

UNITED STATES BANKRUPTCY COURT
Eastern District of California
Honorable René Lastreto
Hearing Date: Thursday, December 1, 2016
Place: U.S. Courthouse, 510 19th Street
Bakersfield, 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. [16-12407](#)-B-13 KEVIN/NICCOLE LOUISE MOTION TO DISMISS CASE
 MHM-2 STONE 10-27-16 [[29](#)]
 MICHAEL MEYER/MV
 PHILLIP GILLET/Atty. for dbt.
 RESPONSIVE PLEADING

This matter will be continued to January 5, 2017, at 9:00 A.M. The court will enter a civil minute order. No appearance is necessary.

The debtors timely filed an objection to the trustee's motion to dismiss indicating the steps they have taken to resolve the trustee's issue with confirmation. The motion to dismiss will be moot if the debtors successfully file a motion for an order valuing the claim of the holder of a junior mortgage on their residence. Although the debtors have attempted to file such a motion, at calendar #2, DC# PWG-1, the court intends to deny that motion without prejudice for the reasons set forth there.

The court intends to grant the trustee's motion to dismiss at the continued hearing if the debtors have still been unable to file and properly serve the motion to value.

2. [16-12407](#)-B-13 KEVIN/NICCOLE LOUISE MOTION TO VALUE COLLATERAL OF
 PWG-1 STONE WELLS FARGO HOME MORTGAGE
 KEVIN STONE/MV 11-17-16 [[33](#)]
 PHILLIP GILLET/Atty. for dbt.

The motion will be denied without prejudice. The court will enter a civil minute order. No appearance is necessary.

The named respondent in the motion is Wells Fargo Home Mortgage A Division of Wells Fargo Bank, N.A. Based on the proof of claim filed August 22, 2016, the holder of this lien appears to be U.S. Bank National Association.

3. [16-13209](#)-B-13 WILLIAM/CAMILLA GARCIA
MHM-1
MICHAEL MEYER/MV

CONTINUED OBJECTION TO
CONFIRMATION OF PLAN BY MICHAEL
H. MEYER
10-11-16 [[16](#)]

WILLIAM OLCOTT/Atty. for dbt.

This motion was continued to provide an opportunity for the debtors to file a response and/or a modified plan. However, the debtors have failed to file either. Accordingly, this objection will be sustained pursuant to the court's civil minute order dated November 3, 2016. Confirmation of the plan will be denied. Unless the debtors appear and request a hearing and a different ruling with which the court agrees should be entered, a modified plan shall be confirmed by February 14, 2017 or the case will be dismissed on the chapter 13 trustee's *ex parte* application. The court will issue a civil minute order.

4. [15-14827](#)-B-13 BRIAN HOVEN
LKW-2

MOTION FOR COMPENSATION FOR
LEONARD K. WELSH, DEBTORS
ATTORNEY(S)
10-26-16 [[54](#)]

LEONARD WELSH/Atty. for dbt.

The motion will be granted without oral argument based upon well-pled facts. The moving party shall submit a proposed order. No appearance is necessary.

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

5. [16-13228](#)-B-13 BRIAN FREELAND
MHM-1
MICHAEL MEYER/MV
PHILLIP GILLET/Atty. for dbt.
RESPONSIVE PLEADING

MOTION TO DISMISS CASE
10-20-16 [[18](#)]

Unless it is withdrawn before the hearing, the trustee's motion to dismiss the case will proceed as scheduled. If the matter is not resolved at the hearing, the court intends to grant the trustee's motion and dismiss the case.

The trustee's motion was fully noticed and the debtor filed a timely opposition including a declaration by the debtor's attorney regarding resolution of one of the bases for the trustee's motion, the failure to produce documents. Based on the trustee's reply, documentation is still deficient. Dismissal is appropriate based on the debtor's failure to comply with his duties under §§ 521(a)(3), (4) and 1307(c)(1). The second basis for the trustee's motion, failure to appear at the §341 meeting of creditors, appears to be moot in that the record shows the debtor appeared at his continued §341.

6. [15-10233](#)-B-13 PEDRO/ZENAIDA NAVEIRAS
LKW-5

MOTION FOR COMPENSATION FOR
LEONARD K. WELSH, DEBTORS
ATTORNEY(S)
11-9-16 [[181](#)]

LEONARD WELSH/Atty. for dbt.

This matter 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 inquire into the disposition of the retainer received by the prior attorney as disclosed in the Rights and Responsibilities filed January 26, 2015. No order for compensation has been entered in the case.

The court will issue a civil minute order after the hearing.

7. [16-13240](#)-B-13 EDWARD/SHARON RODGERS
WFM-1
CITIMORTGAGE, INC./MV

CONTINUED OBJECTION TO
CONFIRMATION OF PLAN BY
CITIMORTGAGE, INC
10-13-16 [[14](#)]

ROBERT WILLIAMS/Atty. for dbt.
WILLIAM MCDONALD/Atty. for mv.

This motion will be continued to January 5, 2017, at 9:00 a.m. The court will enter a civil minute order. No appearance is necessary.

This motion was continued to permit the objecting party to file a separate proof of service that complied with LBR 9014-1(e) (3). Although a separate proof of service was filed, the form of the proof of service does not comply with LBR 9014-1(d) (2) and needs to be amended (see Local Rules, Appendix II, EDC.002-901, Revised Guidelines for the Preparation of Documents (5)).

8. [16-13244](#)-B-13 PETE/ELENA ESPINOZA
RSW-1
PETE ESPINOZA/MV
ROBERT WILLIAMS/Atty. for dbt.

MOTION TO VALUE COLLATERAL OF
AMOS FINANCIAL LLC
11-2-16 [[14](#)]

The motion will be granted without oral argument based upon well-pled facts. The debtors shall submit a proposed order consistent with this ruling as set forth below. No appearance is necessary.

This motion to value the collateral for a consensual lien against real property was fully noticed in compliance with the Local Rules of Practice and there was 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.

Based on the evidence offered in support of the motion, the respondent's junior priority mortgage claim is found to be wholly unsecured and may be treated as a general unsecured claim in the chapter 13 plan. The debtors may proceed under state law to obtain a reconveyance of respondent's trust deed upon completion of the chapter 13 plan and entry of the discharge. If the chapter 13 plan has not been confirmed, then the order shall specifically state that it is not effective until confirmation of the plan.

9. [16-12966](#)-B-13 ALLISON SMITH
MHM-1
MICHAEL MEYER/MV
SUSAN SALEHI/Atty. for dbt.

MOTION TO DISMISS CASE
10-20-16 [[38](#)]

Unless the trustee's motion is withdrawn before the hearing, the motion will be granted without oral argument for cause shown. The court will issue a civil minute order. No appearance is necessary.

This matter was fully noticed in compliance with the Local Rules of Practice. A secured creditor has filed a joinder. No opposition to the trustee's motion has been filed. 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 the debtor has failed to provide the trustee with all of the documentation required by 11 U.S.C. §521(a)(3) & (4). Accordingly, the case will be dismissed.

Although not identified as a basis for the trustee's motion, the court notes that the debtor has not appeared for either her first nor her second §341 meeting of creditors.

10. [16-11473](#)-B-13 SHELBY/CAROL KING
LKW-3

MOTION FOR COMPENSATION FOR
LEONARD K. WELSH, DEBTORS
ATTORNEY(S)
11-10-16 [[82](#)]

LEONARD WELSH/Atty. for dbt.

This matter 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 a civil minute order re-scheduling the hearing if necessary.

11. [14-11878](#)-B-13 HOLLY DAVENPORT
RSW-3
HOLLY DAVENPORT/MV
ROBERT WILLIAMS/Atty. for dbt.

MOTION TO SELL AND/OR MOTION TO
INCUR DEBT
11-17-16 [[54](#)]

This matter 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 a civil minute order after the hearing.

The court notes that the debtor did not claim the subject automobile as exempt in either her initial nor her amended schedule C, and so the receipt of approximately \$5,000 may change the liquidation analysis. While the initial chapter 13 plan proposed a 100% distribution to the debtor's unsecured creditors, the modified plan confirmed June 4, 2015, provides for a 0% distribution.

12. [16-13487](#)-B-13 SHANIE MATEIRO
AGB-1
SHANIE MATEIRO/MV

MOTION TO VALUE COLLATERAL OF
DREAMBUILDER INVESTMENTS, LLC
AND/OR MOTION TO AVOID LIEN OF
DREAMBUILDER INVESTMENTS, LLC
10-27-16 [[19](#)]

AMANDA BILLYARD/Atty. for dbt.

The motion will be granted without oral argument based upon well-pled facts. The debtor shall submit a proposed order consistent with this ruling as set forth below. No appearance is necessary.

This motion to value the collateral for a consensual lien against real property was fully noticed in compliance with the Local Rules of Practice and there was 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.

Based on the evidence offered in support of the motion, the respondent's junior priority mortgage claim is found to be wholly unsecured and may be treated as a general unsecured claim in the chapter 13 plan. The debtor may proceed under state law to obtain a reconveyance of respondent's trust deed upon completion of the chapter 13 plan and entry of the discharge. If the chapter 13 plan has not been confirmed, then the order shall specifically state that it is not effective until confirmation of the plan.

This ruling is only binding on the named respondent in the moving papers and any successor who takes an interest in the property after service of the motion.

The court notes that it appears that the "Rights and Responsibilities" filed in this case on October 4, 2016, and the "Disclosure of Compensation for Attorney of Debtor(s)," show that the attorney agreed to accept \$3,000 for representation of the debtor in this case. In the Disclosure, the representation of the debtor purported to exclude, *inter alia*, lien avoidances pursuant to §522(f)(2)(A), and relief from stay actions. This exclusion is in violation of LBR 2017-1(a)(1):

"An attorney who is retained to represent a debtor in a bankruptcy case constitutes an appearance for all purposes in the case, including, without limitation, motions for relief from the automatic stay, motions to avoid liens, objections to claims, and reaffirmation agreements. However, an appearance in the bankruptcy case for a party does not require the attorney to appear for that party in an adversary proceeding."

Subsequently, on October 27, 2016, this motion to value the debtor's residence and avoid the lien of the junior lender was filed. On November 9, 2016, an amended Disclosure was filed that shows the initial payment of \$3,000 and a new amount due of \$1,000. The plan filed in this case, on October 4, 2016, purports to show that the attorney will be paid pursuant to LBR 2016-1(c), the "no-look" fee, but includes the language that, "[s]ubject to prior court approval, additional fees of \$1,000 shall be paid through the plan." In any case, fees in addition to the initial fee cannot be paid until and unless the attorney brings a motion subject to LBR 2016-1(c)(3), complete with time records, for the court's review.

13. 16-13999-B-13 ESTEBAN ZAVALA
PK-2
ESTEBAN ZAVALA/MV
PATRICK KAVANAGH/Atty. for dbt.

CONTINUED MOTION TO EXTEND
AUTOMATIC STAY
11-10-16 [17]

This matter will proceed as scheduled.

9:30 A.M.

1. [16-13002](#)-B-12 WILLIAM/TRACY GREENLEE

CONTINUED STATUS CONFERENCE RE:
CHAPTER 12 VOLUNTARY PETITION
8-17-16 [[1](#)]

LEONARD WELSH/Atty. for dbt.

This matter will proceed as scheduled.

2. [15-14685](#)-B-11 B&L EQUIPMENT RENTALS,
INC.

CONTINUED STATUS CONFERENCE RE:
VOLUNTARY PETITION
11-30-15 [[1](#)]

LEONARD WELSH/Atty. for dbt.

This matter will proceed as scheduled.

3. [15-14685](#)-B-11 B&L EQUIPMENT RENTALS,
LKW-37 INC.

MOTION FOR COMPENSATION FOR
LEONARD K. WELSH, DEBTORS
ATTORNEY(S)
11-10-16 [[555](#)]

LEONARD WELSH/Atty. for dbt.

This matter 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 a civil minute order.

10:00 A.M.

1. [16-13706](#)-B-7 MELISSA WEGMAN
APN-1
BMW FINANCIAL SERVICES NA,
LLC/MV
WILLIAM OLCOTT/Atty. for dbt.
AUSTIN NAGEL/Atty. for mv.

MOTION FOR RELIEF FROM
AUTOMATIC STAY
11-4-16 [[10](#)]

This matter will proceed as scheduled. Unless opposition is presented at the hearing, the court intends to enter the debtor's default and grant the motion for relief from stay.

The automatic stay will be 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 movant shall submit a proposed order after hearing that specifically describes the property or action to which the order relates. If the notice and motion requested a waiver of Federal Rule of Bankruptcy Procedure 4001(a)(3), that relief will be granted.

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.

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).

2. [16-13411](#)-B-7 KIRK WALSH
AMM-1
NATIONSTAR MORTGAGE LLC/MV
ROBERT WILLIAMS/Atty. for dbt.
ANGIE MARTH/Atty. for mv.

MOTION FOR RELIEF FROM
AUTOMATIC STAY
10-23-16 [[13](#)]

The motion will be granted without oral argument for cause shown. Movant shall submit a proposed order as specified below. No appearance is necessary.

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 default 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 to the extent that it applies. A waiver of Federal Rule of Bankruptcy Procedure 4001(a)(3) will not be granted.

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.

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. [10-15127](#)-B-7 NORMA BAKER
NORMA BAKER/MV
WILLIAM EDWARDS/Atty. for dbt.

MOTION TO AVOID LIEN OF CAPITAL
ONE
11-14-16 [[33](#)]

The motion will be denied without prejudice. The court will issue a civil minute order. No appearance is necessary.

There are many deficiencies in this and the other motions to avoid liens. First, the record does not establish that the motion was served on the named respondent in compliance Federal Rule of Bankruptcy Procedure 7004(b)(3) (corporation, partnership or unincorporated association). *In re Villar*, 317 B.R. 88 (9th Cir. BAP 2004). The address at which respondent was served was not included in the proof of service. 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.

In addition, the motion was filed without admissible supporting evidence as required by LBR 9014-1(d)(7). There is no evidence that the lien impairs an exemption to which the debtor would otherwise be entitled. Also the motion did not include a copy of the subject abstract of judgment or other evidence to show that the judgment lien is related to a debt owed by the debtor and that the debtor possessed an interest in the subject property to which the judgment lien could have attached at the time the judgment lien was recorded. *Farrey v. Sanderfoot*, 111 S.Ct. 667 (1991).

Also, the form of the proof of service does not comply with LBR 9014-1

Finally, the moving papers do not include an appropriate docket control number as required by LBR 9014-1(c).

The movant is advised to review the Local Rules of Bankruptcy Practice for the Eastern District of California prior to refiling these motions.

4. [10-15127](#)-B-7 NORMA BAKER
NORMA BAKER/MV
WILLIAM EDWARDS/Atty. for dbt.

MOTION TO AVOID LIEN OF
HFC/HSBC
11-14-16 [[36](#)]

The motion will be denied without prejudice. The court will issue a civil minute order. No appearance is necessary.

There are many deficiencies in this and the other motions to avoid liens. First, the record does not establish that the motion was served on the named respondent in compliance Federal Rule of Bankruptcy Procedure 7004(b)(3) (corporation, partnership or unincorporated association). *In re Villar*, 317 B.R. 88 (9th Cir. BAP 2004). The address at which respondent was served was not included in the proof of service. 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.

In addition, the motion was filed without admissible supporting evidence as required by LBR 9014-1(d)(7). There is no evidence that the lien impairs an exemption to which the debtor would otherwise be entitled. Also the motion did not include a copy of the subject abstract of judgment or other evidence to show that the judgment lien is related to a debt owed by the debtor and that the debtor possessed an interest in the subject property to which the judgment lien could have attached at the time the judgment lien was recorded. *Farrey v. Sanderfoot*, 111 S.Ct. 667 (1991).

Also, the form of the proof of service does not comply with LBR 9014-1

Finally, the moving papers do not include an appropriate docket control number as required by LBR 9014-1(c).

The movant is advised to review the Local Rules of Bankruptcy Practice for the Eastern District of California prior to refiling these motions.

5. [10-15127](#)-B-7 NORMA BAKER
NORMA BAKER/MV
WILLIAM EDWARDS/Atty. for dbt.

MOTION TO AVOID LIEN OF CAPITAL
ONE
11-14-16 [[39](#)]

The motion will be denied without prejudice. The court will issue a civil minute order. No appearance is necessary.

There are many deficiencies in this and the other motions to avoid liens. First, the record does not establish that the motion was served on the named respondent in compliance Federal Rule of Bankruptcy Procedure 7004(b)(3) (corporation, partnership or unincorporated association). *In re Villar*, 317 B.R. 88 (9th Cir. BAP 2004). The address at which respondent was served was not included in the proof of service. 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.

In addition, the motion was filed without admissible supporting evidence as required by LBR 9014-1(d)(7). There is no evidence that the lien impairs an exemption to which the debtor would otherwise be entitled. Also the motion did not include a copy of the subject abstract of judgment or other evidence to show that the judgment lien is related to a debt owed by the debtor and that the debtor possessed an interest in the subject property to which the judgment lien could have attached at the time the judgment lien was recorded. *Farrey v. Sanderfoot*, 111 S.Ct. 667 (1991).

Also, the form of the proof of service does not comply with LBR 9014-1

Finally, the moving papers do not include an appropriate docket control number as required by LBR 9014-1(c).

The movant is advised to review the Local Rules of Bankruptcy Practice for the Eastern District of California prior to refiling these motions.

6. [16-13627](#)-B-7 RUDOLFO/VICTORIA
SW-1 VALENZUELA
ALLY BANK/MV
R. BELL/Atty. for dbt.
ADAM BARASCH/Atty. for mv.

MOTION FOR RELIEF FROM
AUTOMATIC STAY
10-20-16 [[11](#)]

The motion will be granted without oral argument for cause shown. Movant shall submit a proposed order as specified below. No appearance is necessary.

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 default 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 court notes that the vehicle that is the subject of this motion is in the movant's possession. If the notice and motion requested a waiver of Federal Rule of Bankruptcy Procedure 4001(a)(3), that relief will be granted.

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.

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).

7. [16-13355](#)-B-7 DARLENE ALLEN
APN-2
SANTANDER CONSUMER USA INC./MV
ROBERT WILLIAMS/Atty. for dbt.
AUSTIN NAGEL/Atty. for mv.

MOTION FOR RELIEF FROM
AUTOMATIC STAY
10-19-16 [[16](#)]

The motion will be granted without oral argument for cause shown. Movant shall submit a proposed order as specified below. No appearance is necessary.

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 default 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 court notes that the evidence shows that insurance is not being maintained on the collateral. If the notice and motion requested a waiver of Federal Rule of Bankruptcy Procedure 4001(a)(3), that relief will be granted.

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.

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

8. [16-13857](#)-B-7 BENTURA JIMENEZ
SL-1
BENTURA JIMENEZ/MV
SCOTT LYONS/Atty. for dbt.

CONTINUED MOTION TO COMPEL
ABANDONMENT
10-28-16 [[9](#)]

This matter was noticed as a preliminary hearing and was continued to allow the time to object to the debtor's amended schedule of exemptions to run. No such objection to the amended exemptions having been filed, and no objection to this motion to compel having been filed, the motion will be granted. The debtor shall submit a proposed order that lists each item abandoned. No appearance is necessary.

9. [16-13259](#)-B-7 ANTOINETTE SALAZAR
APN-1
SANTANDER CONSUMER USA INC./MV
NEIL SCHWARTZ/Atty. for dbt.
AUSTIN NAGEL/Atty. for mv.

MOTION FOR RELIEF FROM
AUTOMATIC STAY
10-19-16 [[9](#)]

The motion will be granted without oral argument for cause shown. Movant shall submit a proposed order as specified below. No appearance is necessary.

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 default 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 court notes that the evidence shows that insurance is not being maintained on the collateral. If the notice and motion requested a waiver of Federal Rule of Bankruptcy Procedure 4001(a)(3), that relief will be granted.

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.

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. [16-13285](#)-B-7 PAUL COOPER
NLG-1
AMERICAN INTERNET MORTGAGE,
INC./MV
ASHTON DUNN/Atty. for dbt.
NICHOLE GLOWIN/Atty. for mv.

MOTION FOR RELIEF FROM
AUTOMATIC STAY
10-11-16 [[11](#)]

The motion will be granted without oral argument for cause shown. Movant shall submit a proposed order as specified below. No appearance is necessary.

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 default 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 to the extent that it applies. A waiver of Federal Rule of Bankruptcy Procedure 4001(a)(3) will not be granted.

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.

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. [16-13075](#)-B-7 NOE GONZALEZ

REAFFIRMATION AGREEMENT WITH
TOYOTA MOTOR CREDIT CORPORATION
10-25-16 [[14](#)]

WILLIAM OLCOTT/Atty. for dbt.

Approval of the Reaffirmation Agreement will be denied. 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 debtor's attorney executed the agreement, the attorney could not affirm that, (a) the agreement was not a hardship and, (b) the debtor would be able to make the payments.

The reaffirmation agreement was filed with a Part D: Debtor's Statement in Support of Reaffirmation Agreement showing a negative net income in the amount of -\$876.89, with the notation that, "Creditor payment included in Schedule J." This is true, and schedule J also shows a net negative income of -\$876.89.

2. [16-13075](#)-B-7 NOE GONZALEZ

REAFFIRMATION AGREEMENT WITH
TOYOTA MOTOR CREDIT CORPORATION
10-25-16 [[15](#)]

WILLIAM OLCOTT/Atty. for dbt.

Approval of the Reaffirmation Agreement will be denied. 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 debtor's attorney executed the agreement, the attorney could not affirm that, (a) the agreement was not a hardship and, (b) the debtor would be able to make the payments.

The reaffirmation agreement was filed with a Part D: Debtor's Statement in Support of Reaffirmation Agreement showing a negative net income in the amount of -\$876.89, with the notation that, "Creditor payment included in Schedule J." This is true, and schedule J also shows a net negative income of -\$876.89.