

UNITED STATES BANKRUPTCY COURT
Eastern District of California
Honorable René Lastreto II
Hearing Date: Thursday, October 5, 2017
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. 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-Jennifer Dauer (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.

9:00 A.M.

1. 17-12800 -B-13 ADRIAN/DEBRA NAVARRO KMR -1 BANK OF AMERICA, N.A./MV ROBERT WILLIAMS/Atty. for dbt. KELLY RAFTERY/Atty. for mv.	OBJECTION TO CONFIRMATION OF PLAN BY BANK OF AMERICA, N.A. 9-12-17 [14]
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TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Overruled.

ORDER: The court will issue an order.

This objection to confirmation of a chapter 13 plan will be overruled without prejudice. The debtor's opposition acknowledges the issues raised in the objection and agrees to the changes proposed by Bank of America.

2. 17-11906 -B-13 TRACY FLAHERTY MHM -2 ROBERT WILLIAMS/Atty. for dbt.	OBJECTION TO CONFIRMATION OF PLAN BY TRUSTEE MICHAEL H. MEYER 9-12-17 [38]
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FINAL RULING There will be no hearing on this matter.

DISPOSITION: Continued to November 9, 2017 at 9:00 a.m.

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

The trustee has filed a detailed objection to the debtor's fully noticed motion to confirm a chapter 13 plan. Unless this case is voluntarily converted to chapter 7 or dismissed or the trustee's opposition to confirmation has been withdrawn, the debtor shall file and serve a written response not later than October 26, 2017. The response shall specifically address each issue raised in the opposition to confirmation, state whether the issue is disputed or undisputed, and include admissible evidence to support the debtor's position. If the debtor elects to withdraw this plan and file a modified plan in lieu of filing a response, then a confirmable modified plan shall be filed, served, and set for hearing, not later than November 2, 2017. If the debtor does not timely file a modified plan or a written response, the motion to confirm the plan will be denied on the grounds stated in the opposition without a further hearing.

3. [15-12709](#)-B-13 LORI KITCHEN
[WDO](#)-3
LORI KITCHEN/MV
WILLIAM OLCOTT/Atty. for dbt.
RESPONSIVE PLEADING

MOTION TO MODIFY PLAN
8-30-17 [[66](#)]

FINAL RULING There will be no hearing on this matter.

DISPOSITION: Continued to November 9, 2017 at 9:00 a.m.

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

The trustee has filed a detailed objection to the debtor's fully noticed motion to confirm a chapter 13 plan. Unless this case is voluntarily converted to chapter 7 or dismissed or the trustee's opposition to confirmation has been withdrawn, the debtor shall file and serve a written response not later than October 26, 2017. The response shall specifically address each issue raised in the opposition to confirmation, state whether the issue is disputed or undisputed, and include admissible evidence to support the debtor's position. If the debtor elects to withdraw this plan and file a modified plan in lieu of filing a response, then a confirmable modified plan shall be filed, served, and set for hearing, not later than November 2, 2017. If the debtor does not timely file a modified plan or a written response, the motion to confirm the plan will be denied on the grounds stated in the opposition without a further hearing.

4. [16-11209](#)-B-13 MOISES PALMA
[MHM](#)-1
MICHAEL MEYER/MV
STEVEN ALPERT/Atty. for dbt.

MOTION TO DISMISS CASE
9-5-17 [[162](#)]

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

DISPOSITION: Granted.

ORDER: The court will enter an order.

Unless the trustee's motion is withdrawn before the hearing, the motion will be granted without oral argument for cause shown.

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

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

5. [17-12109](#)-B-13 FRANK RUIZ
[PK-2](#)

MOTION FOR COMPENSATION FOR
PATRICK KAVANAGH, DEBTORS
ATTORNEY(S)
9-12-17 [[37](#)]

PATRICK KAVANAGH/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. [16-12015](#)-B-13 RICHARD TRIPP
[PK-1](#)

MOTION FOR COMPENSATION FOR
PATRICK KAVANAGH, DEBTORS
ATTORNEY(S)
9-5-17 [[16](#)]

PATRICK KAVANAGH/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. Attorney's fees pursuant to LBR 2016-1(c) are approved.

7. [17-11667](#)-B-13 MIGUEL VIVEROS
[MHM](#)-2
MICHAEL MEYER/MV
PHILLIP GILLET/Atty. for dbt.

MOTION TO DISMISS CASE
8-16-17 [[26](#)]

FINAL RULING There will be no hearing on this matter.

DISPOSITION: Continued to November 9, 2017.

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

The primary basis of the Trustee's motion was the failure of the debtors to file and set for hearing a motion to value the 1997 Suburban held by Wheels Financial Group pursuant to LBR 3015-1(j). The court has been informed that debtors filed a motion to value that 1997 Suburban on Tuesday, October 3, 2017. This motion will be continued to November 9, 2017 at 9:00 a.m. to be heard with the motion to value. If the valuation motion is successful, the plan can be confirmed. If the valuation motion is unsuccessful, the court may deny the confirmation of the plan and grant the Trustee's motion to dismiss. LBR 3015-1(j).

8. [17-12668](#)-B-13 GARY MOLAND
[MHM](#)-1

OBJECTION TO CONFIRMATION OF
PLAN BY TRUSTEE MICHAEL H.
MEYER
9-12-17 [[17](#)]

STEVEN ALPERT/Atty. for dbt.

FINAL RULING There will be no hearing on this matter.

DISPOSITION: Dropped from calendar.

ORDER: No appearance is necessary. The court will enter minutes.

The moving party withdrew the objection.

9. [17-11881](#)-B-13 COREY YOUNG
[MHM](#)-3

OBJECTION TO CONFIRMATION OF
PLAN BY TRUSTEE MICHAEL H.
MEYER
9-12-17 [[34](#)]

ROBERT WILLIAMS/Atty. for dbt.

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Overruled in part and sustained in part.

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

The trustee has filed a detailed objection to the debtor's fully noticed motion to confirm a chapter 13 plan. The debtor is agreeable to paying whatever the monthly plan payment must be, based on the Trustee's objection. The Court will inquire if there are any remaining issues.

10. 17-13481-B-13 EDUARDO ESCOBAR AND
RT-1 JOAQUINA MIRANDA
EDUARDO ESCOBAR/MV
REBECCA TOMILOWITZ/Atty. for dbt.

MOTION TO IMPOSE AUTOMATIC STAY
9-21-17 [9]

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Granted.

ORDER: The court will issue an order.

The Motion to Impose the Automatic Stay was properly set for hearing on the notice required by LBR 9014-1(f)(2). Consequently, the creditors, the trustee, the U.S. Trustee, and any other parties in interest were not required to file a written response or opposition to the motion. If any of these potential respondents appear at the hearing and offer opposition to the motion, the court will set a briefing schedule and a final hearing unless there is no need to develop the record further. If no opposition is offered at the hearing, the court will take up the merits of the motion.

Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter.

Courts consider many factors - including those used to determine good faith under §§ 1307 and 1325(a) - but the two basic issues to determine good faith under 11 U.S.C. § 362(c)(3) are:

1. Why was the previous plan filed?
 2. What has changed so that the present plan is likely to succeed?
- In re Elliot-Cook*, 357 B.R. 811, 814-15 (Bankr. N.D. Cal.2006).

In this case the presumption of bad faith arises. The subsequently filed case is presumed to be filed in bad faith if Debtor failed to file documents as required by the court without substantial excuse. 11 U.S.C. §362(c)(3)(C)(i)(II)(aa). Inadvertence or negligence, generally, are not a "substantial excuse." The prior case was dismissed because the debtor failed to timely file documents as required by the court. The party with the burden of proof may rebut the presumption of bad faith by clear and convincing evidence. §362(c)(3)(c). This evidence standard has been defined, in *Singh v. Holder*, 649 F.3d 1161, 1165, n. 7 (9th Cir. 2011), as "between a preponderance of the evidence and proof beyond a reasonable doubt." It may further be defined as a level of proof that will produce in the mind of the fact finder a firm belief or conviction that the allegations sought to be established are true; it is "evidence so clear, direct and weighty and convincing as to enable the fact finder to come to a clear conviction, without hesitancy, of the truth of the precise facts of the case." *In re Castaneda*, 342 B.R. 90, (Bankr. S.D. Cal. 2006), citations omitted.

However, based on the moving papers and the record, and in the absence of opposition, the court is persuaded that the presumption has been rebutted

and that the debtors' petition was filed in good faith, and it intends to grant the motion to extend/impose the automatic stay. The debtors' previous case was dismissed for failure to timely file documents as requested by the court, but they were filed. Debtors filed the documents one day before the scheduled hearing. The motion will be granted and the automatic stay extended for all purposes as to all parties who received notice, unless terminated by further order of this court. 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.

11. [17-10884](#)-B-13 MANUEL GALLEGOS
[PK-1](#)

MOTION FOR COMPENSATION FOR
PATRICK KAVANAGH, DEBTORS
ATTORNEY(S)
9-14-17 [[38](#)]

PATRICK KAVANAGH/Atty. for dbt.

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Granted.

ORDER: The court will issue an order.

This motion was filed and served pursuant to 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.

12. [17-11220](#)-B-7 LUIS/SHANNON POMPA
[17-1060](#)
ABACA BAIL BONDS V. POMPA ET
AL
ABACA BAIL BONDS/Atty. for pl.

STATUS CONFERENCE RE: AMENDED
COMPLAINT
9-13-17 [[22](#)]

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Resolved by stipulation of the parties.

ORDER: The adversary proceeding will be closed in 30 days unless a document terminating this matter is filed before then.

The parties have settled this matter.

9:30 A.M.

1. [17-12535](#)-B-11 OVADA MORERO
[LKW](#)-7

MOTION FOR COMPENSATION FOR
LEONARD K. WELSH, DEBTORS
ATTORNEY(S)
9-13-17 [[88](#)]

LEONARD WELSH/Atty. for dbt.

TENTATIVE RULING This matter will proceed as scheduled.

DISPOSITION: Granted.

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

This motion was filed and served pursuant to 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.

2. [17-12998](#)-B-12 LJB FARMS, LLC
[KDG](#)-3
LJB FARMS, LLC/MV

CONTINUED MOTION TO USE CASH
COLLATERAL AND/OR MOTION FOR
ADEQUATE PROTECTION
8-24-17 [[33](#)]

JACOB EATON/Atty. for dbt.
RESPONSIVE PLEADING

NO RULING.

10:00 A.M.

1. [17-10711](#)-B-7 DORINDA LOMAS
RP-1
RANDELL PARKER/MV

MOTION FOR ORDER FIXING
DEADLINE FOR DEBTOR TO FILE
AMENDED CLAIMS OF EXEMPTION
8-29-17 [[23](#)]

VINCENT GORSKI/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.

The deadline for debtor to file amended claims of exemption will be November 5, 2017. Any claims of exemption filed after the deadline will be allowed only upon the condition that Trustee and administrative claimants, including Trustee's attorneys, be compensated for their reliance on Debtor's failure to promptly amend her schedule of exemptions. The court reminds the debtor that the Trustee has 30 days to object to an amended schedule of exemptions.

2. [17-12117](#)-B-7 JOSE GONZALEZ
[APN](#)-1
WELLS FARGO BANK, N.A./MV
R. BELL/Atty. for dbt.
AUSTIN NAGEL/Atty. for mv.

MOTION FOR RELIEF FROM
AUTOMATIC STAY
8-17-17 [[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 motion for relief from stay was fully noticed in compliance with the Local Rules of Practice and there was no opposition. The debtor and the trustee's defaults will be entered. The automatic stay is terminated as it applies to the movant's right to enforce its remedies against the subject property under applicable nonbankruptcy law. The record shows that cause exists to terminate the automatic stay.

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

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

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

3. [17-13117](#)-B-7 CHRISTOPHER SOARES
[SAM](#)-1
PORSCHE LEASING LTD./MV
D. GARDNER/Atty. for dbt.
STACEY MILLER/Atty. for mv.

MOTION FOR RELIEF FROM
AUTOMATIC STAY
8-31-17 [[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 debtor 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 in movant's possession.

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).

4. [17-12327](#)-B-7 MELISSA ONTIVEROS
[RSW](#)-1
MELISSA ONTIVEROS/MV
ROBERT WILLIAMS/Atty. for dbt.

MOTION TO AVOID LIEN OF MIDLAND
FUNDING LLC
9-7-17 [[14](#)]

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Granted.

ORDER: The Moving Party shall submit a proposed order after hearing.

This motion was filed and served pursuant to 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.

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.

5. [17-11647](#)-B-7 WILLIAM/APRIL BLEVINS
[JSP](#)-1
WILLIAM BLEVINS/MV
JOSEPH PEARL/Atty. for dbt.

MOTION TO AVOID LIEN OF
DISCOVER BANK
8-19-17 [[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 debtors are entitled to avoid this lien that impairs an exemption to which they would otherwise have been entitled.

6. [17-13351](#)-B-7 CARMEN LOPEZ

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
9-14-17 [[12](#)]

JESUS ZUNIGA/Atty. for dbt.

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 court will issue an order.

The court intends to dismiss this case for cause on the grounds stated in the OSC, debtor's failure to pay the filing fee and other fees prescribed by 28 U.S.C. § 1930(a) and (b). The debtor is excused from appearing unless the debtor has grounds, supported by evidence, to oppose dismissal and wishes to be heard.

7. [09-19764](#)-B-7 DIANE CHAMBERS
[RP-1](#)
RANDELL PARKER/MV

MOTION FOR FIXING A DEADLINE
FOR DEBTOR TO FILE AMENDED
CLAIM OF EXEMPTION
8-29-17 [[24](#)]

WILLIAM OLCOTT/Atty. for dbt.
RESPONSIVE PLEADING

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Granted.

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

This motion was filed and served pursuant to LBR 9014-1(f)(2) and will proceed as scheduled. The Trustee asks for a deadline by which the debtor must amend her exemptions in this nearly eight year old case. Before the case was filed in 2009, the Debtor suffered personal injuries allegedly due to a malfunctioning medical device that was surgically implanted. The debtor has pursued litigation and has apparently settled her claim. The Trustee learned of the settlement, requested the United States Trustee reopen the case and now wants to administer the asset.

In order to administer the asset which the trustee believes will require retention of professionals, the Trustee wants to know what exemption, if any, the debtor will claim in the settlement proceeds. He asks for the court to impose a deadline of November 5, 2017 for the debtor to amend her exemptions. He also asks the court to order that any amendment filed thereafter be conditioned on the Debtor indemnifying the bankruptcy estate for administrative expenses the estate will incur in reliance on the exemptions claimed by the Debtor now.

The Debtor opposes. The Debtor testified in a declaration that she did not know the cause of her condition at the time this case was filed. The Debtor's new counsel (only substituted as counsel less than one week ago) also submitted a declaration stating his opinion as to the amount of the settlement and the validity of potential medical liens on the settlement. Debtor's counsel states the Debtor intends to "contemporaneously" file an amended exemption schedule.

Nothing in the opposition states why a November 5, 2017 deadline is unreasonable or that the debtor will not have knowledge of a potentially exemptible personal injury claim by that date. Indeed, the debtor has engaged counsel and is well aware of the nature of her claim now. Nothing in the record provided so far convinces the court the exemption cannot be amended by November 5. Moreover, nothing in the record so far supports the notion that the Trustee's other relief requested (indemnification of the estate for administrative expenses in reliance on the existing exemptions) is inappropriate.

The deadline for debtor to file amended claims of exemption will be November 5, 2017. Any claims of exemption filed after the deadline will be allowed only upon the condition that Trustee and administrative claimants,

including Trustee's attorneys, be compensated for their reliance on Debtor's failure to promptly amend her schedule of exemptions.

8. [17-12767](#)-B-7 BILL ELRICH
[JCW](#)-1
DEUTSCHE BANK NATIONAL TRUST
COMPANY/MV
R. BELL/Atty. for dbt.
JENNIFER WONG/Atty. for mv.

MOTION FOR RELIEF FROM
AUTOMATIC STAY
9-7-17 [[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 motion for relief from stay was fully noticed in compliance with the Local Rules of Practice and there was no opposition. The debtor 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.

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

9. [12-14078](#)-B-7 FERNANDO VEGA AND MARIA OBJECTION TO DEBTOR'S CLAIM OF
RP-1 GARCIA DE VEGA EXEMPTIONS
RANDELL PARKER/MV 9-7-17 [[30](#)]
FRANK SAMPLES/Atty. for dbt.
RESPONSIVE PLEADING

TENTATIVE RULING: This matter will proceed as a scheduling conference.

DISPOSITION: No disposition at this time.

ORDER: The court will issue an order after the hearing.

The hearing on this motion will be called as scheduled and will proceed as a scheduling conference.

This matter is now deemed to be a contested matter. Pursuant to Federal Rule of Bankruptcy Procedure 9014(c), the federal rules of discovery apply to contested matters. The parties shall be prepared for the court to set an early evidentiary hearing.

Based on the record, the factual issues appear to include:

Whether debtors acted with bad faith in amending their exemptions or prejudice would result?

Whether debtors acted or failed to act in a manner supporting the Trustee's claim of equitable estoppel?

The legal issues appear to include:

Whether Federal Rules of Bankruptcy Procedure 1009 authorizes claims of exemption amendments as a matter of right in closed, then reopened, bankruptcy cases. *Parker v. Smith (In re Smith)*, 2017 Bankr. LEXIS 1119, 2017 WL 1457942.

Whether judicial estoppel is a basis for objecting to exemptions in 9th Circuit bankruptcy courts?

10. [16-12581](#)-B-7 JUAN/MARIA MARTINEZ
[JCW](#)-1
U.S. BANK NATIONAL
ASSOCIATION/MV
ROBERT WILLIAMS/Atty. for dbt.
JENNIFER WONG/Atty. for mv.

MOTION FOR RELIEF FROM
AUTOMATIC STAY
9-18-17 [[69](#)]

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 court will issue an order.

This motion was filed and served pursuant to 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.

11. [16-12581](#)-B-7 JUAN/MARIA MARTINEZ
[RSW](#)-2
JUAN MARTINEZ/MV
ROBERT WILLIAMS/Atty. for dbt.

MOTION TO COMPEL ABANDONMENT
9-20-17 [[75](#)]

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Granted conditioned upon payment of required filing fee.

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

This motion was filed and served pursuant to 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 Chapter 7 Trustee has filed a non-opposition in this matter. The court will issue an order if a further hearing is necessary. The filing fee must be paid before the order will be signed.

12. [13-11982](#)-B-7 CHARLES/ANDREIA CUEVAS MOTION TO AVOID LIEN OF UNIFUND
[TGE-2](#) CCR PARTNERS
CHARLES CUEVAS/MV 8-18-17 [[32](#)]
GARY HOOD/Atty. for dbt.

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). 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. [17-11586](#)-B-7 SANDER SHULMAN MOTION TO AVOID LIEN OF
[PK-1](#) DISCOVER BANK
SANDER SHULMAN/MV 8-28-17 [[24](#)]
PATRICK KAVANAGH/Atty. for dbt.

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. This matter appears to be superseded by calendar no. 14 (DC# PK-3).

14. [17-11586](#)-B-7 SANDER SHULMAN
PK-[3](#)
SANDER SHULMAN/MV
PATRICK KAVANAGH/Atty. for dbt.

MOTION TO AVOID LIEN OF
DISCOVER BANK
8-28-17 [[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 debtors are entitled to avoid this lien that impairs an exemption to which they would otherwise have been entitled.

15. [17-13289](#)-B-7 FELTON/DEVORA BROOKTER
[JRL](#)-1
ABINAV HALEN/MV
JERRY LOWE/Atty. for mv.

MOTION FOR RELIEF FROM
AUTOMATIC STAY
9-21-17 [[18](#)]

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 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 debtor's and the trustee's defaults and enter the following ruling granting the motion for relief from stay under 362(d)(2). Relief under (d)(4) will be denied. Such relief is only available to secured creditors, and the record shows that movant is the debtor's landlord.

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.

If opposition is presented at the hearing, the court will consider the opposition and whether further hearing is proper pursuant to LBR 9014-1(f)(2). The court will issue an order if a further hearing is necessary.

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

The waiver of Federal Rule of Bankruptcy Procedure 4001(a)(3) will be granted.

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. [17-13094](#)-B-7 PRECIOUS LEWIS
PK-1
KYMBERLY WILLIAMS-EVANS/MV
PATRICK KAVANAGH/Atty. for mv.

MOTION FOR RELIEF FROM
AUTOMATIC STAY
9-6-17 [[16](#)]

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 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 under 362(d) (2) .

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 waiver of Federal Rule of Bankruptcy Procedure 4001(a) (3) will be granted.

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

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) .

11:00 A.M.

1. [17-11827](#)-B-7 AMARJEET SINGH AND REAFFIRMATION AGREEMENT WITH
AMANDEEP SIDHU AMERICAN HONDA FINANCE CORP.
8-1-17 [[13](#)]

D. GARDNER/Atty. for dbt.

FINAL RULING There will be no hearing on this matter.

DISPOSITION: Dropped from calendar

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

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

The agreement relates to a lease of personal property. The parties are directed to the provisions of 11 U.S.C. § 365(p)(2). This case was filed May 10, 2017, and the lease was not assumed by the chapter 7 trustee within 60 days, 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.

2. [17-12850](#)-B-7 NANCY WEBER PRO SE REAFFIRMATION AGREEMENT
WITH WESTAMERICA BANK
8-28-17 [[12](#)]

STEVEN STANLEY/Atty. for dbt.

FINAL RULING There will be no hearing on this matter.

DISPOSITION: Dropped from calendar.

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

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

1:30 P.M.

1. [15-13444](#)-B-7 TRAVIS/AMBER BREWER MOTION BY LEONARD K. WELSH TO
[15-1151](#) LKW-2 WITHDRAW AS ATTORNEY
BJORNEBOE V. BREWER 8-22-17 [[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. 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. [16-10687](#)-B-13 HEATHER LEMACONTINUED STATUS
[17-1040](#) CONFERENCE RE:
LEMA V. JP MORGAN CHASE BANK COMPLAINT
ET AL 4-5-17 [[1](#)]
D. GARDNER/Atty. for pl.
DISMISSED, CLOSED

FINAL RULING There will be no hearing on this matter.

DISPOSITION: Vacated.

ORDER: No appearance is necessary.

An order dismissing this adversary proceeding has already been issued and the proceeding has been closed.

3. [17-10393](#)-B-7 JAMETTE BELL

STATUS CONFERENCE RE:

COMPLAINT

5-18-17 [[1](#)]

[17-1049](#)

BELL V. NTAR ENTERPRISES

JAMETTE BELL/Atty. for pl.

FINAL RULING

There will be no hearing on this matter.

DISPOSITION:

Vacated.

ORDER:

No appearance is necessary. The court will issue an order to show cause.

The record does not show that the summons and complaint were served in compliance with Federal Rules of Bankruptcy Procedure 7004(b) & (e). The court has issued an order to show cause why the case should not be dismissed. The show cause hearing is scheduled for November 9, 2017 at 1:30 p.m. at 510 19th Street, Bakersfield, California. If no timely opposition is filed by October 26, 2017, the adversary proceeding will be dismissed without hearing on November 9, 2017.