

UNITED STATES BANKRUPTCY COURT
Eastern District of California
Honorable René Lastreto II
Hearing Date: August 16, 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. [17-11711](#)-B-7 MOTHER MARY'S INC. MOTION TO SELL
RHT-2 7-18-17 [[13](#)]
ROBERT HAWKINS/MV
DAVID JENKINS/Atty. for dbt.
ROBERT HAWKINS/Atty. for mv.

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

DISPOSITION: Granted in part and denied in part without prejudice.

ORDER: No appearance is necessary. The Moving Party shall submit a proposed order in conformance with the ruling below.

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 motion to sell will be granted on the terms listed in the motion and in the order granting the motion to employ the auctioneer except that any extraordinary costs will not be paid without further court order which may be requested *ex parte*.

2. [13-14713](#)-B-7 WALTER BRADBURY
TCS-2
WALTER BRADBURY/MV
TIMOTHY SPRINGER/Atty. for dbt.

MOTION TO AVOID LIEN OF BANK OF
AMERICA, N.A.
8-2-17 [[20](#)]

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Granted.

ORDER: The minutes of the hearing will be the court's findings and conclusions.

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

3. [15-14816](#)-B-7 MICHAEL SPRADLEY
JTW-2
JANZEN, TAMBERI & WONG/MV

GABRIEL WADDELL/Atty. for dbt.

MOTION FOR COMPENSATION FOR
JANZEN, TAMBERI AND WONG,
ACCOUNTANT(S)
7-14-17 [[63](#)]

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

DISPOSITION: Granted.

ORDER: No appearance is necessary. The Moving Party shall submit a proposed order in conformance with the ruling below.

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. [17-12033](#)-B-7 CHARLES/KIMBERLEE
APN-1 GUTIERREZ
FORD MOTOR CREDIT COMPANY/MV
PETER FEAR/Atty. for dbt.
AUSTIN NAGEL/Atty. for mv.

MOTION FOR RELIEF FROM
AUTOMATIC STAY
7-19-17 [[14](#)]

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

DISPOSITION: **Granted.**

ORDER: **No appearance is necessary. The Moving Party shall
submit a proposed order in conformance with the ruling.**

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.

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

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

5. [13-11837](#)-B-7 STRONGTOWER FINANCIAL, MOTION FOR COMPENSATION FOR
JTW-2 INC., A CALIFORNIA JANZEN, TAMBERI & WONG,
JANZEN, TAMBERI & WONG/MV ACCOUNTANT(S)
7-12-17 [[102](#)]

TRUDI MANFREDO/Atty. for dbt.

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

DISPOSITION: Granted.

ORDER: No appearance is necessary. The Moving Party shall
submit a proposed order in conformance with the ruling
below.

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.

6. [13-11837](#)-B-7 STRONGTOWER FINANCIAL, MOTION FOR ADMINISTRATIVE
RHT-7 INC., A CALIFORNIA EXPENSES
ROBERT HAWKINS/MV 7-12-17 [[97](#)]
TRUDI MANFREDO/Atty. for dbt.
ROBERT HAWKINS/Atty. for mv.

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

DISPOSITION: Granted.

ORDER: No appearance is necessary. The Moving Party shall
submit a proposed order in conformance with the ruling
below.

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.

7. [17-12942](#)-B-7 GUILLERMO TORRES
LHL-1
MOINUDDIN ASHRAFI/MV
LAURIE HOWELL/Atty. for mv.

MOTION FOR RELIEF FROM
AUTOMATIC STAY
8-2-17 [[11](#)]

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Granted.

ORDER: The minutes of the hearing will be the court's findings and conclusions.

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.

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 waiver of Federal Rule of Bankruptcy Procedure 4001(a)(3) will be granted. The moving papers and the record show the collateral has been foreclosed upon and is not the residence of the debtor.

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. [17-11747](#)-B-7 NANCY CHRISTENSEN
TJS-2
BMW BANK OF NORTH AMERICA/MV
NEIL SCHWARTZ/Atty. for dbt.
TIMOTHY SILVERMAN/Atty. for mv.

MOTION FOR RELIEF FROM
AUTOMATIC STAY
7-5-17 [[19](#)]

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

DISPOSITION: Granted.

ORDER: No appearance is necessary. The Moving Party shall submit a proposed order in conformance with the ruling below.

This motion relates to an executory contract or lease of personal property. The case was filed on May 4, 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.

9. [17-11650](#)-B-7 BRIANNA JENKINS
JHW-1
TD AUTO FINANCE LLC/MV
JERRY LOWE/Atty. for dbt.
JENNIFER WANG/Atty. for mv.

MOTION FOR RELIEF FROM
AUTOMATIC STAY
6-30-17 [[16](#)]

FINAL RULING There will be no hearing on this matter.

DISPOSITION: Denied as moot.

ORDER: No appearance is necessary. The court will enter an order.

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.

10. [17-11851](#)-B-7 CLASSIC HERNANDEZ
GT-1
CLASSIC HERNANDEZ/MV
GRISELDA TORRES/Atty. for dbt.

MOTION TO AVOID LIEN OF
ABSOLUTE BONDING CORPORATION
7-10-17 [[13](#)]

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

DISPOSITION: Granted.

ORDER: No appearance is necessary. The Moving Party shall submit a proposed order in conformance with the ruling below.

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 they would otherwise have been entitled.

11. [17-11851](#)-B-7 CLASSIC HERNANDEZ
GT-2
CLASSIC HERNANDEZ/MV
GRISELDA TORRES/Atty. for dbt.

MOTION TO AVOID LIEN OF
LARCHMONT SQUARE-FRESNO
7-10-17 [[17](#)]

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

DISPOSITION: Granted.

ORDER: No appearance is necessary. The Moving Party shall submit a proposed order in conformance with the ruling below.

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 they would otherwise have been entitled.

12. [17-11851](#)-B-7 CLASSIC HERNANDEZ
GT-3
CLASSIC HERNANDEZ/MV
GRISELDA TORRES/Atty. for dbt.

MOTION TO AVOID LIEN OF UNIFUND
CCR, LLC
7-10-17 [[21](#)]

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

DISPOSITION: **Denied without prejudice.**

ORDER: **No appearance is necessary. The court will issue an order.**

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). Although the moving papers appear to have been mailed to the entity that serves as agent for service of process for respondent, they were not addressed to the respondent.

Information regarding service on a corporation may be obtained from the California Secretary of State's Internet Website, see <http://kepler.sos.ca.gov/>. 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.

13. [13-16155](#)-B-7 MICHAEL WEILERT AND
FW-20 GENEVIEVE DE MONTREMARE
JAMES SALVEN/MV

MOTION FOR COMPENSATION BY THE
LAW OFFICE OF FEAR WADDELL,
P.C. FOR PETER L. FEAR,
TRUSTEES ATTORNEY(S)
7-19-17 [[583](#)]

PETER FEAR/Atty. for mv.

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

DISPOSITION: **Denied without prejudice.**

ORDER: **No appearance is necessary. The court will issue an order.**

This motion was fully noticed and there was no opposition. However, the court finds that the motion for fees and costs, incurred in prosecution of the trustee's motion for contempt against the debtor, in which he prevailed, is premature. The debtor filed a notice of appeal to the district court on July 21, 2017.

When an appeal on the merits is pending the court has discretion to deny without prejudice a request for fees under FRCP 54(d) and direct, under subdivision (d)(2)(B), the setting of a new period for filing the request for fees after the appeal has been resolved. See 1993 Advisory Committee notes to FRCP 54(d).

The Court finds that in the interests of judicial economy, ruling on the request for attorney's fees in this case should be postponed until the pending appeal is disposed. It would be an inefficient use of judicial resources to rule on the request at this time, and then later perhaps be required to revisit the issue after the appeal is completed.

14. [13-16155](#)-B-7 MICHAEL WEILERT AND
JCW-1 GENEVIEVE DE MONTREMARE
M AND T BANK/MV

MOTION FOR RELIEF FROM
AUTOMATIC STAY AND/OR MOTION
FOR ADEQUATE PROTECTION
6-30-17 [[575](#)]

JENNIFER WONG/Atty. for mv.

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

DISPOSITION: **Granted.**

ORDER: **No appearance is necessary. The Moving Party shall
submit a proposed order in conformance with the ruling
below.**

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

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

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

A waiver of Federal Rule of Bankruptcy Procedure 4001(a)(3) will not be granted. The movant has shown no exigency and the moving papers show there is equity in the collateral.

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

15. [17-10555](#)-B-7 LUPE GONZALEZ
JCW-1
MTGLQ INVESTORS, L.P./MV
JAMES MILLER/Atty. for dbt.
JENNIFER WONG/Atty. for mv.
DISCHARGED

MOTION FOR RELIEF FROM
AUTOMATIC STAY
7-10-17 [[38](#)]

FINAL RULING There will be no hearing on this matter.

DISPOSITION: Granted.

ORDER: No appearance is necessary. The Moving Party shall submit a proposed order in conformance with the ruling below.

This motion for relief from stay was fully noticed in compliance with the Local Rules of Practice and there was no opposition. The motion will be denied as moot as to the debtor because their discharge has been entered. The motion will be granted for cause shown as to the chapter 7 trustee.

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

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 waiver of Federal Rule of Bankruptcy Procedure 4001(a)(3) will be granted. The moving papers show the collateral is scheduled to be surrendered, is over-encumbered, and the debtor's discharge has been entered.

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).

16. [17-11455](#)-B-7 PIERPOINT SPRINGS, LLC
TMT-2

NOTICE OF INTENT TO ABANDON
REAL AND PERSONAL PROPERTY
7-13-17 [[41](#)]

PETER FEAR/Atty. for dbt.
RESPONSIVE PLEADING

FINAL RULING There will be no hearing on this matter.

DISPOSITION: Granted.

ORDER: No appearance is necessary. The Moving Party shall submit a proposed order in conformance with the ruling below.

This matter was fully noticed in compliance with the Local Rules of Practice. The court notes that this matter was set for hearing following the filing, July 27, 2017, of a letter by an unsecured creditor addressed to the trustee and opposing the abandonment of the property. The trustee has filed an objection, which the court will sustain, to consideration of that letter on the basis that it is hearsay.

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 record shows that, following an order granting relief from the automatic stay, a foreclosure sale of the subject property was conducted on August 7, 2017. Accordingly, and for good cause, the court will grant the trustee's motion effective as of July 28, 2017, the date the Notice of Abandonment (Doc. # 48) was filed.

17. [17-12062](#)-B-7 BRENT/PAMELA WALKER
AP-1
THE BANK OF NEW YORK MELLON/MV
NEIL SCHWARTZ/Atty. for dbt.
JAMIE HANAWALT/Atty. for mv.

MOTION FOR RELIEF FROM
AUTOMATIC STAY
6-27-17 [[11](#)]

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

DISPOSITION: **Granted.**

ORDER: **No appearance is necessary. The Moving Party shall submit a proposed order in conformance with the ruling below.**

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

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

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

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).

18. [11-17365](#)-B-7 JOHN/RUTH GREER
JMA-2
JOHN GREER/MV
JOSEPH ARNOLD/Atty. for dbt.

MOTION TO AVOID LIEN OF FORD
MOTOR CREDIT COMPANY LLC
6-30-17 [[32](#)]

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

DISPOSITION: Granted.

ORDER: No appearance is necessary. The Moving Party shall submit a proposed order in conformance with the ruling below.

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 they would otherwise have been entitled.

19. [11-60165](#)-B-7 ANTONIO/CAROL MARCELINO
TPH-4
ANTONIO MARCELINO/MV

THOMAS HOGAN/Atty. for dbt.
RESPONSIVE PLEADING

CONTINUED STATUS CONFERENCE RE:
MOTION TO AVOID LIEN OF A.L.
GILBERT COMPANY
5-25-17 [[67](#)]

FINAL RULING There will be no hearing on this matter.

DISPOSITION: Continued to September 13, 2017, at 9:30 a.m.

ORDER: No appearance is necessary. The court will issue an order.

Based on the parties' joint status conference statement, this matter will be continued to September 13, 2017, at 9:30 a.m. A further unilateral or joint status conference statement shall be filed no later than 7 days before the continued hearing.

20. [11-60165](#)-B-7 ANTONIO/CAROL MARCELINO
TPH-5
ANTONIO MARCELINO/MV

CONTINUED STATUS CONFERENCE RE:
MOTION TO AVOID LIEN OF
VETERINARY SERVICE, INC.
5-25-17 [[73](#)]

THOMAS HOGAN/Atty. for dbt.
RESPONSIVE PLEADING

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

DISPOSITION: **Continued to September 13, 2017, at 9:30 a.m.**

ORDER: **No appearance is necessary. The court will issue an order.**

Based on the parties' joint status conference statement, this matter will be continued to September 13, 2017, at 9:30 a.m. A further unilateral or joint status conference statement shall be filed no later than 7 days before the continued hearing.

21. [17-11567](#)-B-7 YVONNE DEPAGE
RHT-1
ROBERT HAWKINS/MV

MOTION OPPOSING AUTOMATIC
ABANDONMENT OF VEHICLE FROM THE
BANKRUPTCY ESTATE
7-19-17 [[37](#)]

ROBERT HAWKINS/Atty. for mv.

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

DISPOSITION: **Denied as moot.**

ORDER: **No appearance is necessary. The court will issue an order.**

The trustee brought this motion to prevent termination of the automatic stay pursuant 11 U.S.C. §362(h), which provides for such termination when the personal property that serves as collateral for a secured claim is not redeemed or surrendered within the applicable time set by 11 U.S.C. §521(a)(2), or the loan reaffirmed or that the movant denied a request to reaffirm the loan on the original contract terms.

However, the record shows that the debtor scheduled her intent to reaffirm the obligation and subsequently executed a reaffirmation agreement with her creditor. The court's denial of that agreement did not affect this analysis, however the court did vacate that denial and enter an order after a continued hearing granting the reaffirmation agreement. Accordingly, the automatic stay will not be terminated by the operation of §362(h).

22. [17-11567](#)-B-7 YVONNE DEPAGE
RHT-2
ROBERT HAWKINS/MV
ROBERT HAWKINS/Atty. for mv.

OBJECTION TO DEBTOR'S CLAIM OF
EXEMPTIONS
7-19-17 [[42](#)]

This matter will proceed as scheduled.

23. [16-11869](#)-B-7 RICHARD/PEGGY BRESCIONE
AP-1
WELLS FARGO BANK, N.A./MV
PETER FEAR/Atty. for dbt.
JAMIE HANAWALT/Atty. for mv.
DISCHARGED

MOTION FOR RELIEF FROM
AUTOMATIC STAY
7-12-17 [[84](#)]

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

DISPOSITION: **Granted.**

ORDER: **No appearance is necessary. The Moving Party shall submit a proposed order in conformance with the ruling below.**

This motion for relief from stay was fully noticed in compliance with the Local Rules of Practice and there was no opposition. The motion will be denied as moot as to the debtors because their discharge has been entered. The motion will be granted for cause shown as to the chapter 7 trustee.

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

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).

24. [17-12285](#)-B-7 STEVEN/NORA LINKER
APN-1
SANTANDER CONSUMER USA INC./MV
PETER FEAR/Atty. for dbt.
AUSTIN NAGEL/Atty. for mv.

MOTION FOR RELIEF FROM
AUTOMATIC STAY
7-10-17 [[12](#)]

FINAL RULING There will be no hearing on this matter.

DISPOSITION: Granted.

ORDER: No appearance is necessary. The Moving Party shall submit a proposed order in conformance with the ruling below.

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

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

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

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

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

25. [15-11288](#)-B-7 FRESNO ACADEMY FOR CIVIC MOTION FOR COMPENSATION BY THE
FW-3 & ENTREPRENEURIAL LAW OFFICE OF FEAR WADDELL, PC
FOR GABRIEL J. WADDELL,
TRUSTEES ATTORNEY(S)
7-17-17 [[54](#)]

DAVID JENKINS/Atty. for dbt.

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

DISPOSITION: **Granted.**

ORDER: **No appearance is necessary. The Moving Party shall
submit a proposed order in conformance with the ruling
below.**

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.

26. [17-11789](#)-B-7 WON HAN

WON HAN/MV
WON HAN/Atty. for mv.
RESPONSIVE PLEADING

MOTION FOR SANCTIONS FOR
VIOLATION OF THE AUTOMATIC STAY
7-26-17 [[61](#)]

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Denied.

ORDER: The minutes of the hearing will be the court's findings and conclusions.

Constitutional due process requires that the movant make a *prima facie* showing that they are entitled to the relief sought. Here, the moving papers do not present "'sufficient factual matter, accepted as true, to 'state a claim to relief that is plausible on its face.'" *In re Tracht Gut, LLC*, 503 B.R. 804, 811 (9th Cir. BAP, 2014), citing *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009), and *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 570 (2007).

Disregarding the numerous instances of non-compliance with the local rules, the court finds there is no substantive grounds for the relief requested. This case was filed May 8, 2017. The record shows that the foreclosure of the property of which the debtor was a tenant occurred approximately two years pre-petition and that a default judgment was entered against debtor in the subsequent unlawful detainer suit on or about January 26, 2016.

The court notes that the trustee has requested dismissal of the case based on the debtor's failure to produce required documents and that the §341 meeting of creditors has been rescheduled for August 18, 2017, at 9:00 a.m. If the debtor fails to appear or fails to produce all required documents, the case will be dismissed on the trustee's declaration.

27. [17-12190](#)-B-7 GURDEEP TALANGA AND MOTION TO SELL
RHT-1 KULWINDER KAUR 7-18-17 [[18](#)]
ROBERT HAWKINS/MV
JAMES MILLER/Atty. for dbt.
ROBERT HAWKINS/Atty. for mv.

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

DISPOSITION: Granted.

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

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.

28. [17-10396](#)-B-7 RICHARD/SANDRA STONE MOTION TO SELL
JES-1 7-11-17 [[23](#)]
JAMES SALVEN/MV
PAUL JAMES/Atty. for dbt.

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

DISPOSITION: Granted.

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

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.

29. [16-13697](#)-B-7 SCOTT/KELLY ALLRED
TMT-3
TRUDI MANFREDO/MV
PETER BUNTING/Atty. for dbt.
LISA HOLDER/Atty. for mv.

OBJECTION TO CLAIM OF NICHOLE
R. SLUMBERGER, CLAIM NUMBER 10
6-30-17 [[79](#)]

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

DISPOSITION: **Granted.**

ORDER: **No appearance is necessary. The Objecting Party shall submit a proposed order in conformance with the ruling below.**

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 on the grounds stated in the objection. Based on the evidence submitted in support of the objection, it appears that this is not a debt upon which the debtors are obligated.

11:00 A.M.

1. [17-11034](#)-B-7 CAITLIN LOKEY

PRO SE REAFFIRMATION AGREEMENT
WITH WELLS FARGO BANK N.A.
7-28-17 [[28](#)]

This matter will proceed as scheduled.

1:30 P.M.

1. [17-10310](#)-B-13 TERRI BREST-TAYLOR CONTINUED STATUS CONFERENCE RE:
[17-1009](#) COMPLAINT
U.S. TRUSTEE V. BREST-TAYLOR 2-10-17 [[1](#)]
GREGORY POWELL/Atty. for pl.
RESPONSIVE PLEADING

TENTATIVE RULING: This matter will proceed as scheduled and will be heard with the U.S. Trustee's motion for summary judgment.

DISPOSITION: If the court grants the U.S. Trustee's motion, below at calendar number 2, then this status conference will be vacated.

ORDER: The minutes of the hearing will be the court's findings and conclusions.

2. [17-10310](#)-B-13 TERRI BREST-TAYLOR MOTION FOR SUMMARY JUDGMENT
[17-1009](#) UST-1 6-23-17 [[14](#)]
U.S. TRUSTEE V. BREST-TAYLOR
GREGORY POWELL/Atty. for mv.
RESPONSIVE PLEADING

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Granted.

ORDER: The U.S. Trustee shall submit a proposed judgment. This motion was filed and served pursuant to LRB 9014-1(f)(2) and will proceed as scheduled. Opposition was not required to be filed prior to the hearing however the court has reviewed opposition filed by the debtor.

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. [17-10236](#)-B-13 PAUL/KATHLEEN LANGSTON STATUS CONFERENCE RE: AMENDED
[17-1044](#) COMPLAINT
LANGSTON ET AL V. INTERNAL 7-3-17 [[17](#)]
REVENUE SERVICE
GABRIEL WADDELL/Atty. for pl.
RESPONSIVE PLEADING

This matter will proceed as scheduled.

4. [16-10643](#)-B-12 MARK FORREST
[16-1088](#)
MADRIGAL V. FORREST

ORDER TO SHOW CAUSE WHY THIS
ADVERSARY PROCEEDING SHOULD NOT
BE DISMISSED
6-29-17 [[29](#)]

TENTATIVE RULING: This OSC hearing will proceed as scheduled.

DISPOSITION: Adversary Proceeding Dismissed.

ORDER: The minutes of the hearing will be the court's findings and conclusions.

No opposition having been filed and served, as required in the court's OSC, the court intends to dismiss this adversary case for cause on the grounds stated in the OSC, including lack of prosecution.

5. [17-12245](#)-B-7 KRISTAL MCARTHUR
[17-1059](#)
U.S. TRUSTEE V. MCARTHUR
GREGORY POWELL/Atty. for pl.

STATUS CONFERENCE RE: COMPLAINT
6-15-17 [[1](#)]

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

DISPOSITION: Vacated.

ORDER: No appearance is necessary.

The status conference will be vacated. The record shows that the debtor has failed to file an answer within the time permitted and no request for an extension of time has been requested. The U.S. Trustee shall file a motion for entry of default and follow the procedures for obtaining a default judgment.

The court notes that the associated bankruptcy case has already been dismissed.

6. [16-13955](#)-B-7 ROBERT FETTIG
[17-1002](#) GUB-2
TUCOEMAS FEDERAL CREDIT UNION
V. FETTIG
E. GUBLER/Atty. for mv.

MOTION FOR ENTRY OF DEFAULT
JUDGMENT
7-12-17 [[30](#)]

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

DISPOSITION: Granted.

ORDER: No appearance is necessary. The plaintiff shall submit a proposed judgment in conformance with the ruling below.

The court overlooks the fact the pleadings in support of the motion were not filed in compliance with 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 VI.A.-C., in that the exhibits were not voluminous and the matter was not opposed.

7. [16-14572](#)-B-7 NAVTEJ SINGH AND VEERPAL
[17-1037](#) KAUR
VOHRA V. SINGH

ORDER TO SHOW CAUSE REGARDING
DISMISSAL OF ADVERSARY
PROCEEDING FOR FAILURE TO
PROSECUTE
6-29-17 [[15](#)]

RESPONSIVE PLEADING

This matter will proceed as scheduled.

8. [16-12687](#)-B-7 LORAIN GOODWIN MILLER
[17-1039](#)
SALVEN V. GOODWIN MILLER ET AL
TRUDI MANFREDO/Atty. for pl.
RESPONSIVE PLEADING

CONTINUED STATUS CONFERENCE RE:
COMPLAINT
3-29-17 [[1](#)]

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

DISPOSITION: Continued to September 13, 2017, at 9:30 a.m.

ORDER: No appearance is necessary. The court will issue an order.

Having reviewed the trustee's Second Status Conference Statement, this matter will be continued to be heard with the trustee's objection to the debtor's exemptions. The parties shall address any issues regarding this matter in the status conference statement already ordered to be filed by the trustee on or before September 6, 2017.

9. [17-11789](#)-B-7 WON HAN
[17-1057](#)
HAN V. SKYLINE OWNERS
ASSOCIATION

STATUS CONFERENCE RE: COMPLAINT
6-5-17 [[1](#)]

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

DISPOSITION: Vacated.

ORDER: No appearance is necessary. The court will issue an
order.

The status conference will be vacated. The record shows that the summons was issued on June 5, 2017 and does not show that the summons and complaint were properly and/or timely 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.