

UNITED STATES BANKRUPTCY COURT
Eastern District of California
Honorable René Lastreto II
Hearing Date: Wednesday, August 23, 2017
Place: Department B – Courtroom #13
Fresno, California

INSTRUCTIONS FOR PRE-HEARING DISPOSITIONS

Each matter on this calendar will have one of three possible designations: No Ruling, Tentative Ruling, or Final Ruling. These instructions apply to those designations.

No Ruling: All parties will need to appear at the hearing unless otherwise ordered.

Tentative Ruling: If a matter has been designated as a tentative ruling it will be called. The court may continue the hearing on the matter, set a briefing schedule or enter other orders appropriate for efficient and proper resolution of the matter. The original moving or objecting party shall give notice of the continued hearing date and the deadlines. The minutes of the hearing will be the court's findings and conclusions.

Final Ruling: Unless otherwise ordered, there will be no hearing on these matters. The final disposition of the matter is set forth in the ruling and it will appear in the minutes. The final ruling may or may not finally adjudicate the matter. If it is finally adjudicated, the minutes constitute the court's findings and conclusions. If the parties stipulate to continue the hearing on the matter or agree to resolve the matter in a way inconsistent with the final ruling, then the court will consider vacating the final ruling only if the moving party notifies chambers before 4:00 p.m. at least one business day before the hearing date: Department A-Kathy Torres (559)499-5860; Department B-Virginia Guajardo (559)499-5870. If a party has grounds to contest a final ruling under FRCP 60(a) (FRBP 9024) because of the court's error ["a clerical mistake (by the court) or a mistake arising from (the court's) oversight or omission"] the party shall notify chambers (contact information above) and any other party affected by the final ruling by 4:00 p.m. one business day before the hearing.

Orders: Unless the court specifies in the tentative or final ruling that it will issue an order, the prevailing party shall lodge an order within 14 days of the final hearing on the matter.

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

9:30 A.M.

1.	11-62500 -B-7	MANUEL DA SILVEIRA AND	MOTION FOR COMPENSATION FOR
	JES-2	ANA BELA SILVEIRA	JAMES E. SALVEN, ACCOUNTANT(S)
	JAMES SALVEN/MV		6-27-17 [55]
	PETER FEAR/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.

2. [17-12101](#)-B-7 TER VANG
PFT-1
PETER FEAR/MV

MOTION TO EMPLOY GOULD AUCTION
AND APPRAISAL COMPANY AS
AUCTIONEER, AUTHORIZING SALE OF
PROPERTY AT PUBLIC AUCTION AND
AUTHORIZING PAYMENT OF
AUCTIONEER FEES AND EXPENSES
7-18-17 [[11](#)]

TIMOTHY SPRINGER/Atty. for dbt.
PETER FEAR/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. Accordingly, the respondents' defaults will be entered. Federal Rule of Civil Procedure 55, made applicable by Federal Rule of Bankruptcy Procedure 7055, governs default matters and is applicable to contested matters under Federal Rule of Bankruptcy Procedure 9014(c). Upon default, factual allegations will be taken as true (except those relating to amount of damages). *Televideo Systems, Inc. v. Heidenthal* (826 F.2d 915, 917 (9th Cir., 1987)). Constitutional due process requires that a plaintiff make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here. It appears that the sale is a reasonable exercise of the trustee's business judgment.

3. [15-12702](#)-B-7 MARTIN STEBBEN
RH-4

MOTION FOR COMPENSATION FOR
ROBERT HAWKINS, TRUSTEES
ATTORNEY(S)
7-25-17 [[72](#)]

GLEN GATES/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.

4. [17-11617](#)-B-7 JAMES/EMILIE COBB
PFT-1

OPPOSITION RE: TRUSTEE'S MOTION
TO DISMISS FOR FAILURE TO
APPEAR AT SEC. 341(A) MEETING
OF CREDITORS
7-12-17 [[11](#)]

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

DISPOSITION: Conditionally denied.

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

The debtors shall attend the meeting of creditors rescheduled for September 11, 2017, at 12:00 p.m. If the debtors fail to do so, the chapter 7 trustee may file a declaration with a proposed order and the case may be dismissed without a further hearing.

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

5. [17-11521](#)-B-7 RYAN FRANCO
JES-1
JAMES SALVEN/MV
PETER BUNTING/Atty. for dbt.

MOTION TO SELL
7-20-17 [[18](#)]

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

DISPOSITION: Granted.

ORDER: Moving party shall submit a proposed order after hearing.

This matter was fully noticed in compliance with the Local Rules of Practice and there is no opposition. Accordingly, the respondents' defaults will be entered. Federal Rule of Civil Procedure 55, made applicable by Federal Rule of Bankruptcy Procedure 7055, governs default matters and is applicable to contested matters under Federal Rule of Bankruptcy Procedure 9014(c). Upon default, factual allegations will be taken as true (except those relating to amount of damages). *Televideo Systems, Inc. v. Heidenthal* (826 F.2d 915, 917 (9th Cir., 1987)). Constitutional due process requires that a plaintiff make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here. It appears that the sale is a reasonable exercise of the trustee's business judgment.

6. [17-11521](#)-B-7 RYAN FRANCO
JES-2
JAMES SALVEN/MV

PETER BUNTING/Atty. for dbt.

MOTION TO COMPROMISE
CONTROVERSY/APPROVE SETTLEMENT
AGREEMENT WITH RYAN FRANCO
7-20-17 [[23](#)]

FINAL RULING There will be no hearing on this matter.

DISPOSITION: Granted.

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

While not stated specifically, it appears from the moving papers that the trustee has considered the factors in *In re A & C Properties*, 784 F.2d 1377, 1381 (9th Cir. 1986):

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

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

7. [17-10123](#)-B-7 MARSHA ELLIOTT
TMT-1
TRUDI MANFREDO/MV

AMENDED MOTION TO EMPLOY GOULD
AUCTION AND APPRAISAL COMPANY
AS AUCTIONEER, AUTHORIZING SALE
OF PROPERTY AT PUBLIC AUCTION
AND AUTHORIZING PAYMENT OF
AUCTIONEER FEES AND EXPENSES .
8-11-17 [[34](#)]

SCOTT LYONS/Atty. for dbt.
TRUDI MANFREDO/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. Accordingly, the respondents' defaults will be entered. Federal Rule of Civil Procedure 55, made applicable by Federal Rule of Bankruptcy Procedure 7055, governs default matters and is applicable to contested matters under Federal Rule of Bankruptcy Procedure 9014(c). Upon default, factual allegations will be taken as true (except those relating to amount of damages). *Televideo Systems, Inc. v. Heidenthal* (826 F.2d 915, 917 (9th Cir., 1987)). Constitutional due process requires that a plaintiff make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here. It appears that the sale is a reasonable exercise of the trustee's business judgment.

8. [17-10838](#)-B-7 CHARLES/KAREN WILKINS
RHT-3
ROBERT HAWKINS/MV
JAMES MILLER/Atty. for dbt.
ROBERT HAWKINS/Atty. for mv.

MOTION TO SELL
7-28-17 [[31](#)]

TENTATIVE RULING This matter will proceed as scheduled.

DISPOSITION: Conditionally Granted.

ORDER: The moving party shall submit a proposed order after hearing consistent with the ruling below.

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 conditionally grant the motion, subject to higher and better bids and subject to the trustee's consideration of tax consequences of the sale, as specified below.

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.

There is no indication that the trustee has considered and made a determination regarding any tax consequences of this sale. The trustee must consider the tax consequences, including any section 724(b) issues, of a sale in determining whether to administer an asset. 11 U.S.C. § 704. When estate property is sold, the estate recognizes a taxable gain or loss. Any resulting tax liability is treated as an administrative expense. The gain on the sale of an individual chapter 7 debtor's residence is excluded from gross income of the debtor's bankruptcy estate to the extent provided by 26 U.S.C. § 121."

9. [11-18045](#)-B-7 MONICA MEJIA
JS-2
JAMES SALVEN/MV
DAVID JENKINS/Atty. for dbt.

MOTION FOR COMPENSATION FOR
JAME E. SALVEN, ACCOUNTANT(S)
7-17-17 [[34](#)]

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. Accordingly, the respondents' defaults will be entered. Federal Rule of Civil Procedure 55, made applicable by Federal Rule of Bankruptcy Procedure 7055, governs default matters and is applicable to contested matters under Federal Rule of Bankruptcy Procedure 9014(c). Upon default, factual allegations will be taken as true (except those relating to amount of damages). *Televideo Systems, Inc. v. Heidenthal* (826 F.2d 915, 917 (9th Cir., 1987)). Constitutional due process requires that a plaintiff make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

10. [17-12652](#)-B-7 NICK/MONICA SALAS
NICK SALAS/MV
NICK SALAS/Atty. for mv.
RESPONSIVE PLEADING

MOTION FOR WAIVER OF THE
CHAPTER 7 FILING FEE OR OTHER
FEE
7-11-17 [[5](#)]

FINAL RULING There will be no hearing on this matter.

DISPOSITION: Objection overruled as moot.

NO ORDER REQUIRED: No appearance is necessary.

The motion will be deemed withdrawn and the trustee's objection will be overruled as moot. In response to the trustee's objection, the debtors have consented to pay the filing fee in installments and an order has already been entered.

11. [15-11288](#)-B-7 FRESNO ACADEMY FOR CIVIC MOTION FOR COMPENSATION FOR
JES-2 & ENTREPRENEURIAL JAMES E. SALVEN, ACCOUNTANT(S)
JAMES SALVEN/MV 7-20-17 [[61](#)]
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. Accordingly, the respondents' defaults will be entered. Federal Rule of Civil Procedure 55, made applicable by Federal Rule of Bankruptcy Procedure 7055, governs default matters and is applicable to contested matters under Federal Rule of Bankruptcy Procedure 9014(c). Upon default, factual allegations will be taken as true (except those relating to amount of damages). *Televideo Systems, Inc. v. Heidenthal* (826 F.2d 915, 917 (9th Cir., 1987)). Constitutional due process requires that a plaintiff make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

12. [17-12692](#)-B-7 DANNY/FRANCES RIVERA MOTION TO COMPEL ABANDONMENT
MAZ-1 8-1-17 [[18](#)]
DANNY RIVERA/MV
MARK ZIMMERMAN/Atty. for dbt.

NO RULING: This matter will proceed as scheduled.

13. [17-12692](#)-B-7 DANNY/FRANCES RIVERA MOTION FOR RELIEF FROM
MBW-1 AUTOMATIC STAY
ALLIANT CREDIT UNION/MV 8-3-17 [[22](#)]
MARK ZIMMERMAN/Atty. for dbt.
HAYDEE GARBERO/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.

The moving papers were not served on the debtors.

FINAL RULING There will be no hearing on this matter.

DISPOSITION: Conditionally denied without prejudice

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

The debtor shall attend the meeting of creditors rescheduled for September 11, 2017, at 12:00 p.m. 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.

1:30 P.M.

1. [16-14647](#)-B-7 THOMAS ARLITZ MOTION FOR ENTRY OF DEFAULT
[17-1053](#) UST-1 JUDGMENT
U.S. TRUSTEE V. ARLITZ 7-20-17 [[11](#)]
ROBIN TUBESING/Atty. for mv.

FINAL RULING There will be no hearing on this matter.

DISPOSITION: Granted.

ORDER: No appearance is necessary. The U.S. Trustee 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 respondent's default will be entered and the discharge will be denied.

2. [15-12689](#)-B-7 MARK HANSEN CONTINUED STATUS CONFERENCE RE:
[17-1042](#) AMENDED COMPLAINT
HANSEN V. OCWEN LOAN 7-12-17 [[31](#)]
SERVICING, LLC ET AL
MARK HANSEN/Atty. for pl.

FINAL RULING There will be no hearing on this matter.

DISPOSITION: Continued to October 18, 2017, at 1:30 p.m. Parties to file unilateral or joint status conference statement(s) no later than October 11, 2017.

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

The defendants have filed, served, and set for hearing, a motion to dismiss the adversary proceeding which is scheduled for October 18, 2017, at 1:30 p.m. Accordingly, the status conference will be continued to that day and time to be called with the motion to dismiss. The parties shall file unilateral or joint status conference statement(s) no later than October 11, 2017.