

UNITED STATES BANKRUPTCY COURT  
Eastern District of California  
Honorable René Lastreto II  
Hearing Date: Thursday, July 6, 2017  
Place: Department B – Courtroom #13  
Fresno, California

**INSTRUCTIONS FOR PRE-HEARING DISPOSITIONS**

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

2. Submission of Orders:

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

3. Matters Resolved Without Opposition:

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

4. Matters Resolved by Stipulation:

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

5. Resubmittal of Denied Matters:

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

THE COURT ENDEAVORS TO PUBLISH ITS PREDISPOSITIONS AS SOON AS POSSIBLE, HOWEVER CALENDAR PREPARATION IS ONGOING AND THESE PREDISPOSITIONS MAY BE REVISED OR UPDATED AT ANY TIME PRIOR TO 4:00 P.M. THE DAY BEFORE THE SCHEDULED HEARINGS. PLEASE CHECK AT THAT TIME FOR POSSIBLE UPDATES.

9:30 A.M.

1. [16-10521](#)-B-7 ALAN ENGLE  
FW-6  
TRUDI MANFREDO/MV

MOTION TO EMPLOY GOULD AUCTION  
& APPRAISAL COMPANY AS  
AUCTIONEER, AUTHORIZING SALE OF  
PROPERTY AT PUBLIC AUCTION AND  
AUTHORIZING PAYMENT OF  
AUCTIONEER FEES AND EXPENSES  
6-8-17 [[171](#)]

PETER BUNTING/Atty. for dbt.  
GABRIEL WADDELL/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. The proposed sale appears to be a reasonable exercise of the trustee's business judgment and will be granted on the terms disclosed in the moving papers.

2. [16-13929](#)-B-7 BIOWORLD PRODUCTS, INC  
JES-2  
JAMES SALVEN/MV  
DAVID JENKINS/Atty. for dbt.

MOTION TO PAY  
6-7-17 [[23](#)]

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. [16-13929](#)-B-7 BIOWORLD PRODUCTS, INC  
JES-3  
JAMES SALVEN/MV  
DAVID JENKINS/Atty. for dbt.

MOTION FOR COMPENSATION FOR  
JAMES E. SALVEN, ACCOUNTANT(S)  
6-7-17 [[28](#)]

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. [17-10233](#)-B-7 RICCI VETETO  
JHW-1  
TD AUTO FINANCE LLC/MV  
TIMOTHY SPRINGER/Atty. for dbt.  
JENNIFER WANG/Atty. for mv.

MOTION FOR RELIEF FROM  
AUTOMATIC STAY  
6-6-17 [[33](#)]

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

**The debtor is an individual. 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.**

5. [17-11237](#)-B-7 MEREDITH CROMER  
DJP-1  
EDUCATIONAL EMPLOYEES CREDIT  
UNION/MV  
TIMOTHY SPRINGER/Atty. for dbt.  
DON POOL/Atty. for mv.

MOTION FOR RELIEF FROM  
AUTOMATIC STAY  
6-22-17 [[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 automatic stay is terminated as it applies to the movant's right to enforce its remedies against the subject property under applicable nonbankruptcy law. The record shows that cause exists to terminate the automatic stay.**

**The proposed order shall specifically describe the property or action to which the order relates.**

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

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

6. [11-18045](#)-B-7 MONICA MEJIA  
AP-1  
WILMINGTON SAVINGS FUND  
SOCIETY, FSB/MV  
DAVID JENKINS/Atty. for dbt.  
JAMIE HANAWALT/Atty. for mv.  
DISCHARGED

MOTION FOR RELIEF FROM  
AUTOMATIC STAY  
6-6-17 [[24](#)]

This motion for relief from stay was fully noticed in compliance with the Local Rules of Practice and there was no opposition. The motion will be denied as moot as to the debtor because their discharge has been entered. The motion will be granted for cause shown as to the chapter 7 trustee. Movant shall submit a proposed order in conformance with this ruling. No appearance is necessary.

The automatic stay is terminated as it applies to the movant's right to enforce its remedies against the subject property under applicable nonbankruptcy law. The proposed order shall specifically describe the property or action to which the order relates. The order shall be limited in effect to the chapter 7 trustee only.

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.

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

7. [17-11346](#)-B-7 DANIEL CANCHOLA  
WW-1  
TORI ABBY/MV  
JERRY LOWE/Atty. for dbt.  
MICHAEL WILHELM/Atty. for mv.

MOTION FOR RELIEF FROM  
AUTOMATIC STAY  
6-7-17 [[16](#)]

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

This motion for relief from stay was fully noticed in compliance with the Local Rules of Practice and there was no opposition. The debtor's and the trustee's defaults will be entered. The record shows that cause exists to terminate the automatic stay. The automatic stay is terminated as it applies to the movant's right to proceed in the subject litigation only. No relief from stay as to enforcement of any judgment is granted against the debtor, only as to any insurance coverage.

The proposed order shall specifically describe the action to which the order relates.

The waiver of Federal Rule of Bankruptcy Procedure 4001(a)(3) will be granted. The moving papers show that the relief granted will not affect the estate.

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

8. [17-12051](#)-B-7 FRANK/SHARON PUMA  
DWE-1  
HSBC BANK USA, NATIONAL  
ASSOCIATION/MV  
GLEN GATES/Atty. for dbt.  
DANE EXNOWSKI/Atty. for mv.

MOTION FOR RELIEF FROM  
AUTOMATIC STAY  
6-8-17 [[11](#)]

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 subject property is the debtors' residence and 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. [17-11365](#)-B-7 MARIO GUERRA  
WW-1  
CAL LEDUC/MV  
JERRY LOWE/Atty. for dbt.  
MICHAEL WILHELM/Atty. for mv.

MOTION FOR RELIEF FROM  
AUTOMATIC STAY  
6-7-17 [[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 debtor's and the trustee's defaults will be entered. The record shows that cause exists to terminate the automatic stay. The automatic stay is terminated as it applies to the movant's right to proceed in the subject litigation only. No relief from stay as to enforcement of any judgment is granted against the debtor, only as to any insurance coverage.

The waiver of Federal Rule of Bankruptcy Procedure 4001(a)(3) will be granted. The moving papers show that the relief granted will not affect the estate.

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



10. [16-12266](#)-B-7 AVTAR SINGH  
DJP-4  
DON POOL/MV

MOTION FOR COMPENSATION BY THE  
LAW OFFICE OF WILD, CARTER AND  
TIPTON FOR DON J. POOL, SPECIAL  
COUNSEL(S)  
6-7-17 [[81](#)]

MARK ZIMMERMAN/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.**

11. 17-11459-B-7 TRINIDAD MORENO AND  
MAT-1 ALICIA MORENO  
TRINIDAD MORENO/MV  
MARCUS TORIGIAN/Atty. for dbt.

CONTINUED MOTION TO AVOID LIEN  
OF CAPITAL ONE BANK  
5-15-17 [ 12 ]

**This matter will proceed as scheduled.**

**10:30 A.M.**

1. [16-13345](#)-B-11 JONATHAN/PATRICIA MAYER CONTINUED STATUS CONFERENCE RE:  
CHAPTER 11 VOLUNTARY PETITION  
9-13-16 [[1](#)]  
  
PETER FEAR/Atty. for dbt.

**This matter will proceed as scheduled.**

2. [16-13345](#)-B-11 JONATHAN/PATRICIA MAYER CONTINUED CHAPTER 11 SMALL  
FW-10 BUSINESS DISCLOSURE STATEMENT  
4-14-17 [[149](#)]  
  
PETER FEAR/Atty. for dbt.

**This matter will proceed as scheduled.**

3. [16-13849](#)-B-12 DON FALLERT MOTION FOR RELIEF FROM  
APN-1 AUTOMATIC STAY  
KUBOTA CREDIT CORPORATION/MV 6-5-17 [[155](#)]  
D. GARDNER/Atty. for dbt.  
AUSTIN NAGEL/Atty. for mv.  
RESPONSIVE PLEADING

**The motion for relief from stay has been withdrawn. No appearance is necessary.**

4. [17-11263](#)-B-11 SAMUEL CASTILLO CONTINUED STATUS CONFERENCE RE:  
CHAPTER 11 VOLUNTARY PETITION  
4-3-17 [[1](#)]  
  
PETER FEAR/Atty. for dbt.

**This matter will proceed as scheduled.**

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

MOTION FOR COMPENSATION FOR  
LEONARD K. WELSH, DEBTORS  
ATTORNEY(S)  
6-8-17 [[65](#)]

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.

11:00 A.M.

1. [17-11610](#)-B-7 JEFFREY/SOCORRO HUNTER PRO SE REAFFIRMATION AGREEMENT  
WITH MECHANICS BANK  
6-16-17 [[17](#)]

**This matter will proceed as scheduled.**

2. [17-11281](#)-B-7 HILARIO FLORES AND MARIA REAFFIRMATION AGREEMENT WITH  
ANGUIANO TOYOTA MOTOR CREDIT CORPORATION  
5-31-17 [[14](#)]  
THOMAS GILLIS/Atty. for dbt.

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

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

3. [17-10785](#)-B-7 CYNTHIA CADENA PRO SE REAFFIRMATION AGREEMENT  
WITH WELLS FARGO BANK N.A.  
6-15-17 [[21](#)]

**This matter will proceed as scheduled.**

4. [17-11891](#)-B-7 RICHARD OBERDING PRO SE REAFFIRMATION AGREEMENT  
WITH SANTANDER CONSUMER USA  
INC.  
6-13-17 [[17](#)]

**This matter will proceed as scheduled.**

**11:30 A.M.**

1. [17-11567](#)-B-7 YVONNE DEPAGE

RESCHEDULED REAFFIRMATION  
AGREEMENT WITH FORD MOTOR  
CREDIT COMPANY (JFLF)  
5-15-17 [[12](#)]

RESCHEDULED BY ORDER #19

**This matter will proceed as scheduled.**

1:30 P.M.

1. [17-11646](#)-B-13 JESSICA BLANCO  
[17-1046](#)  
BLANCO V. WESSELS ENTERPRISES,  
INC.  
TIMOTHY SPRINGER/Atty. for pl.  
DISMISSED

STATUS CONFERENCE RE: AMENDED  
COMPLAINT  
5-17-17 [[6](#)]

The record shows that this matter has been settled and the court has already entered an order dismissing the adversary proceeding. No appearance is necessary.

2. [14-13880](#)-B-7 JUAN GONZALES  
[17-1045](#)  
SALVEN V. GONZALEZ ET AL  
DAVID JENKINS/Atty. for pl.

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

This status conference will be vacated and may be reset by any party on 14 days' notice. No appearance is necessary. The record does not show that the defendant filed an responsive pleading nor does it show there has been an extension of the time in which to file a response. The court will enter an order. No appearance is necessary.

If the plaintiff does not file a request for entry of default within 30 days then the clerk of the court may close the adversary proceeding without notice unless the adversary proceeding has been set for a further status conference within that time. Either party may request an extension of this time up to 30 days by *ex parte* application for cause. After the adversary proceeding has been closed, the parties will have to file an application to reopen the adversary proceeding if further action is required. The court will issue an order.

3. [17-10793](#)-B-13 PEDRO VELASQUEZ  
[17-1047](#)  
VELASQUEZ, JR. V. RUSHMORE  
LOAN SERVICES ET AL  
SCOTT LYONS/Atty. for pl.

STATUS CONFERENCE RE: COMPLAINT  
5-8-17 [[1](#)]

This status conference will be dropped from calendar. No appearance is necessary.

The record does not show that the summons and complaint were served in compliance with Federal Rules of Bankruptcy Procedure 7004(b) & (e). The clerk of the court will issue a notice of intent to dismiss for unreasonable delay and failure to prosecute if the plaintiff does not get the complaint properly served with a reissued summons within 30 days.