN OF CAPITAL
ONE
5-11-17 [108]

This is debtor's counsel's fourth effort to protect the debtor's homestead exemption. Three times the court has tediously gone through the local rules and provided instruction to assist counsel in accomplishing this modest goal. However, while the motion now has an appropriate docket control number, and the lack of compliance regarding filing of exhibits is not an issue because this motion is not accompanied by any evidence (which is a problem it shares with the prior motion), the record fails to show, once again, that the motion was served on anyone at all.

The court notes that, on June 1, 2017, debtor's counsel filed additional documents with the court, including evidence in the form of a declaration by the debtor of the exempt property's value, and a copy of the abstract of the judgment sought to be avoided. Also filed was a "Declaration Re Service" purporting to show that the respondent was served. LRB 9014-1(e)(2) requires certificates of proof of service be filed, "concurrently with the pleadings or documents served, or not more than three (3) days after they are filed." The motion was filed May 11, 2017. Accordingly, the "proof of service" filed June 1, 2017, was required to be filed no later than May 14, 2017.

In addition, the "proof of service" does not show that the pleadings were served on the respondent, Capital One Bank, 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). 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.

Accordingly, and consistent with the prior order, the motion is denied WITH PREJUDICE. The case shall be re-closed and an additional fee will be required to reopen the case. The court will enter an order. No appearance is necessary.

4. [10-15127](#)-B-7 NORMA BAKER
WEE-7
NORMA BAKER/MV
WILLIAM EDWARDS/Atty. for dbt.

MOTION TO AVOID LIEN OF
HFC/HSBC
5-11-17 [[110](#)]

This is debtor's counsel's fourth effort to protect the debtor's homestead exemption. Three times the court has tediously gone through the local rules and provided instruction to assist counsel in accomplishing this modest goal. However, while the motion now has an appropriate docket control number, and the lack of compliance regarding filing of exhibits is not an issue because this motion is not accompanied by any evidence (which is a problem it shares with the prior motion), the record fails to show, once again, that the motion was served on anyone at all.

The court notes that, on June 1, 2017, debtor's counsel filed additional documents with the court, including evidence in the form of a declaration by the debtor of the exempt property's value, and a copy of the abstract of the judgment sought to be avoided. Also filed was a "Declaration Re Service" purporting to show that the respondent was served. LRB 9014-1(e)(2) requires certificates of proof of service be filed, "concurrently with the pleadings or documents served, or not more than three (3) days after they are filed." The motion was filed May 11, 2017. Accordingly, the "proof of service" filed June 1, 2017, was required to be filed no later than May 14, 2017.

The court notes that the evidence submitted shows that the judgement sought to be avoided was entered on April 16, 2007. In absence of renewal, the judgement has already expired by force of law. Cal. Civ. Proc. Code §697.310.

Accordingly, and consistent with the prior order, the motion is denied WITH PREJUDICE. The case shall be re-closed and an additional fee will be required to reopen the case. The court will enter an order. No appearance is necessary.

5. [17-11228](#)-B-7 DAVID ESTRELLA
JHW-1
TD AUTO FINANCE LLC/MV
R. BELL/Atty. for dbt.
JENNIFER WANG/Atty. for mv.

MOTION FOR RELIEF FROM
AUTOMATIC STAY
4-12-17 [[12](#)]

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 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 a depreciating asset that is scheduled to be surrendered.

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

6. [17-10738](#)-B-7 MONICA BAUER
RP-1

OPPOSITION RE: TRUSTEE'S MOTION
TO DISMISS FOR FAILURE TO
APPEAR AT SEC. 341(A) MEETING
OF CREDITORS
4-27-17 [[12](#)]

The motion is conditionally denied. No appearance is necessary at this hearing. The court will issue an order.

The debtor shall attend the meeting of creditors rescheduled for June 20, 2017, at 3:30 p.m. in Bakersfield. If the debtor fails to do so, the chapter 7 trustee may file a declaration with a proposed order and the case may be dismissed without a further hearing.

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

7. [17-10039](#)-B-7 EDRICO/YVONNE OLIVER
JHW-1
ACAR LEASING LTD/MV
NEIL SCHWARTZ/Atty. for dbt.
JENNIFER WANG/Atty. for mv.
DISCHARGED

MOTION FOR RELIEF FROM
AUTOMATIC STAY
5-1-17 [[33](#)]

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

This motion relates to an executory contract or lease of personal property. The case was filed on January 8, 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. [17-11040](#)-B-7 LARRY ROWLAND
MRG-1
LOANDEPOT.COM, LLC/MV
NEIL SCHWARTZ/Atty. for dbt.
MICHELLE GHIDOTTI-GONSALVES/Atty. for mv.

MOTION FOR RELIEF FROM
AUTOMATIC STAY
4-24-17 [[13](#)]

This matter will proceed as scheduled. This motion for relief from stay was noticed pursuant to LBR 9014-1(f)(2) and written opposition was not required. Unless opposition is presented at the hearing, the court intends to enter the debtor's and the trustee's defaults and enter the following ruling granting the motion for relief from stay. 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 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 for an award of attorney fees will be denied. The motion on its face shows that there is no equity in the collateral. 11 U.S.C.A. §506(b).

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).

9. [17-10654](#)-B-7 JAMES JOHNSON AND RACHEL DEAN
RP-1
OPPOSITION RE: TRUSTEE'S MOTION
TO DISMISS FOR FAILURE TO
APPEAR AT SEC. 341(A) MEETING
OF CREDITORS
4-27-17 [[15](#)]

The motion is conditionally denied. No appearance is necessary at this hearing. The court will issue an order.

The debtors shall attend the meeting of creditors rescheduled for June 20, 2017, at 1:30 p.m. in Bakersfield. If the debtors fails to do so, the chapter 7 trustee may file a declaration with a proposed order and the case may be dismissed without a further hearing.

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

10. [11-62960](#)-B-7 JOSE/MARIA ALVAREZ
RSW-4
JOSE ALVAREZ/MV
ROBERT WILLIAMS/Atty. for dbt.
MOTION TO AVOID LIEN OF FIA
CARD SERVICES, N.A./BANK OF
AMERICA, NATIONAL ASSOCIATION
5-24-17 [[42](#)]

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 holder of the lien 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). 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.

While the motion names both FIA Card Services, N.A., and Bank of America, N.A., the abstract of judgment shows that FIA Card Services, N.A., is the holder of the lien sought to be avoided and that FIA Card Services, N.A., was not served pursuant to FRBP 7004(h). While Bank of America, N.A., was served, there is nothing in the record to show that it is the holder of this lien.

11. [17-10965](#)-B-7 DAVID/JESSICA CHAVEZ MOTION TO DISMISS DUPLICATE
JSP-1 CASE
DAVID CHAVEZ/MV 5-15-17 [[9](#)]
JOSEPH PEARL/Atty. for dbt.

This motion will be denied without prejudice. The court will enter an order. No appearance is necessary. The motion was not filed in compliance with LBR 9014-1(f)(1), which requires service on 28 days' notice. The language in the notice requires written response within 14 days of the hearing, therefore the motion was also not filed in compliance with LBR 9014-1(f)(2). This motion was filed and served on May 15, 2017. No order shortening or modifying notice was sought or obtained.

12. [17-10974](#)-B-7 DOREEN MADDOX MOTION TO AVOID LIEN OF BOARD
RSW-1 OF ADMINISTRATION, CALPERS
DOREEN MADDOX/MV 5-8-17 [[12](#)]
ROBERT WILLIAMS/Atty. for dbt.
RESPONSIVE PLEADING

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 the respondent filed a notice of non-opposition.

It appears from the evidence submitted and the record that the debtor is entitled to avoid this lien that impairs an exemption to which she would otherwise have been entitled.

13. [16-13277](#)-B-7 RANDALL/BROOKE GRAHAM MOTION TO SELL
JMV-2 5-17-17 [[24](#)]
JEFFREY VETTER/MV
LEONARD WELSH/Atty. for dbt.
JEFFREY VETTER/Atty. for mv.

This matter will proceed as scheduled and for higher and better bids.

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.

14. 17-11615-B-7 ROMAN NORIEGA
RLF-1
ROBERT OSUNA/MV
DAVID JENKINS/Atty. for dbt.
SHANE REICH/Atty. for mv.
OST 5/31/17

MOTION FOR RELIEF FROM
AUTOMATIC STAY
5-30-17 [11]

This matter will proceed as scheduled.

1. [17-10316](#)-B-7 FLORO YBANEZ

PRO SE REAFFIRMATION AGREEMENT
WITH CAPITAL ONE AUTO FINANCE
5-3-17 [[15](#)]

WILLIAM OLCOTT/Atty. for dbt.

The hearing will be dropped from calendar. No appearance is necessary.

The court is not approving or denying approval of the reaffirmation agreement. Debtor was represented by counsel when he entered into the reaffirmation agreement. Pursuant to 11 U.S.C. §524(c)(3), if the debtor is represented by counsel, the agreement must be accompanied by an affidavit of the debtor's attorney attesting to the referenced items before the agreement will have legal effect. *In re Minardi*, 399 B.R. 841, 846 (Bankr. N.D. Ok, 2009) (emphasis in original). 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.

2. [17-10537](#)-B-7 KELLIE MONTOYA

REAFFIRMATION AGREEMENT WITH
ALLY FINANCIAL
4-25-17 [[14](#)]

ROBERT WILLIAMS/Atty. for dbt.

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 Part D: "Debtor's Statement in Support of Reaffirmation Agreement," is missing and therefore the court is unable to evaluate whether or not the agreement constitutes an undue hardship. The debtor shall have 14 days to refile the reaffirmation agreement properly completed.

1:30 P.M.

1. [16-10687](#)-B-13 HEATHER LEMA
[17-1040](#)
LEMA V. JP MORGAN CHASE BANK
ET AL
D. GARDNER/Atty. for pl.

STATUS CONFERENCE RE: COMPLAINT
4-5-17 [[1](#)]

Based on a review of the record and the plaintiff's status conference statement filed May 31, 2017, this matter will be continued to July 13, 2017, at 1:30 p.m. The plaintiff shall file and serve a status report no later than July 6, 2017. The court will enter an order. No appearance is necessary.