

UNITED STATES BANKRUPTCY COURT  
Eastern District of California  
Honorable René Lastreto II  
Hearing Date: Tuesday December 5 2017  
Place: Department B - Courtroom #13  
Fresno, California

**INSTRUCTIONS FOR PRE-HEARING DISPOSITIONS**

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

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

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

**Final Ruling:** Unless otherwise ordered, there will be no hearing on these matters. The final disposition of the matter is set forth in the ruling and it will appear in the minutes. The final ruling may or may not finally adjudicate the matter. If it is finally adjudicated, the minutes constitute the court's findings and conclusions. If the parties stipulate to continue the hearing on the matter or agree to resolve the matter in a way inconsistent with the final ruling, then the court will consider vacating the final ruling only if the moving party notifies chambers before 4:00 p.m. (Pacific time) 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. (Pacific time) one business day before the hearing.

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

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

**9:30 AM**

1. [12-16409](#)-B-7     **IN RE: AURELIO RODRIGUEZ**  
[IER-2](#)

AMENDED MOTION TO AVOID LIEN OF BANK OF STOCKTON  
11-14-2017 [[27](#)]

AURELIO RODRIGUEZ/MV  
ISMAEL RODRIGUEZ

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

DISPOSITION:     Denied.

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

The record does not establish that the motion was served on the named respondent in compliance with Federal Rule of Bankruptcy Procedure 7004(h). *In re Villar*, 317 B.R. 88 (9th Cir. BAP 2004). For a directory of FDIC Insured Institutions, see <https://research.fdic.gov/bankfind/>. 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. [15-14225](#)-B-7     **IN RE: LETICIA CAMACHO**  
[TGM-2](#)

MOTION TO RATIFY COMPROMISE BETWEEN DEBTOR AND ERMA RADTKE  
11-3-2017 [[83](#)]

GLEN GATES

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.

3. [15-14225](#)-B-7     **IN RE: LETICIA CAMACHO**  
[TGM-3](#)

MOTION TO COMPROMISE CONTROVERSY/APPROVE SETTLEMENT  
AGREEMENT WITH OSCAR GUTIERREZ  
11-3-2017 [\[88\]](#)

PETER FEAR/MV  
GLEN GATES  
TRUDI MANFREDO/ATTY. FOR MV.

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

DISPOSITION:     Granted.

ORDER:     No appearance is necessary. The Moving Party shall submit a proposed order in conformance with the ruling below.

This matter was fully noticed in compliance with the Local Rules of Practice and there is no opposition. 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 moving papers that the trustee has considered the standards of *In re Woodson*, 839 F.2d 610, 620 (9th Cir. 1987) and that the Debtor-in-Possession has considered the factors in, *In re A & C Properties*, 784 F.2d 1377, 1381 (9th Cir. 1986):

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

Accordingly, it appears that the the compromise pursuant to FRBP 9019 is a reasonable exercise of the DIP's business judgment. The

order should be limited to the claims compromised as described in the motion.

4. [17-13434](#)-B-7      **IN RE: CARMEN PEREZ**

OPPOSITION RE: TRUSTEE'S MOTION TO DISMISS FOR FAILURE TO  
APPEAR AT SEC. 341(A) MEETING OF CREDITORS  
11-2-2017 [[13](#)]

ROSALINA NUNEZ  
MOTION WITHDRAWN

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

DISPOSITION:                    Dropped from calendar.

NO ORDER REQUIRED:          The movant withdrew the motion.

5. [16-14150](#)-B-7      **IN RE: MARSHALL LORIMOR**  
[JTW-2](#)

MOTION FOR COMPENSATION FOR JANZEN, TAMBERI AND WONG,  
ACCOUNTANT(S)  
11-3-2017 [[37](#)]

CHRISTOPHER RATZLAFF/MV  
JERRY LOWE

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.

This motion is denied for failure to comply with Local Bankruptcy Rule 9014-1(d)(3)(B)(iii). New Local Rules of Practice in the Eastern District became effective on September 26, 2017. In particular, Rule 9014-1(d)(3)(B), which is about noticing requirements, requires movants to notify respondents that they can determine whether the matter has been resolved without oral argument or if the court has issued a tentative ruling by checking the Court's website at [www.caeb.uscourts.gov](http://www.caeb.uscourts.gov) after 4:00 p.m. the day before the hearing.

MOTION TO EXTEND DEADLINE TO FILE A COMPLAINT OBJECTING TO  
DISCHARGE OF THE DEBTOR

11-7-2017 [[29](#)]

TRUDI MANFREDO/MV  
MARK ZIMMERMAN  
TRUDI MANFREDO/ATTY. FOR MV.

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

DISPOSITION:      Granted.

ORDER:              No appearance is necessary. The Moving Party shall  
submit a proposed order in conformance with the  
ruling below.

This matter was fully noticed in compliance with the Local Rules of Practice and there is no opposition. 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.

Pursuant to Federal Rules of Bankruptcy Procedure 4004(b)(1) and 4007(c), a court may extend the deadline to file a complaint objecting to discharge of the debtor "for cause." "To establish 'cause,' the moving party must (1) make an affirmative showing that he or she has, with reasonably diligence, attempted to investigate the facts and circumstances, and (2) offer a reasonable explanation of why that investigation could not be completed within the allotted time." *In re Bomarito*, 448 B.R. 242, 251 (Cal. E.D. Bankr. 2011). In her declaration, the trustee stated that the debtors have made false statements on their bankruptcy schedules and questionnaires, and failed to disclose certain personal assets worth approximately \$12,000.00. The trustee sent an agent to investigate and inventory the assets at the debtor's residence at an agreed upon time, but the gate was locked and there were several large dogs in the yard. The trustee instructed the agent to not enter, however the agent was able to enter and access the property approximately 3 days later. (*Declaration of Trudi G. Manfredo*, ¶¶4-8, docket #31). Because of this behavior, the trustee was concerned that she would not be able to adequately perform her duties to the estate and wishes to preserve her right to object to the debtors' discharge should those issues not be resolved.

The court believes that the trustee has met their burden to show "cause" and is therefore granting this motion. The deadline to file

a complain objecting to discharge of the debtor will be extended from November 27, 2017 to January 27, 2018.

7. [14-14593](#)-B-7      **IN RE: WAYNE HEAD**  
[TGM-13](#)

MOTION TO SELL  
11-7-2017 [[184](#)]

PETER FEAR/MV  
DAVID JENKINS  
TRUDI MANFREDO/ATTY. FOR MV.

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

DISPOSITION:                Granted.

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 chapter 7 trustee requests authority to sell "as is," "where is," without representations or warranties, subject to all encumbrances, for \$100,000.00, the estate's interest in a cabin at 83785 Presidents Lane, Kings Canyon National Park, CA to Thomas P. Alvin and Robert W. Diehl. The trustee asks for waiver of the 14-day period of Fed. R. Bankr. P. 6004(h).

After analyzing the liens and condition of the property, the trustee has concluded that the proposed purchase price accurately reflects the value of the estate's interest in the property. The debtors listed the property in their petition valued at \$78,000.00. The property is not subject to any lien.

11 U.S.C. § 363(b) allows the trustee to sell property of the estate, other than in the ordinary course of business. The sale will generate some proceeds for distribution to creditors of the estate. Hence, the sale will be approved pursuant to 11 U.S.C. § 363(b), as it is in the best interests of the creditors and the estate. The court will waive the 14-day period of Rule 6004(h).

8. [17-14298](#)-B-7      **IN RE: DAVID MORENO AND LISA SOTO**  
[RWR-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY  
11-16-2017 [[10](#)]

NOBLE FEDERAL CREDIT UNION/MV  
LAYNE HAYDEN  
RUSSELL REYNOLDS/ATTY. FOR MV.

TENTATIVE RULING:            This matter will proceed as scheduled.

DISPOSITION:                Granted.

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

The automatic stay is terminated as 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 uninsured and is a depreciating asset.

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

11:00 AM

1. [17-13586](#)-B-7      **IN RE: KRISTIE MARTINEZ**

CONTINUED REAFFIRMATION AGREEMENT WITH NOBLE CREDIT UNION  
10-4-2017 [[17](#)]

NO RULING.



1:30 PM

1. [17-10620](#)-B-7      **IN RE: REBEKAH CHERRY**  
[17-1054](#)

ORDER TO SHOW CAUSE REGARDING DISMISSAL OF ADVERSARY  
PROCEEDING  
11-1-2017 [[23](#)]

CHERRY V. NAVIENT (DEPT. OF  
EDUCATION) ET AL  
RESPONSIVE PLEADING

NO RULING.