

UNITED STATES BANKRUPTCY COURT
Eastern District of California
Honorable W. Richard Lee
Hearing Date: Wednesday, October 8, 2014
Place: Department B – Courtroom #12
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 a civil minute 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.

9:00 A.M.

- | | | | |
|----|--------------------------------------|-----------------------|--|
| 1. | <u>09-17721</u> -B-7 | JAMES/JUDITH SACCHERI | APPLICATION FOR ORDER TO APPEAR |
| | <u>09-1273</u> | | FOR EXAMINATION AND ORDER TO |
| | ST. LAWRENCE VALLEY DAIRY V. | | APPEAR FOR EXAMINATION |
| | SACCHERI ET AL | | 8-25-14 [<u>273</u>] |
| 2. | <u>14-10770</u> -B-7 | LENAI MULL | CONTINUED STATUS CONFERENCE RE: |
| | <u>14-1055</u> | | AMENDED COMPLAINT |
| | BOARD OF DIRECTORS OF MOTION | | 7-29-14 [<u>15</u>] |
| | PICTURE INDUSTRY HEAL V. MULL | | |
| | SALLY FRONTMAN/Atty. for pl. | | |
| | PROCEEDING DISMISSED 9/25/14 | | |

This matter will be dropped from calendar without a disposition. The adversary proceeding has already been dismissed. No appearance is necessary.

3. [14-10770](#)-B-7 LENAI MULL MOTION TO DISMISS ADVERSARY
[14-1055](#) DRJ-2 PROCEEDING/NOTICE OF REMOVAL
 BOARD OF DIRECTORS OF MOTION 9-10-14 [[25](#)]
 PICTURE INDUSTRY HEAL V. MULL
 DAVID JENKINS/Atty. for mv.
 PROCEEDING DISMISSED 9/25/14

This matter will be dropped from calendar without a disposition. The adversary proceeding has already been dismissed. No appearance is necessary.

10:00 A.M.

1. 14-14000-B-7 JAMES/ROSE CASTILLO
JAMES CASTILLO/MV
TIMOTHY SPRINGER/Atty. for dbt.
JAMES CASTILLO/Atty. for mv.

AMENDED MOTION TO AVOID LIEN OF
CALVARY INVESTMENT., MOTION TO
AVOID LIEN OF FIRESIDE BANK
9-8-14 [21]

The motion will be denied without prejudice. The motion was filed using forms approved for use in the Central District of California. Also, the moving papers do not include an appropriate docket control number as required by Local Rule 9014-1(c).

In addition, there are the following defects:

The proof of service fails to comply with Local Rule 9014-1(e) (3);

The form and/or content of the notice do not comply with Local Rule 9014-1(d);

The motion was filed without admissible supporting evidence as required by Local Rule 9014-1(d) (6).

Finally, The record does not establish that the motion was served on the named respondent in compliance with Federal Rule of Bankruptcy Procedure 7004(b) (1) (service on an individual), 7004(b) (3) (corporation, partnership or unincorporated association) or 7004(h) (FDIC Insured Depository Institution). *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/>. For a directory of FDIC Insured Institutions, see <http://www3.fdic.gov/idas/main.asp>. 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.

2. 01-10110-B-7 PACESETTER INDUSTRIES,
TMT-2 INC.
EZRA GOLDMAN/MV
HILTON RYDER/Atty. for dbt.

MOTION FOR COMPENSATION BY THE
LAW OFFICE OF EZRA N. GOLDMAN
SPECIAL COUNSEL(S).
8-27-14 [312]

This matter was fully noticed in compliance with the Local Rules and there is no opposition. Accordingly, the respondent's default will be entered and the motion will be granted without oral argument for cause shown. The moving party shall submit a proposed order. No appearance is necessary.

3. [12-15129](#)-B-7 KRISTAL/ROBERT WILLIAMS
PLF-2
ROBERT HAWKINS/MV
MOTION TO COMPROMISE
CONTROVERSY/APPROVE SETTLEMENT
AGREEMENT WITH JOSE MARTINEZ
AND FIDELITY NATIONAL TITLE
COMPANY
8-28-14 [[114](#)]

SUSAN HEMB/Atty. for dbt.
GABRIEL WADDELL/Atty. for mv.

This matter was fully noticed in compliance with the Local Rules and there is no opposition. Accordingly, the respondent's default will be entered and the motion will be granted without oral argument for cause shown. The moving party shall submit a proposed order. No appearance is necessary.

4. [14-13834](#)-B-7 FARID/IRMA CASTANEDA
JES-1
OPPOSITION RE: TRUSTEE'S MOTION
TO DISMISS FOR FAILURE TO
APPEAR AT SEC. 341 (A) MEETING
OF CREDITORS
9-2-14 [[11](#)]

RANDY RISNER/Atty. for dbt.
5. [13-17341](#)-B-7 HOWARD SAGASER
LRP-3
PETER CASTLEMAN/MV
HAGOP BEDOYAN/Atty. for dbt.
CARL GRUMER/Atty. for mv.
MOTION TO EXTEND TIME TO OBJECT
TO PROPERTY CLAIMED AS EXEMPT
9-23-14 [[452](#)]
6. [13-11642](#)-B-7 MERCED MILLING COMPANY,
TGM-4 LLC
MOTION FOR COMPENSATION FOR
TRUDI G. MANFREDO, TRUSTEE'S
ATTORNEY(S) .
8-22-14 [[91](#)]

THOMAS ARMSTRONG/Atty. for dbt.

This motion will be continued to November 13, 2014, at 10:00 a.m. for supplemental evidence. The applicant was employed to serve as the chapter 7 trustee's attorney. The trustee has not yet filed her/his final report. Based on the evidence presented in support of the motion, the court cannot tell if the applicant's services are concluded and cannot evaluate the necessity, reasonableness, and benefit of the applicant's services. No appearance is necessary.

7. [12-15547](#)-B-7 DONNA DAVIS
RH-5
JAMES SALVEN/MV
CONTINUED MOTION TO COMPROMISE
CONTROVERSY/APPROVE SETTLEMENT
AGREEMENT WITH DONNA MARIE
DAVIS
8-1-14 [[125](#)]

GARY HUSS/Atty. for dbt.
ROBERT HAWKINS/Atty. for mv.

8. [12-15548](#)-B-7 EVERETT DAVIS CONTINUED MOTION TO COMPROMISE
RH-5 CONTROVERSY/APPROVE SETTLEMENT
JAMES SALVEN/MV AGREEMENT WITH THE RONDAVIS
IRREVOCABLE TRUST, THE JAM
IRREVOCABLE TRUST, THE
FROSTYWHITE IRREVOCABLE TRUST,
EVERETT LEROY DAVIS, DONNA
MARIE DAVIS, AND ANDREA JEAN
GONZALES
GARY HUSS/Atty. for dbt. 8-1-14 [[117](#)]
ROBERT HAWKINS/Atty. for mv.

9. [14-12154](#)-B-7 DEL/LESLIE BARTON MOTION TO SELL
JES-2 9-9-14 [[32](#)]
JAMES SALVEN/MV
ALFRED GALLEGOS/Atty. for dbt.

This matter was fully noticed in compliance with the Local Rules and there is no opposition. Accordingly, the respondent's default will be entered and the motion will be granted without oral argument for cause shown. The moving party shall submit a proposed order. No appearance is necessary.

10. [13-16155](#)-B-7 MICHAEL WEILERT AND MOTION TO SELL
PLF-6 GENEVIEVE DE MONTREMARE 9-17-14 [[194](#)]
JAMES SALVEN/MV
RILEY WALTER/Atty. for dbt.
PETER FEAR/Atty. for mv.

11. [14-13158](#)-B-7 MICHAEL/DEBRA EWING MOTION TO SELL
TMT-1 9-3-14 [[29](#)]
TRUDI MANFREDO/MV
RILEY WALTER/Atty. for dbt.
TRUDI MANFREDO/Atty. for mv.

This matter was fully noticed in compliance with the Local Rules and there is no opposition. Accordingly, the respondent's default will be entered and the motion will be granted without oral argument for cause shown. The moving party shall submit a proposed order. No appearance is necessary.

12. [13-13365](#)-B-7 JACOB MATHEW OBJECTION TO CLAIM OF BREWE
TGM-3 LAYMAN, ATTORNEYS AT LAW, CLAIM
SHERYL STRAIN/MV NUMBER 7
8-25-14 [[40](#)]
PETER BUNTING/Atty. for dbt.
TRUDI MANFREDO/Atty. for mv.
WITHDRAWN

The trustee's objection has been withdrawn. No appearance is necessary.

13. [14-10770](#)-B-7 LENAI MULL
MOTION PICTURE INDUSTRY HEALTH
PLAN/MV
DAVID JENKINS/Atty. for dbt.
KATHRYN HALFORD/Atty. for mv.
RESPONSIVE PLEADING
OBJECTION TO DEBTOR'S CLAIM OF
EXEMPTIONS
4-18-14 [[20](#)]
14. [13-15878](#)-B-7 WILLIAM/SHIRLEY
TGM-3 ARMBRUSTER
SHERYL STRAIN/MV
HAGOP BEDOYAN/Atty. for dbt.
TRUDI MANFREDO/Atty. for mv.
MOTION TO SELL
8-11-14 [[46](#)]
15. [13-17082](#)-B-7 RONALD RUSHING
SL-1
RONALD RUSHING/MV
SCOTT LYONS/Atty. for dbt.
OBJECTION TO CLAIM OF JULIEN
OIL COMPANY, CLAIM NUMBER 3
8-27-14 [[149](#)]

This matter has been rescheduled, by stipulation and order, to October 22, 2014, at 10:00 a.m. No appearance is necessary.

16. [13-17082](#)-B-7 RONALD RUSHING
SL-2
RONALD RUSHING/MV
SCOTT LYONS/Atty. for dbt.
OBJECTION TO CLAIM OF DEE
GILLEN, CLAIM NUMBER 4
8-26-14 [[137](#)]

The objection will be sustained in part and overruled in part. The court finds no basis for treatment of this as a priority claim. However, based on the "Agreement for Dissolution of Partnership" attached to the proof of claim, it appears that the debtor made a written contract with the respondent to pay the Jeep loan in full, and the respondent appears to have a timely general unsecured claim for breach of that contract. The court intends to rule that Claim # 4 is deemed to be a timely filed non-priority general unsecured claim. The court will enter a civil minute order. No appearance is necessary.

17. [13-17082](#)-B-7 RONALD RUSHING
SL-3
RONALD RUSHING/MV
SCOTT LYONS/Atty. for dbt.
WITHDRAWN, RESPONSIVE
PLEADING
OBJECTION TO CLAIM OF ALTAONE
FEDERAL CREDIT UNION, CLAIM
NUMBER 10
8-26-14 [[143](#)]

The objection has been withdrawn. No appearance is necessary.

18. [14-13782](#)-B-7 MICHAEL/DENAE WILLIS CONTINUED OBJECTION TO DEBTOR'S
JES-1 CLAIM OF EXEMPTIONS
JAMES SALVEN/MV 8-28-14 [[11](#)]
19. [14-12988](#)-B-7 MARGARET CASTILLO OBJECTION TO DEBTOR'S CLAIM OF
JES-1 EXEMPTIONS
JAMES SALVEN/MV 9-2-14 [[42](#)]
PETER BUNTING/Atty. for dbt.

The objection will be overruled. The debtor has filed an amended exemption schedule that appears to resolve the problem stated in the trustee's objection. No appearance is necessary.

20. [11-18591](#)-B-7 ROY/RUTH VERA CHAPTER 7 TRUSTEE'S FINAL
REPORT, APPLICATION FOR
COMPENSATION AND APPLICATIONS
FOR COMPENSATION OF
PROFESSIONALS FILED ON BEHALF
OF TRUSTEE JAMES EDWARD SALVEN
4-18-14 [[51](#)]

PETER BUNTING/Atty. for dbt.
CARL COLLINS/Atty. for mv.
RESPONSIVE PLEADING
21. [10-13093](#)-B-7 FERNANDO/VERA LUPIAN MOTION FOR COMPENSATION FOR
JTW-2 JANZEN, TAMBERI AND WONG,
CHRISTOPHER RATZLAFF/MV ACCOUNTANT(S).
9-4-14 [[85](#)]

PHILIP BIANCO/Atty. for dbt.

This matter was fully noticed in compliance with the Local Rules and there is no opposition. Accordingly, the respondent's default will be entered and the motion will be granted without oral argument for cause shown. The moving party shall submit a proposed order. No appearance is necessary.

22. [14-11495](#)-B-7 JANIS SCHMIDT MOTION TO EXTEND DEADLINE TO
JES-1 FILE A COMPLAINT OBJECTING TO
JAMES SALVEN/MV DISCHARGE OF THE DEBTOR AND/OR
MOTION TO EXTEND DEADLINE TO
FILE A COMPLAINT OBJECTING TO
DISCHARGEABILITY OF A DEBT
9-2-14 [[22](#)]

This matter was fully noticed in compliance with the Local Rules and there is no opposition. Accordingly, the respondent's default will be entered and the motion will be granted without oral argument for cause shown. The moving party shall submit a proposed order. No appearance is necessary.

10:30 A.M.

1. [14-13915](#)-B-7 PAUL FRANKEL AND CONTINUED MOTION FOR RELIEF
NCK-1 ELIZABETH BEALONIS FROM AUTOMATIC STAY
LANE PROPERTY MANAGEMENT/MV 9-10-14 [[21](#)]
NOEL KNIGHT/Atty. for mv.

This motion will be denied without prejudice. Nothing has been filed in response to the court's civil minute order dated September 24, 2014. No appearance is necessary.

2. [14-14226](#)-B-7 CHRISTOPHER/ESTELLA MOTION FOR RELIEF FROM
SRH-1 ARZOLA AUTOMATIC STAY
BRUCE EVANS PROPERTY 9-23-14 [[18](#)]
MANAGEMENT, INC./MV
DAVID JENKINS/Atty. for dbt.
STEVEN HRDLICKA/Atty. for mv.

The motion has been withdrawn. No appearance is necessary.

3. [14-13632](#)-B-7 GUSTAVO/CAROLINA ALANIZ MOTION FOR RELIEF FROM
PPR-1 AUTOMATIC STAY
NATIONSTAR MORTGAGE, LLC/MV 9-5-14 [[15](#)]
GARY HOOD/Atty. for dbt.
HALIE LEONARD/Atty. for mv.

This motion for relief from stay was fully noticed in compliance with the Local Rules and there was no opposition. The motion will be granted without oral argument for cause shown. 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 Cal. Civil Code § 2923.5. If the notice and motion requested a waiver of Rule 4001(a)(3), that relief will be granted. *Unless the court expressly orders otherwise, the proposed order shall not include any other relief.* If the prayer for relief includes a request for adequate protection, and/or a request for an award of attorney fees, those requests will be denied without prejudice. Adequate protection is unnecessary in light of the relief granted herein. A motion for attorney fees pursuant to 11 U.S.C. § 506(b), or applicable nonbankruptcy law, must be separately noticed and separately briefed with appropriate legal authority and supporting documentation. No appearance is necessary.

4. [13-16233](#)-B-7 GERARDO/CARMEN LOPEZ
PD-1
WELLS FARGO BANK, N.A./MV
THOMAS GILLIS/Atty. for dbt.
JONATHAN CAHILL/Atty. for mv.
DISCHARGED

MOTION FOR RELIEF FROM
AUTOMATIC STAY
9-3-14 [[31](#)]

This motion for relief from stay was fully noticed in compliance with the Local Rules and there was no opposition. The motion will be denied as moot as to the debtor(s) 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 Cal. Civil Code § 2923.5. If the notice and motion requested a waiver of Rule 4001(a)(3), that relief will be granted. *Unless the court expressly orders otherwise, the proposed order shall not include any other relief.* If the prayer for relief includes a request for adequate protection, and/or a request for an award of attorney fees, those requests will be denied without prejudice. Adequate protection is unnecessary in light of the relief granted herein. A motion for attorney fees pursuant to 11 U.S.C. § 506(b), or applicable nonbankruptcy law, must be separately noticed and separately briefed with appropriate legal authority and supporting documentation. No appearance is necessary.

5. [14-14065](#)-B-7 FRANK/TERRI LOPEZ
APN-1
SANTANDER CONSUMER USA INC./MV
ERIC ESCAMILLA/Atty. for dbt.
AUSTIN NAGEL/Atty. for mv.

MOTION FOR RELIEF FROM
AUTOMATIC STAY
9-8-14 [[20](#)]

This motion for relief from stay was fully noticed in compliance with the Local Rules and there was no opposition. The motion will be granted without oral argument for cause shown. 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 Cal. Civil Code § 2923.5. If the notice and motion requested a waiver of Rule 4001(a)(3), that relief will be granted. *Unless the court expressly orders otherwise, the proposed order shall not include any other relief.* If the prayer for relief includes a request for adequate protection, and/or a request for an award of attorney fees, those requests will be denied without prejudice. Adequate protection is unnecessary in light of the relief granted herein. A motion for attorney fees pursuant to 11 U.S.C. § 506(b), or applicable nonbankruptcy law, must be separately noticed and separately briefed with appropriate legal authority and supporting documentation. No appearance is necessary.

6. [14-13068](#)-B-7 DONNA LONGACRE
BHT-1
OCWEN LOAN SERVICING, LLC/MV
MARK ZIMMERMAN/Atty. for dbt.
BRIAN TRAN/Atty. for mv.
RESPONSIVE PLEADING

MOTION FOR RELIEF FROM
AUTOMATIC STAY
9-8-14 [[15](#)]

This motion for relief from stay was fully noticed in compliance with the Local Rules and there was no opposition. The motion will be granted without oral argument for cause shown. 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 Cal. Civil Code § 2923.5. If the notice and motion requested a waiver of Rule 4001(a)(3), that relief will be granted. *Unless the court expressly orders otherwise, the proposed order shall not include any other relief.* If the prayer for relief includes a request for adequate protection, and/or a request for an award of attorney fees, those requests will be denied without prejudice. Adequate protection is unnecessary in light of the relief granted herein. A motion for attorney fees pursuant to 11 U.S.C. § 506(b), or applicable nonbankruptcy law, must be separately noticed and separately briefed with appropriate legal authority and supporting documentation. No appearance is necessary.

7. [14-13697](#)-B-7 RONALD LUND
APN-1
NISSAN MOTOR ACCEPTANCE
CORPORATION/MV
HILTON RYDER/Atty. for dbt.
AUSTIN NAGEL/Atty. for mv.

MOTION FOR RELIEF FROM
AUTOMATIC STAY
9-2-14 [[11](#)]

This motion for relief from the automatic stay will be denied as moot. The debtor(s) is (are) an individual(s). The record does not show that the personal property collateral for this secured claim was redeemed or surrendered within the applicable time set by § 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. Movant may submit an order denying the motion, and confirming that the automatic stay has already terminated on the grounds set forth above. No attorney fees will be awarded in relation to this motion. No appearance is necessary.

8. [14-13915](#)-B-7 PAUL FRANKEL AND
NCK-3 ELIZABETH BEALONIS
LANE PROPERTY MANAGEMENT/MV
NOEL KNIGHT/Atty. for mv.

MOTION FOR RELIEF FROM
AUTOMATIC STAY
10-3-14 [[42](#)]

This motion will be denied without prejudice. This motion was filed and noticed only five days before the scheduled hearing. Accordingly, the notice period does not meet the requirements of LBR 9014-1)f)(2).

In addition, the movant failed to file a separate relief from stay information sheet pursuant to Local Rule 4001-1(c).

Also, the motion was filed without admissible supporting evidence as required by Local Rule 9014-1(d)(6). No appearance is necessary.

11:00 A.M.

1. [14-14019](#)-B-7 MARGARET GEIS

REAFFIRMATION AGREEMENT WITH
FORD MOTOR CREDIT COMPANY
9-8-14 [[13](#)]

GARY HUSS/Atty. for dbt.

This hearing to review and approve a reaffirmation agreement will be dropped from calendar. No hearing or order is required. The form of the Reaffirmation Agreement complies with 11 U.S.C. §§ 524(c) and 524(k), and it was signed by the debtor(s)' attorney with the appropriate attestations. Pursuant to 11 U.S.C. § 524(d), the court need not approve the agreement. Debtor(s)' counsel shall notify the Debtor(s) that no appearance is necessary.

2. [14-12952](#)-B-7 IGNACIO ALCANTAR AND
MARCELA CEBALLOS

REAFFIRMATION AGREEMENT WITH TD
AUTO FINANCE LLC
9-4-14 [[17](#)]

THOMAS GILLIS/Atty. for dbt.

The court intends to deny approval of the reaffirmation agreement and the hearing will be dropped from calendar. Debtors were represented by counsel when they entered into the reaffirmation agreement. Pursuant to 11 U.S.C. § 524(c)(3), "if the debtor is represented by counsel, the agreement *must* be accompanied by an affidavit of the debtor(s) attorney attesting to the referenced items before the agreement will have legal effect." *In re Minardi*, 399 B.R. 841, 846 (Bankr. N.D. Ok, 2009) (emphasis in original). In this case, the debtor(s) 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. In addition, 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. No appearance is necessary.