

UNITED STATES BANKRUPTCY COURT
Eastern District of California
Honorable René Lastreto
Hearing Date: Wednesday, December 7, 2016
Place: Department B – Courtroom #13
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.

9:30 A.M.

1. [15-13503](#)-B-7 JANA RIPIPORTELLA
TGM-4

MOTION FOR COMPENSATION FOR
TRUDI G. MANFREDO, TRUSTEES
ATTORNEY(S)
10-25-16 [[66](#)]

EDWARD KERNS/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.

2. [14-11606](#)-B-7 GORDON/CYNTHIA SAITO
THA-1
GORDON SAITO/MV
THOMAS ARMSTRONG/Atty. for dbt.

CONTINUED MOTION TO AVOID LIEN
OF FIRST NATIONAL BANK OF OMAHA
10-3-16 [[57](#)]

This 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 continued to provide an opportunity for the debtors to submit evidence showing that they owned an interest in the exempted property at the time the lien sought to be avoided was filed. Such evidence now having been filed, and the motion having been fully noticed in compliance with the Local Rules of Practice without opposition, the respondents' defaults will be entered and the motion will be granted. 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.

3. [16-13306](#)-B-7 CURTIS/ROBERTA MOONEY
RHT-1
ROBERT HAWKINS/MV
CATARINA BENITEZ/Atty. for dbt.
ROBERT HAWKINS/Atty. for mv.

MOTION TO SELL
11-9-16 [[18](#)]

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. The proposed sale appears to be a reasonable exercise of the trustee's business judgment.

4. [16-11307](#)-B-7 JOSE/CRYSTAL TREVINO
NLL-1
U.S. BANK NATIONAL
ASSOCIATION/MV
TIMOTHY SPRINGER/Atty. for dbt.
NANCY LEE/Atty. for mv.
DISCHARGED

MOTION FOR RELIEF FROM
AUTOMATIC STAY
10-24-16 [[17](#)]

This motion for relief from stay was fully noticed in compliance with the Local Rules of Practice and there was no opposition. The motion will be denied as moot as to the debtors because their discharge has been entered. The motion will be granted for cause shown as to the chapter 7 trustee. No appearance 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 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.

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).

5. [16-14019](#)-B-7 MARCIANA RUIZ

MARCIANA RUIZ/MV

MARCIANA RUIZ/Atty. for mv.
RESPONSIVE PLEADING

MOTION FOR WAIVER OF THE
CHAPTER 7 FILING FEE OR OTHER
FEE
11-4-16 [[5](#)]

This matter will be denied as moot. Upon application of the debtor and order of the court entered December 1, 2016, an installment agreement has been approved. No appearance is necessary.

6. [15-12422](#)-B-7 SAMUEL/TOMASA BURGARA
RCO-1
WELLS FARGO BANK, N.A./MV

MARK ZIMMERMAN/Atty. for dbt.
BRETT RYAN/Atty. for mv.
DISCHARGED

MOTION FOR RELIEF FROM
AUTOMATIC STAY AND/OR MOTION
FOR ADEQUATE PROTECTION
10-28-16 [[32](#)]

This motion for relief from stay was fully noticed in compliance with the Local Rules of Practice and there was no opposition. The motion will be denied as moot as to the debtors because their discharge has been entered. The motion will be granted for cause shown as to the chapter 7 trustee. No appearance 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 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. 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. [15-11025](#)-B-7 LEE NESS
DWE-1
FREEDOM MORTGAGE
CORPORATION/MV
TIMOTHY SPRINGER/Atty. for dbt.
DANE EXNOWSKI/Atty. for mv.

MOTION FOR RELIEF FROM
AUTOMATIC STAY
11-4-16 [[53](#)]

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).

8. [15-13932](#)-B-7 VICTOR PASNICK
RHT-7
ROBERT HAWKINS/MV
PETER FEAR/Atty. for dbt.
ROBERT HAWKINS/Atty. for mv.
RESPONSIVE PLEADING

MOTION TO SELL AND/OR MOTION TO
PAY
11-4-16 [[95](#)]

This matter will proceed as scheduled.

The record shows that a secured creditor has filed a limited opposition. Unless other opposition to the sale is presented at the hearing, the court intends to enter the respondents' defaults and grant the motion subject to higher and better bids and to the provisions of the limited opposition. If other opposition is presented at the hearing, the court will consider that opposition and whether further hearing is proper pursuant to LBR 9014-1(f)(2). The court will issue a civil minute order if a further hearing is necessary.

9. [15-12834](#)-B-7 JOHN HARRIS
EAT-1
OCWEN LOAN SERVICING, LLC/MV
JERRY LOWE/Atty. for dbt.
DARLENE VIGIL/Atty. for mv.
DISCHARGED

MOTION FOR RELIEF FROM
AUTOMATIC STAY
11-4-16 [[61](#)]

This matter will be called as scheduled. Unless opposition is presented at the hearing, the court intends to enter the trustee's default and grant the motion for relief from stay for cause shown. The motion will be denied as moot as to the debtor because his discharge has been entered.

The movant shall submit a proposed order after hearing that specifically describes 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).

10. [16-13637](#)-B-7 ROBIN BERRY-BAULKMAN
APN-1
SANTANDER CONSUMER USA INC./MV
AUSTIN NAGEL/Atty. for mv.

MOTION FOR RELIEF FROM
AUTOMATIC STAY
11-7-16 [[14](#)]

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. It appears that vehicle is not insured. 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).

11. [15-12547](#)-B-7 DWAYNE/SHEILA WILSON
RSW-5
DWAYNE WILSON/MV
ROBERT WILLIAMS/Atty. for dbt.

MOTION TO AVOID LIEN OF ARTHUR
BELL
11-21-16 [[68](#)]

This motion will be continued to January 11, 2017, at 9:30 a.m, for the submission of evidence, in the form of a payment coupon or other reliable document, of the amount owed on the debtors' first deed of trust secured by the property to be protected. Such evidence shall be submitted on or before December 28, 2016. No appearance is necessary.

The declaration executed by the debtor under penalty of perjury shows that the debtors have \$19,738.34 in equity in their residence and have claimed an exemption under Cal.Code of Civ. Proc. §703.140(b)(5) in the amount of \$1.00. The lien the debtors seek to avoid is in the amount of \$10,283.83 and therefore entirely not avoidable. However, the debtors' schedule D, also executed under penalty of perjury, shows no equity available to satisfy this lien. It appears that the inconsistency is a result of two different figures listed for the amount owing on the first mortgage.

The court notes that the debtors have already claimed as exempt under §703.140(b)(5), in addition to \$1.00 for the homestead, property the value of which totals \$26,925.

12. [16-13948](#)-B-7 DON/ROBIN MATHEWS
MAZ-1
DON MATHEWS/MV
MARK ZIMMERMAN/Atty. for dbt.

MOTION TO COMPEL ABANDONMENT
11-9-16 [[13](#)]

The motion will be denied without prejudice. No appearance is necessary. The court will enter a civil minute order. The property the debtors want the trustee to abandon has not been disclosed in the debtors' schedule A/B nor has it been claimed as exempt. Moreover, the debtors have not listed any property exempt as business assets. While it appears the co-debtor is self-employed, as represented in the motion, the property the debtors wish to compel the trustee to abandon must be specifically and individually listed, valued, and claimed as exempt.

13. [16-12649](#)-B-7 DAE/KYONG PARK
TMT-4
TRUDI MANFREDO/MV
JAENAM COE/Atty. for dbt.
TRUDI MANFREDO/Atty. for mv.

MOTION TO SELL
11-1-16 [[56](#)]

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. It appears that the proposed sale is a reasonable exercise of the trustee's business judgment.

14. [16-12649](#)-B-7 DAE/KYONG PARK
VVF-1
HONDA LEASE TRUST/MV

JAENAM COE/Atty. for dbt.
VINCENT FROUNJIAN/Atty. for mv.

MOTION FOR RELIEF FROM
AUTOMATIC STAY AND/OR MOTION
FOR ADEQUATE PROTECTION
11-18-16 [[67](#)]

This motion for relief from the automatic stay will be denied as moot. No appearance is necessary.

This motion relates to a lease of personal property. The case was filed on July 22, 2016 and the lease was not assumed by the chapter 7 trustee within 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 and the automatic stay under § 362(a) 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 other relief is granted. No attorney fees will be awarded in relation to this motion.

15. [16-13451](#)-B-7 ELMER/LARINDA SANDERS
AP-1
QUICKEN LOANS INC./MV
SCOTT LYONS/Atty. for dbt.
JAMIE HANAWALT/Atty. for mv.

MOTION FOR RELIEF FROM
AUTOMATIC STAY
11-1-16 [[14](#)]

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 debtors' 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. 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).

16. [14-15354](#)-B-7 CLARENCE HARRIS, JR. AND MOTION TO SELL
TMT-1 SARA HEDGPETH-HARRIS 11-1-16 [[16](#)]
TRUDI MANFREDO/MV
THOMAS ARMSTRONG/Atty. for dbt.
TRUDI MANFREDO/Atty. for mv.

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. It appears that the proposed sale is a reasonable exercise of the trustee's business judgment.

17. [16-13457](#)-B-7 RICHARD/LINDA MOTION TO COMPEL ABANDONMENT
HAR-1 LINGENFELTER 10-21-16 [[11](#)]
RICHARD LINGENFELTER/MV
HILTON RYDER/Atty. for dbt.

The motion will be granted without oral argument based upon well-pled facts. The moving party shall submit a proposed order that specifically identifies the property to be abandoned. 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.

18. [14-11160](#)-B-7 JERAMY/ANGELINA NEAL
APN-1
SANTANDER CONSUMER USA INC./MV
JERRY LOWE/Atty. for dbt.
AUSTIN NAGEL/Atty. for mv.

MOTION FOR RELIEF FROM
AUTOMATIC STAY
11-1-16 [[37](#)]

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 debtors' 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. It appears that the subject vehicle is uninsured. 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).

19. [14-11160](#)-B-7 JERAMY/ANGELINA NEAL
UST-1
TRACY DAVIS/MV

MOTION FOR DENIAL OF DISCHARGE
OF JOINT DEBTOR UNDER 11 U.S.C.
SECTION 727 (A)
11-1-16 [[32](#)]

JERRY LOWE/Atty. for dbt.
ROBIN TUBESING/Atty. for mv.

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. The joint debtor, Angelina Neal, will not receive a discharge in this case.

20. [16-13560](#)-B-7 DANIEL/NICOLE BRYANT
APN-1
SANTANDER CONSUMER USA INC./MV
MARIO LANGONE/Atty. for dbt.
AUSTIN NAGEL/Atty. for mv.

MOTION FOR RELIEF FROM
AUTOMATIC STAY
10-21-16 [[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 debtors' 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. It appears that the subject vehicle is uninsured. 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).

21. [16-12173](#)-B-7 ALFONSO CERVANTES AND
HDN-1 ANITA CHAVEZ-CERVANTES
ALFONSO CERVANTES/MV
HENRY NUNEZ/Atty. for dbt.

MOTION TO DISMISS ALFONSO
CERVANTES
11-11-16 [[35](#)]

This matter will proceed as scheduled. If the U.S. Trustee withdraws her motion at calendar number 22, UST-1, then this motion will be denied as moot.

22. [16-12173](#)-B-7 ALFONSO CERVANTES AND
UST-1 ANITA CHAVEZ-CERVANTES
TRACY DAVIS/MV

CONTINUED MOTION TO DISMISS
CASE PURSUANT TO 11 U.S.C.
SECTION 707(B)
9-20-16 [[13](#)]

HENRY NUNEZ/Atty. for dbt.
ROBIN TUBESING/Atty. for mv.
RESPONSIVE PLEADING

This matter will proceed as scheduled.

23. [16-13673](#)-B-7 FLORENTINO MENDOZA
APN-1
GATEWAY ONE LENDING AND
FINANCE/MV
KARNEY MEKHITARIAN/Atty. for dbt.
AUSTIN NAGEL/Atty. for mv.

MOTION FOR RELIEF FROM
AUTOMATIC STAY
10-31-16 [[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 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.

24. [16-13376](#)-B-7 NORMA AYON
RCO-1
IOWA BANKERS MORTGAGE
CORPORATION/MV
THOMAS GILLIS/Atty. for dbt.
BRETT RYAN/Atty. for mv.
RESPONSIVE PLEADING

MOTION FOR RELIEF FROM
AUTOMATIC STAY AND/OR MOTION
FOR ADEQUATE PROTECTION
11-1-16 [[15](#)]

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. The debtor filed a notice of non-opposition. Accordingly, 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. 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.

25. [16-13879](#)-B-7 BOBBI TAYLOR

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
11-14-16 [[16](#)]

This matter will be dropped from calendar and the OSC will be vacated. The record shows that the required fee has been paid in full. No appearance is necessary. The court will enter a civil minute order.

26. [10-10589](#)-B-7 LUCIO/MARIA SUAREZ
MAZ-2
LUCIO SUAREZ/MV
MARK ZIMMERMAN/Atty. for dbt.

MOTION TO AVOID LIEN OF KINGS
FEDERAL CREDIT UNION
11-1-16 [[26](#)]

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.

It appears from the evidence submitted and the record that the debtors are is entitled to avoid this lien that impairs an exemption to which they would otherwise have been entitled.

27. [16-13298](#)-B-7 JUAN OROZCO CHAVEZ
PPR-1
NASA FEDERAL CREDIT UNION/MV

CASSANDRA RICHEY/Atty. for mv.

MOTION FOR RELIEF FROM
AUTOMATIC STAY AND/OR MOTION
FOR ADEQUATE PROTECTION
11-3-16 [[37](#)]

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 notice and motion requested a waiver of Federal Rule of Bankruptcy Procedure 4001(a)(3), that relief will be granted. There is no evidence that the debtor has surrendered the collateral.

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.

11:00 A.M.

1. [16-13409](#)-B-7 DELIA MAYNEZ

REAFFIRMATION AGREEMENT WITH
BANK OF STOCKTON
11-7-16 [[14](#)]

JERRY LOWE/Atty. for dbt.

This hearing to review and approve a reaffirmation agreement will be dropped from calendar. Debtor's counsel shall notify the debtor that no appearance is necessary.

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.

2. [16-13612](#)-B-7 RONALD ROOTERS

PRO SE REAFFIRMATION AGREEMENT
WITH LES SCHWAB TIRE CENTERS OF
CENTRAL CA, INC.
11-10-16 [[17](#)]

This matter will proceed as scheduled.

3. [16-12548](#)-B-7 GUSTAVO/AIDA PACHECO

REAFFIRMATION AGREEMENT WITH
CALIFORNIA REPUBLIC BANK
10-18-16 [[17](#)]

THOMAS GILLIS/Atty. for dbt.

The hearing will be dropped from calendar. Counsel shall inform his clients that no appearance is necessary at this hearing.

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 debtors' attorney affirmatively represented that he could not recommend the reaffirmation agreement. Therefore, the agreement does not meet the requirements of 11 U.S.C. §524(c) and is not enforceable.

4. [16-12748](#)-B-7 JESUSA REYES

REAFFIRMATION AGREEMENT WITH
SANTANDER CONSUMER USA INC.
11-3-16 [[12](#)]

TIMOTHY SPRINGER/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.

5. [16-13550](#)-B-7 PAMELA BALL

PRO SE REAFFIRMATION AGREEMENT
WITH GOLDEN 1 CREDIT UNION
11-21-16 [[18](#)]

This matter will proceed as scheduled

6. [16-13053](#)-B-7 YOLANDA FLORES

PRO SE REAFFIRMATION AGREEMENT
WITH JPMORGAN CHASE BANK, N.A.
11-21-16 [[17](#)]

This matter will proceed as scheduled

7. [16-12857](#)-B-7 EDWARD/LORRAINE ALVARADO

REAFFIRMATION AGREEMENT WITH
ACAR LEASING LTD
10-17-16 [[13](#)]

JANINE ESQUIVEL/Atty. for dbt.

This reaffirmation agreement will be dropped from calendar without a disposition. 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 August 5, 2016, 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.

8. [16-12859](#)-B-7 CONNIE SAMORA

REAFFIRMATION AGREEMENT WITH
FORD MOTOR CREDIT COMPANY
10-5-16 [[14](#)]

TIMOTHY SPRINGER/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.

9. [16-13378](#)-B-7 HENK DIJKSTRA AND GLENDA
ALDAZ

REAFFIRMATION AGREEMENT WITH
WELLS FARGO BANK, N.A. - 2012
FORD FIESTA
11-17-16 [[16](#)]

THOMAS GILLIS/Atty. for dbt.

The hearing will be dropped from calendar. Counsel shall inform his clients that no appearance is necessary at this hearing.

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 debtors' attorney affirmatively represented that he could not recommend the reaffirmation agreement. Therefore, the agreement does not meet the requirements of 11 U.S.C. §524(c) and is not enforceable.

10. [16-13378](#)-B-7 HENK DIJKSTRA AND GLENDA
ALDAZ

REAFFIRMATION AGREEMENT WITH
WELLS FARGO BANK, N.A. - 2006
CHEVROLET SILVERADO
11-18-16 [[17](#)]

THOMAS GILLIS/Atty. for dbt.

The hearing will be dropped from calendar. Counsel shall inform his clients that no appearance is necessary at this hearing.

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 debtors' attorney affirmatively represented that he could not recommend the reaffirmation agreement. Therefore, the agreement does not meet the requirements of 11 U.S.C. §524(c) and is not enforceable.

11. [16-13199](#)-B-7 PATRICIA BROOKS

REAFFIRMATION AGREEMENT WITH
TOYOTA MOTOR CREDIT CORPORATION
11-8-16 [[20](#)]

MARK ZIMMERMAN/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.

1:30 P.M.

1. [16-13700](#)-B-13 WAYNE CUNNINGHAM
ETL-1
WELLS FARGO BANK, N.A./MV
HENRY NUNEZ/Atty. for dbt.
ERICA LOFTIS/Atty. for mv.

OBJECTION TO CONFIRMATION OF
PLAN BY WELLS FARGO BANK, N.A.
11-15-16 [[25](#)]

This matter will proceed as scheduled.

2. [16-13312](#)-B-13 BARRY PEARLSTEIN
MHM-1
MICHAEL MEYER/MV
DAVID JENKINS/Atty. for dbt.

MOTION TO DISMISS CASE
10-31-16 [[20](#)]

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 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 the debtor has failed to provide the trustee with all of the documentation required by 11 U.S.C. §521(a)(3) & (4).

3. [16-13715](#)-B-13 AYESHA KHAN
JFL-1
HSBC BANK USA, NATIONAL
ASSOCIATION/MV
JAMES LEWIN/Atty. for mv.
DISMISSED

MOTION FOR RELIEF FROM
AUTOMATIC STAY
11-3-16 [[13](#)]

The motion will be granted in part and denied in part 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 annul the automatic stay, including the weight of the equities, *In re Fjeldsted*, 293 B.R. 12, 24-25 (9th BAP 2003), and the lack of opposition by the debtor. The motion for relief was filed prior to the dismissal of the case and therefore the court retains jurisdiction over the matter under the reasoning of *In re Aheong*, 276 B.R. 233 (9th BAP 2002).

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. 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.

The motion for relief under 11 U.S.C. §362(d)(4) will be denied because, as the owner of the property, movant is no longer a creditor whose claim is secured by an interest in the Property under § 362(d)(4). See *Ellis v. Yu* (*In re Ellis*), 523 B.R. 673, 678-79 (9th Cir. BAP 2014).

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. [11-62116](#)-B-13 TEDDY/DEBRA KEPLEY
BCS-5

AMENDED MOTION FOR COMPENSATION
FOR BENJAMIN SHEIN, DEBTORS
ATTORNEY(S)
11-10-16 [[98](#)]

BENJAMIN SHEIN/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. [15-14219](#)-B-13 ANTHONY/CRYSTAL DIAZ
RCO-1
WELLS FARGO BANK, N.A./MV

MOTION FOR RELIEF FROM
AUTOMATIC STAY AND/OR MOTION
FOR ADEQUATE PROTECTION
10-25-16 [[42](#)]

MARK ZIMMERMAN/Atty. for dbt.
BRETT RYAN/Atty. for mv.
DISMISSED

The motion will be denied as moot. This case has already been dismissed. The court will enter a civil minute order. No appearance is necessary.

6. [16-12929](#)-B-13 OMAR/JUDIT MARTINEZ
MHM-2
MICHAEL MEYER/MV
GLEN GATES/Atty. for dbt.

MOTION TO DISMISS CASE
11-3-16 [[35](#)]

Unless the trustee's motion is withdrawn before the hearing, the motion will proceed as scheduled.

This matter was fully noticed in compliance with the Local Rules of Practice and opposition was due by November 23. The debtors filed an untimely opposition on December 1, 2016.

7. [16-13640](#)-B-13 JAMES/RACHAEL RAY
DRJ-2
JAMES RAY/MV
DAVID JENKINS/Atty. for dbt.

MOTION TO VALUE COLLATERAL OF
OCWEN LOAN SERVICING, LLC
11-2-16 [[15](#)]

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.

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.

8. [11-60647](#)-B-13 RON/CYNTHIA KURISU
MHM-1
MICHAEL MEYER/MV

MOTION TO DETERMINE FINAL CURE
AND MORTGAGE PAYMENT RULE
3002.1
11-3-16 [[47](#)]

JAMES MILLER/Atty. for dbt.

This matter will proceed as scheduled.

9. [16-13251](#)-B-13 JONATHAN YU
FW-2
JONATHAN YU/MV
GABRIEL WADDELL/Atty. for dbt.

CONTINUED MOTION TO CONFIRM
PLAN
9-27-16 [[18](#)]

The motion will be granted without oral argument based on well-pled facts. No appearance is necessary. The movant shall submit a proposed order as specified below.

This motion to confirm or modify a chapter 13 plan was continued until after the continued date for the debtor's § 341 meeting of creditors, which has now been concluded. The motion was fully noticed in compliance with the Local Rules of Practice; there is no opposition and the respondents' default will be entered. The confirmation order shall include the docket control number of the motion and it shall reference the plan by the date it was filed.

10. [11-18555](#)-B-13 JOHNNIE WILLIAMS AND
MHM-1 LINDA MARTINEZ
MICHAEL MEYER/MV
ADRIAN WILLIAMS/Atty. for dbt.

MOTION TO DISMISS CASE
10-7-16 [[38](#)]

Unless the trustee's motion has been withdrawn before the hearing, this matter will proceed as scheduled. It appears that the debtors have been making chapter 13 plan payments for 60 months but have not paid the entire amount necessary yet. Unless the debtors have completed the plan payments by making a final payment of \$2,442.80 by the time of the hearing, the court intends to dismiss the case for material default.

11. [16-11356](#)-B-13 CHERYL DOEPEL
PLG-1
CHERYL DOEPEL/MV
RABIN POURNAZARIAN/Atty. for dbt.

MOTION TO MODIFY PLAN
10-31-16 [[19](#)]

The motion will be granted without oral argument based on well-pled facts. No appearance is necessary. The movant shall submit a proposed order as specified below.

This motion to confirm or modify a chapter 13 plan was fully noticed in compliance with the Local Rules of Practice; there is no opposition and the respondents' default will be entered. The confirmation order shall include the docket control number of the motion and it shall reference the plan by the date it was filed.

12. [16-13160](#)-B-13 MANUEL MADRIGAL
TOG-1
MANUEL MADRIGAL/MV
THOMAS GILLIS/Atty. for dbt.

MOTION TO CONFIRM PLAN
10-13-16 [[12](#)]

The motion will be granted without oral argument based on well-pled facts. No appearance is necessary. The movant shall submit a proposed order as specified below.

This motion to confirm or modify a chapter 13 plan was fully noticed in compliance with the Local Rules of Practice; there is no opposition and the respondents' default will be entered. The confirmation order shall include the docket control number of the motion and it shall reference the plan by the date it was filed.

13. [16-12868](#)-B-13 TERELL WAGGONER
TCS-1
TERELL WAGGONER/MV
TIMOTHY SPRINGER/Atty. for dbt.

MOTION TO MODIFY PLAN
10-28-16 [[24](#)]

The motion will be granted without oral argument based on well-pled facts. No appearance is necessary. The movant shall submit a proposed order as specified below.

This motion to confirm or modify a chapter 13 plan was fully noticed in compliance with the Local Rules of Practice; there is no opposition and the respondents' default will be entered. The confirmation order shall include the docket control number of the motion and it shall reference the plan by the date it was filed.

14. [16-12968](#)-B-13 ANNA MORALES
MHM-1
MICHAEL MEYER/MV
TIMOTHY SPRINGER/Atty. for dbt.

MOTION TO DISMISS CASE
10-28-16 [[28](#)]

If the trustee's motion is not withdrawn prior to the hearing it will be denied as moot. No appearance is necessary. The court will enter a civil minute order.

The sole grounds for the motion is the debtor's failure to appear at her continued §341 meeting of creditors. The record shows that the debtor appeared at her subsequent §341 meeting on November 29, 2016, which was then concluded.

The court notes that the trustee has filed a second motion to dismiss based on a material default in plan payments, which is set for January 12.

15. [16-13669](#)-B-13 ANDY/MELANIE MONTEJANO

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
11-15-16 [[29](#)]

MARK ZIMMERMAN/Atty. for dbt.

This matter will be called as scheduled. If the installment payment now due has not been paid by the time of the hearing, the case will be dismissed. If the installment payment now due is fully paid by the time of the hearing, the OSC will be vacated.

If the OSC is vacated, the court will modify the order permitting the payment of filing fees in installments to provide that if future installments are not received by the due date, the case will be dismissed without further notice or hearing.

16. [15-14770](#)-B-13 KENNETH/JANE HOSTETLER
MHM-4
MICHAEL MEYER/MV
TIMOTHY SPRINGER/Atty. for dbt.

MOTION TO DISMISS CASE
11-8-16 [[81](#)]

This matter will proceed as scheduled. If the debtors' motion to confirm a modified plan, at calendar number 17, TCS-2, is confirmed, then this motion will be denied as moot. If the modified plan is not confirmed then the court intends to grant the trustee's motion and dismiss the case.

17. [15-14770](#)-B-13 KENNETH/JANE HOSTETLER
TCS-2
KENNETH HOSTETLER/MV
TIMOTHY SPRINGER/Atty. for dbt.
RESPONSIVE PLEADING

MOTION TO MODIFY PLAN
10-25-16 [[71](#)]

This matter will proceed as scheduled. The trustee has filed an opposition to the debtors' motion to confirm a modified chapter 13 plan. If the debtors agree to the trustee's proposed change in the plan payment and are also current at the time of the hearing, the court intends to grant the motion and confirm the plan.

18. [16-13083](#)-B-13 DAVID PENA
MHM-1
MICHAEL MEYER/MV
SCOTT LYONS/Atty. for dbt.

MOTION TO DISMISS CASE
10-26-16 [[30](#)]

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 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 the debtor has failed to provide the trustee with all of the documentation required by 11 U.S.C. §521(a)(3) & (4), including, his 2015 state tax return, his custody order, and child support order, thus causing unreasonable delay that is prejudicial to creditors.

19. [16-12884](#)-B-13 ADAN MANRIQUEZ ZAMORA

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
11-14-16 [[24](#)]

SCOTT LYONS/Atty. for dbt.

This matter will be called as scheduled. If the installment payment due on December 7 has not been paid by the time of the hearing, the case will be dismissed. If the installment payments are fully paid by the time of the hearing, the OSC will be vacated.

20. [12-13786](#)-B-13 MARIO PANTOJA
TOG-6
MARIO PANTOJA/MV
THOMAS GILLIS/Atty. for dbt.

MOTION TO AVOID LIEN OF US BANK
NATIONAL ASSOCIATION
10-26-16 [[60](#)]

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. 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.

21. [13-17088](#)-B-13 JAMES/ALICE LOCKHART

JAMES LOCKHART/MV

MOTION FOR CONTINUED
ADMINISTRATION OF A CASE UNDER
CHAPTER 13 AND WAIVER OF THE
CERTIFICATION REQUIREMENTS FOR
ENTRY OF DISCHARGE FOR DEBTOR,
JAMES HAROLD LOCKHART
11-10-16 [[67](#)]

CRAIG STREED/Atty. for dbt.

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

First, the form of the proof of service does not comply with LBR 9014-1(e)(3) or (d)(3) or (d)(4).

Second, 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.

22. [15-11788](#)-B-13 MARK/AMY AVILA
MAT-4
MARK AVILA/MV
MARCUS TORIGIAN/Atty. for dbt.
RESPONSIVE PLEADING

MOTION TO MODIFY PLAN
10-7-16 [[97](#)]

This motion will be set for a continued hearing on January 26, 2017, at 1:30 p.m. The court will issue a civil minute order. No appearance is necessary.

The trustee has filed a detailed objection to the debtors' 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 debtors shall file and serve a written response not later than January 12, 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 debtors' position. If the debtors elect to withdraw this plan and file a modified plan in lieu of filing a response, then a confirmable modified plan shall be filed, served, and set for hearing, not later than January 19, 2017. If the debtors do 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.

23. [15-11788](#)-B-13 MARK/AMY AVILA
MHM-2
MICHAEL MEYER/MV
MARCUS TORIGIAN/Atty. for dbt.

CONTINUED MOTION TO DISMISS
CASE
9-7-16 [[89](#)]

This matter will be continued to January 26, 2017, at 1:30 p.m., to be heard with the debtors' continued motion to modify their chapter 13 plan. No appearance is necessary. The court will enter a civil minute order.

24. [16-12889](#)-B-13 DONALD GENOVESE
RWR-1
JFJ TOYS, INC./MV
MARK ZIMMERMAN/Atty. for dbt.
RUSSELL REYNOLDS/Atty. for mv.

MOTION FOR RELIEF FROM
AUTOMATIC STAY
10-24-16 [[27](#)]

This matter will proceed as scheduled. The court notes that the debtor's opposition to the motion for relief from stay appears to rest solely on the grounds of inconvenience to him however without citing any legal authority as a basis to deny the motion.