

UNITED STATES BANKRUPTCY COURT
Eastern District of California
Honorable René Lastreto II
Hearing Date: Wednesday, October 2, 2019
Place: Department B – 510 19th Street
Bakersfield, 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.

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.

9:00 AM

1. [18-14600](#)-B-13 **IN RE: DOROTEO IBARRA-PEREA AND ENEDELIA RUIZ DE IBARRA**
[PK-1](#)

MOTION TO AUTHORIZE TRANSFER OF CAR TITLE TO INSURANCE COMPANY
9-11-2019 [\[49\]](#)

DOROTEO IBARRA-PEREA/MV
PATRICK KAVANAGH
RESPONSIVE PLEADING

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Granted in part and denied in part.

ORDER: The minutes of the hearing will be the court's findings and conclusions. The Moving Party will submit a proposed order after hearing.

This motion was filed and served pursuant to Local Rule of Practice ("LBR") 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 in part. 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.

This motion is GRANTED IN PART and DENIED IN PART. In late August 2019, Mrs. Ibarra was apparently struck by another vehicle while driving her Chrysler Minivan ("Vehicle"). Doc. #51. Debtors maintained collision insurance on the vehicle and were offered \$4,703.00 for the loss of the Vehicle from their insurance company. Id. Debtors want to replace the Vehicle because debtors work on opposite ends of town and both start at 8:00 a.m. Id. Debtors seek court authority "to transfer the title to the [Vehicle] after payment of the insurance proceeds. They seek authority to transfer the title to vehicle as part of that transfer." Doc. #49.

LBR 3015-1(b) provides

In addition to the duties imposed on a chapter 13 debtor by the

Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, and elsewhere in these Local Bankruptcy Rules, the following duties are imposed on chapter 13 debtors:

- 1) *Transfers of Property*. The debtor shall not transfer, encumber, sell, or otherwise dispose of any personal or real property with a value of \$1,000.00 or more other than in the ordinary course of business without prior Court authorization. To obtain Court authorization, the debtor shall comply with LBR 3015-1(i).

The Rights and Responsibilities signed by debtors also provides:

AFTER THE CASE IS FILED, THE DEBTOR AGREES TO:

Contact the attorney before transferring, selling, encumbering, refinancing, or otherwise disposing of any personal or real property with a value of \$1,000.00 or more.

The chapter 13 trustee ("Trustee") filed limited opposition. Doc. #53 The vehicle involved was valued at \$1,500.00 and exempted entirely. Doc. #1, schedules A/B, C. As of September 29, 2019, the court has not seen an amended schedule C. The Trustee states "any nonexempt portion of the insurance proceeds must be paid the Trustee for distribution to general unsecured creditors." Doc. #53.

The court intends to permit debtors to transfer the title, but agrees with Trustee that insurance proceeds in excess of \$1,500.00 are not exempt and must be distributed to unsecured creditors. This matter will be called to permit debtor to respond to Trustee's limited opposition.

2. [16-12015](#)-B-13 **IN RE: RICHARD TRIPP**
[PK-2](#)

MOTION TO SELL
9-11-2019 [\[37\]](#)

RICHARD TRIPP/MV
PATRICK KAVANAGH

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Granted.

ORDER: The minutes of the hearing will be the court's findings and conclusions. The Moving Party will submit a proposed order after hearing.

This motion was filed and served pursuant to Local Rule of Practice ("LBR") 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 LBR 9014-1(f)(2). The court will issue an order if a further hearing is necessary. This motion is GRANTED. 11 U.S.C. § 363(b)(1) allows the debtor-in-possession ("DIP") to "sell, or lease, other than in the ordinary course of business, property of the estate."

11 U.S.C. § 1303 states that the "debtor shall have, exclusive of the trustee, the rights and powers of a trustee under sections . . . 363(b) . . . of this title." 11 U.S.C. § 1302(b)(1) excludes from a chapter 13 trustee's duties the collection of estate property and reduction of estate assets to money. Therefore, the debtor has the authority to sell estate property under § 363(b).

Proposed sales under 11 U.S.C. § 363(b) are reviewed to determine whether they are: (1) in the best interests of the estate resulting from a fair and reasonable price; (2) supported by a valid business judgment; and (3) proposed in good faith. In re Alaska Fishing Adventure, LLC, No. 16-00327-GS, 2018 WL 6584772, at *2 (Bankr. D. Alaska Dec. 11, 2018); citing 240 North Brand Partners, Ltd. v. Colony GFP Partners, LP (In re 240 N. Brand Partners, Ltd.), 200 B.R. 653, 659 (9th Cir. BAP 1996) citing In re Wilde Horse Enterprises, Inc., 136 B.R. 830, 841 (Bankr. C.D. Cal. 1991). In the context of sales of estate property under § 363, a bankruptcy court "should determine only whether the trustee's judgment was reasonable and whether a sound business justification exists supporting the sale and its terms." Alaska Fishing Adventure, LLC, 2018 WL 6584772, at *4, quoting 3 Collier on Bankruptcy ¶ 363.02[4] (Richard Levin & Henry J. Sommer eds., 16th ed.). "[T]he trustee's business judgment is to be given great judicial deference.'" Id., citing In re Psychometric Systems, Inc., 367 B.R. 670, 674 (Bankr. D. Colo. 2007), citing In re Bakalis, 220 B.R. 525, 531-32 (Bankr. E.D.N.Y. 1998).

The debtor asks this court for authorization to sell 314 Wilson Avenue in Bakersfield, CA 93308 ("Property") to MRO Investments, Inc., subject to higher and better bids at the hearing, for \$63,000.00. Doc. #37. Debtor has completed his plan payments. Debtor is moving out of the area for employment.

It appears that the sale of the Property is in the best interests of the debtor, is for a fair and reasonable price, supported by a valid business judgment, and proposed in good faith.

3. [16-12015](#)-B-13 **IN RE: RICHARD TRIPP**
[PK-3](#)

MOTION TO AVOID LIEN OF WILLIAM R. EDMONDS
9-18-2019 [\[43\]](#)

RICHARD TRIPP/MV
PATRICK KAVANAGH

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Granted.

ORDER: The minutes of the hearing will be the court's findings and conclusions. The Moving Party will submit a proposed order after hearing.

This motion was filed and served pursuant to Local Rule of Practice ("LBR") 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 LBR 9014-1(f)(2). The court will issue an order if a further hearing is necessary.

This motion is GRANTED. In order to avoid a lien under 11 U.S.C. § 522(f)(1) the movant must establish four elements: (1) there must be an exemption to which the debtor would be entitled under § 522(b); (2) the property must be listed on the debtor's schedules as exempt; (3) the lien must impair the exemption; and (4) the lien must be either a judicial lien or a non-possessory, non-purchase money security interest in personal property listed in § 522(f)(1)(B). § 522(f)(1); Goswami v. MTC Distrib. (In re Goswami), 304 B.R. 386, 390-91 (9th Cir. BAP 2003), quoting In re Mohring, 142 B.R. 389, 392 (Bankr. E.D. Cal. 1992), aff'd 24 F.3d 247 (9th Cir. 1994).

A judgment was entered against the debtor in favor of William R. Edmonds in the sum of \$1,400.78 on January 11, 2010. Doc. #47. The abstract of judgment was recorded with Kern County on November 16, 2012. Id. That lien attached to the debtor's interest in a residential real property in Bakersfield, CA. The motion will be granted pursuant to 11 U.S.C. § 522(f)(1)(A). The subject real property had an approximate value of \$73,687.00 as of the petition date. Doc. #1. The unavoidable liens totaled \$49,753.64 on that same date, consisting of a first deed of trust in favor of Kern Schools FCU. Doc. #1, Schedule D. The debtor claimed an exemption pursuant to Cal. Civ. Proc. Code § 704.730 in the amount of \$23,933.36. Doc. #1, Schedule C.

Movant has established the four elements necessary to avoid a lien under § 522(f)(1). After application of the arithmetical formula required by 11 U.S.C. § 522(f)(2)(A), there is no equity to support the judicial lien. Therefore, the fixing of this judicial lien impairs the debtor's exemption of the real property and its fixing will be avoided subject to 11 U.S.C. § 349(b)(1)(B).

4. [19-13021](#)-B-13 **IN RE: ANNA SOLIS**
[MHM-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY TRUSTEE MICHAEL H. MEYER
9-9-2019 [\[13\]](#)

ROBERT WILLIAMS

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

DISPOSITION: Continued to November 6, 2019 at 9:00 a.m.

ORDER: The court will issue an order.

The trustee has filed a detailed objection debtor's plan confirmation. Unless this case is voluntarily converted to chapter 7, dismissed, or the trustee's opposition to confirmation is withdrawn, the debtor shall file and serve a written response not later than October 23, 2019. 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. The trustee shall file and serve a reply, if any, by October 30, 2019.

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 October 30, 2019. If the debtor does not timely file a modified plan or a written response, this motion will be denied on the grounds stated in the opposition without a further hearing.

The court notes debtor's response. Doc. #21.

5. [19-11024](#)-B-13 **IN RE: MARY HENDRIX**
[PK-3](#)

MOTION TO INCUR DEBT
9-4-2019 [\[39\]](#)

MARY HENDRIX/MV
PATRICK KAVANAGH
RESPONSIVE PLEADING

NO RULING.

6. [19-12724](#)-B-13 **IN RE: RICHARD/KATHLEEN KOHLER**
[MHM-1](#)

CONTINUED OBJECTION TO CONFIRMATION OF PLAN BY TRUSTEE MICHAEL H. MEYER
8-20-2019 [\[17\]](#)

RABIN POURNAZARIAN
RESPONSIVE PLEADING

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: The objection will be overruled as moot. The court will order a bar date.

ORDER: The court will issue an order.

Though debtors did respond to the objection before the last hearing, the debtors filed an amended Plan (doc. #33) and set the matter for hearing on November 6, 2019. The Trustee's objection raised many deficiencies in information the debtor gave to the Trustee. The objection requested a bar date and since this case has been pending for some months, the court will set a bar date.

The debtors shall confirm a Plan on or before December 16, 2019 or the case will be dismissed on the Trustee's declaration of non-compliance.

The parties shall advise as to the status of Trustee's information requests at this hearing.

7. [19-12929](#)-B-13 **IN RE: HERBERT/CECILIA JUAREZ**
[MHM-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY TRUSTEE MICHAEL H. MEYER
9-9-2019 [\[18\]](#)

ROBERT WILLIAMS

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

DISPOSITION: Continued to November 6, 2019 at 9:00 a.m.

ORDER: The court will issue an order.

The trustee has filed a detailed objection debtors' plan confirmation. Unless this case is voluntarily converted to chapter 7, dismissed, or the trustee's opposition to confirmation is withdrawn, the debtors shall file and serve a written response not later than October 23, 2019. 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. The trustee shall file and serve a reply, if any, by October 30, 2019.

If the debtors elect 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 October 30, 2019. If the debtors do not timely file a modified plan or a written response, this motion will be denied on the grounds stated in the opposition without a further hearing.

8. [18-12731](#)-B-13 **IN RE: MARK/ALICIA GARAY**
[PK-2](#)

MOTION TO MODIFY PLAN
8-5-2019 [\[26\]](#)

MARK GARAY/MV
PATRICK KAVANAGH
RESPONSIVE PLEADING

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

DISPOSITION: Continued to November 6, 2019 at 9:00 a.m.

ORDER: The court will issue an order.

The trustee has filed a detailed objection debtors' plan confirmation. Unless this case is voluntarily converted to chapter 7, dismissed, or the trustee's opposition to confirmation is withdrawn, the debtors shall file and serve a written response not later than October 23, 2019. 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. The trustee shall file and serve a reply, if any, by October 30, 2019.

If the debtors elect 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 October 30, 2019. If the debtors do not timely file a modified plan or a written response, this motion will be denied on the grounds stated in the opposition without a further hearing.

9. [19-12041](#)-B-13 **IN RE: JERRY WALKER**
[WLG-1](#)

MOTION TO CONFIRM PLAN
8-22-2019 [\[22\]](#)

JERRY WALKER/MV
NICHOLAS WAJDA

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

DISPOSITION: Denied without prejudice.

ORDER: The court will issue an order.

This motion is DENIED WITHOUT PREJUDICE for failure to comply with the Local Rules of Practice ("LBR").

The notice did not contain the language required under LBR 9014-1(d)(3)(B)(iii). LBR 9014-1(d)(3)(B), which is about noticing requirements, requires movants to notify respondents that they can determine whether the matter has been resolved without oral argument or if the court has issued a tentative ruling by checking the Court's website at www.caeb.uscourts.gov after 4:00 p.m. the day before the hearing.

10. [17-13544](#)-B-13 **IN RE: SALVESTER/MIRNA CADENA**

ORDER TO SHOW CAUSE - FAILURE TO TENDER FEE FOR FILING TRANSFER
OF CLAIM
9-3-2019 [\[35\]](#)

ROBERT WILLIAMS
\$25.00 FILING FEE PAID 9/6/19

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

DISPOSITION: The OSC will be vacated.

ORDER: The court will issue an order.

The record shows that the fee due was paid on September 6, 2019. Therefore, the Order to Show Cause will be vacated.

11. [19-10949](#)-B-13 **IN RE: OLGA LLAMAS**
[RSW-1](#)

MOTION TO MODIFY PLAN
8-15-2019 [\[24\]](#)

OLGA LLAMAS/MV
ROBERT WILLIAMS

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.

This motion was set for hearing on 35 days' notice as required by Local Rule of Practice ("LBR") 3015-1(d)(1). The failure of the creditors, the debtor, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument. 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.

This motion is GRANTED. The confirmation order shall include the docket control number of the motion and it shall reference the plan by the date it was filed.

12. [17-12561](#)-B-13 **IN RE: VICTOR/KARLA MOORE**
[PK-7](#)

CONTINUED MOTION TO MODIFY PLAN
7-5-2019 [\[116\]](#)

VICTOR MOORE/MV
PATRICK KAVANAGH
RESPONSIVE PLEADING

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

DISPOSITION: Denied without prejudice.

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

This motion is DENIED WITHOUT PREJUDICE. By prior order of the court (doc. #134), debtor had until September 18, 2019 to file a written response to the chapter 13 trustee's opposition, or until September 25, 2019 to file a confirmable modified chapter 13 plan. If debtor failed to do either, the motion will be "denied on the grounds stated in the opposition without a further hearing." Debtor neither responded nor filed an amended plan. Therefore this motion is DENIED WITHOUT PREJUDICE.

13. [19-12886](#)-B-13 **IN RE: RAYMOND/DEBORAH MARTIN**
[MHM-1](#)

CONTINUED OBJECTION TO CONFIRMATION OF PLAN BY TRUSTEE MICHAEL
H. MEYER
8-16-2019 [\[19\]](#)

RICHARD STURDEVANT

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

DISPOSITION: Overruled as moot.

ORDER: The court will issue an order.

This objection is OVERRULED AS MOOT. Debtor filed an amended plan.
Doc. #35, RS-1.

14. [19-12791](#)-B-13 **IN RE: ROBINSON/MARIA POLANCO**
[KR-2](#)

OBJECTION TO CONFIRMATION OF PLAN BY CHALLENGE FINANCIAL
SERVICES
9-9-2019 [\[42\]](#)

CHALLENGE FINANCIAL SERVICES/MV
RICHARD STURDEVANT
KAREL ROCHA/ATTY. FOR MV.

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Continued to October 10, 2019 at 1:30 p.m.

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

This objection was filed and served pursuant to Local Rule of Practice ("LBR") 3015-1(c)(4) and will proceed as scheduled. Unless opposition is presented at the hearing, the court intends to enter the respondents' defaults. 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.

Creditor Challenge Financial Services ("Creditor") objects to plan confirmation because "[d]ebtor's proposed secured value of the collateral of \$4,565.00 is significantly less than the retail value of the vehicle as determined by its legal owner" Doc. #42. Creditor's collateral, a 2005 Nissan Titan, is in class 2(B), claims reduced based on value of collateral. Doc. #10.

Sections 1.04 and 3.08(c) of the plan require separately served and filed motions to value collateral for claims classified in class 2. Doc. #4. Creditor's claim is in Class 2B, and debtor has filed a motion to value Creditor's collateral, which is set for hearing on October 10, 2019 at 1:30 p.m. See doc. #52, RS-2. If that motion is granted, this objection may be moot or overruled. If the motion is denied, the court may sustain the objection. The matter will be continued to October 10, 2019 at 1:30 p.m. to be heard with Debtor's motion.

Debtor shall address Creditor's Till argument at the hearing. The court is not convinced that a 0.00% interest rate is appropriate on Creditor's collateral considering the contract interest rate of 19.99%. If an evidentiary hearing is necessary, scheduling may be discussed at the hearing.

15. [19-12791](#)-B-13 **IN RE: ROBINSON/MARIA POLANCO**
[MHM-1](#)

CONTINUED OBJECTION TO CONFIRMATION OF PLAN BY TRUSTEE MICHAEL
H. MEYER
8-20-2019 [[24](#)]

RICHARD STURDEVANT

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

DISPOSITION: Overruled as moot.

ORDER: The court will issue an order.

This objection is OVERRULED AS MOOT. Debtor filed an amended plan.
Doc. #64, RS-3.

10:00 AM

1. [11-15004](#)-B-7 **IN RE: EUFRACIO/RAQUEL HINOJOSA**
[JSP-1](#)

MOTION TO AVOID LIEN OF HOUSEHOLD FINANCE CORPORATION OF
CALIFORNIA
8-30-2019 [\[25\]](#)

EUFRACIO HINOJOSA/MV
JOSEPH PEARL

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

DISPOSITION: Denied without prejudice.

ORDER: The court will issue an order.

This motion is DENIED WITHOUT PREJUDICE for failure to comply with
the Local Rules of Practice ("LBR").

LBR 9014-1(e)(2) requires a proof of service, in the form of a
certificate of service, to be filed with the Clerk of the court
concurrently with the pleadings or documents served, or not more
than three days after the papers are filed.

In this case, no proof of service was filed. Therefore this motion
is DENIED WITHOUT PREJUDICE.

2. [19-12206](#)-B-7 **IN RE: JAMES/WANDA APPODACA**
[DJP-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
9-18-2019 [\[20\]](#)

FRESNO COMMUNITY DEVELOPMENT FINANCIAL INSTITUTION/MV
NEIL SCHWARTZ
DON POOL/ATTY. FOR MV.
DISCHARGED 9/16/19

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Granted in part as to the trustee's interest
unless opposed at the hearing. Denied as moot
in part as to the debtors' interest.

ORDER: The minutes of the hearing will be the court's
findings and conclusions. The Moving Party
shall submit a proposed order after hearing.

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

trustee's default and enter the following ruling denying the motion as moot as to the debtors pursuant to 11 U.S.C. § 362(c)(2)(C). The debtors' discharge was entered on September 16, 2019 (Doc. #18.) The motion will be GRANTED IN PART for cause shown as to the chapter 7 trustee. 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 to the trustee only 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 collateral is a 1971 Chevy Chevelle and a 2005 Polar Motorcycle (Doc. #26). The collateral has a value of \$22,000.00 and debtor owes \$12,902.92. *Id.* The order shall provide the motion is DENIED AS MOOT as to the debtors.

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).

3. [19-13319](#)-B-7 **IN RE: VICKI MILLER**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES
8-22-2019 [\[25\]](#)

IFP ORDER ECF #28

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

DISPOSITION: The OSC will be vacated.

ORDER: The court will issue an order.

The record shows that the Debtor applied for a waiver of the amendment fee on August 22, 2019 (Doc. #26). The court granted the waiver on August 23, 2019 (Doc. #28). Therefore, the Order to Show Cause will be vacated.

4. [19-12877](#)-B-7 **IN RE: MISTY SHUCK**
[APN-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
8-12-2019 [\[11\]](#)

FORD MOTOR CREDIT COMPANY/MV
NICHOLAS WAJDA
AUSTIN NAGEL/ATTY. FOR MV.

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.

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 collateral is a 2017 Ford Fusion (Doc. #15). The collateral has a value of \$22,950.00 and debtor owes \$33,967.75. *Id.*

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).

10:30 AM

1. [18-14663](#)-B-11 **IN RE: 3MB, LLC**
[LKW-15](#)

MOTION FOR COMPENSATION FOR LEONARD K. WELSH, DEBTORS ATTORNEY(S)
9-11-2019 [\[260\]](#)

LEONARD WELSH

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Granted.

ORDER: The minutes of the hearing will be the court's findings and conclusions. The Moving Party will submit a proposed order after hearing.

This motion was filed and served pursuant to Local Rule of Practice ("LBR") 9014-1(f)(2) and Federal Rule of Bankruptcy Procedure 2002(6) 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 LBR 9014-1(f)(2). The court will issue an order if a further hearing is necessary.

The motion will be GRANTED. Debtor's bankruptcy counsel, Leonard K. Welsh, requests fees of \$10,597.50 and costs of \$285.75 for a total of \$10,883.25 for services rendered from July 1, 2019 through August 31, 2019.

11 U.S.C. § 330(a)(1)(A) & (B) permits approval of "reasonable compensation for actual necessary services rendered by . . . [a] professional person" and "reimbursement for actual, necessary expenses." Movant's services included, without limitation: (1) Advising debtor about the administration of its chapter 11 case and its duties as debtor-in-possession, (2) Successfully prosecuting a motion to abstain and for relief from stay to permit a lawsuit to proceed to trial and conclusion, (3) Assisting debtor in its efforts to obtain "take out" financing from the Prescott Group as a part of Debtor's Chapter 11 case, (4) Prosecuting an objection to US Bank's claim, and (5) Working on a plan of reorganization. The court finds the services reasonable and necessary and the expenses requested actual and necessary.

Movant shall be awarded \$10,597.50 in fees and \$285.75 in costs.

11:00 AM

1. [17-11028](#)-B-11 **IN RE: PACE DIVERSIFIED CORPORATION**
[18-1006](#)

CONTINUED STATUS CONFERENCE RE: COMPLAINT
2-5-2018 [[1](#)]

PACE DIVERSIFIED CORPORATION ET AL V. MACPHERSON OIL
T. BELDEN/ATTY. FOR PL.
RESPONSIVE PLEADING

NO RULING.

2. [18-12561](#)-B-7 **IN RE: CARLOS SOLIS AND BEATRIZ ALVAREZ**
[19-1086](#)

STATUS CONFERENCE RE: COMPLAINT
7-16-2019 [[1](#)]

VETTER V. GUTIERREZ ET AL
LISA HOLDER/ATTY. FOR PL.

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

DISPOSITION: This matter will be continued to November 6, 2019 at
11:00 a.m.

ORDER: The court will issue the order.

It appears that the parties have settled this matter. Doc. #9. Per
the plaintiff, chapter 7 trustee's, request, the matter will be
continued to November 6, 2019 at 11:00 a.m.

3. [19-10093](#)-B-7 **IN RE: REYANTHONY/ELAINE BRACAMONTE**
[19-1051](#)

STATUS CONFERENCE RE: COMPLAINT
5-21-2019 [\[1\]](#)

BRACAMONTE ET AL V. CACH, LLC ET AL
PATRICK KAVANAGH/ATTY. FOR PL.

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

DISPOSITION: This matter will be continued to November 6, 2019 at
11:00 a.m.

ORDER: The court will issue the order.

Plaintiff still has not served the Los Angeles County Sheriff.
Relief is requested against the Sheriff in the second and third
claims in the complaint.

Plaintiff shall file a motion for entry of default and judgment or
dismissal before November 6, 2019. If such a motion is filed, the
status conference will be dropped, and the court will hear the
motion when scheduled. If no motion for default and judgment and
dismissal of parties not served is filed prior to the continued
hearing, the court will issue an order to show cause why this case
should not be dismissed.

11:30 AM

1. [19-13446](#)-B-7 **IN RE: SALVADOR TEJEDA ARAMBULA AND CONCEPCION TEJEDA**

PRO SE REAFFIRMATION AGREEMENT WITH SANTANDER CONSUMER USA INC.
9-12-2019 [\[17\]](#)

NO RULING.

2. [19-12656](#)-B-7 **IN RE: BANOS CRISPIN VALENTIN AND LOPEZ LOURDES**

REAFFIRMATION AGREEMENT WITH U.S. BANK NATIONAL ASSOCIATION
9-4-2019 [\[18\]](#)

MICHAEL AKHIDENOR

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

DISPOSITION: Denied.

ORDER: The court will issue an order.

Debtors' counsel will inform debtors that no appearance is necessary.

Both the reaffirmation agreement and the bankruptcy schedules show that reaffirmation of this debt creates a presumption of undue hardship which has not been rebutted in the reaffirmation agreement. Although the debtors' attorney executed the agreement, the attorney could not affirm that, (a) the agreement was not a hardship and, (b) the debtors would be able to make the payments.

3. [19-12781](#)-B-7 **IN RE: FERNANDO RODRIGUEZ AND TERESA ESPARZA**

PRO SE REAFFIRMATION AGREEMENT WITH MECHANICS BANK
9-16-2019 [\[16\]](#)

OSCAR SWINTON

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

DISPOSITION: Denied.

ORDER: The court will issue an order.

Debtors' counsel will inform debtors that no appearance is necessary.

Both the reaffirmation agreement and the bankruptcy schedules show that reaffirmation of this debt creates a presumption of undue hardship which has not been rebutted in the reaffirmation agreement.

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.