

UNITED STATES BANKRUPTCY COURT  
Eastern District of California  
Honorable René Lastreto II  
Hearing Date: Wednesday, January 15, 2020  
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.

**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. [18-14902](#)-B-13     **IN RE: FRANCISCO/MELISSA RAMIREZ**  
[SAH-5](#)

CONTINUED MOTION TO MODIFY PLAN  
12-3-2019    [\[80\]](#)

FRANCISCO RAMIREZ/MV  
SUSAN HEMB/ATTY. FOR DBT.

TENTATIVE RULING:            This matter will proceed as scheduled.

DISPOSITION:                  Continued to January 23, 2020 at 9:30 a.m.

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

This motion was originally scheduled for hearing on "January 10, 2019" [sic] at 9:30 a.m. Doc. #81. The same day the original notice of hearing was filed and served (December 3, 2019), an amended notice of hearing was filed and served, setting the hearing for "January 15, 2019" [sic] at 9:30 a.m. Doc. #85. Another amended notice of hearing was filed and served on December 31, 2019, setting the hearing for "January 15, 2020." Doc. #87. While the court understands that the hearing was always set for a date in 2020, continuances without a court order are not permitted under the Local Rules of Practice ("LBR"). See LBR 9014-1(j).

However, LBR 9014-1(j) permits oral requests for continuances if made at the scheduled hearing, or in advance by written application.

If no written application for a continuance is received by the court before this hearing, and if debtor's counsel does not appear at the hearing to orally request a continuance, then the motion will be denied without prejudice for failure to comply with the Local Rules of Practice.

2. [16-14508](#)-B-13     **IN RE: JOSEPH/JENNIFER BAEZA**  
[FW-1](#)

MOTION FOR COMPENSATION BY THE LAW OFFICE OF FEAR WADDELL, P.C.  
FOR GABRIEL J. WADDELL, DEBTORS ATTORNEY(S)  
12-6-2019    [\[29\]](#)

GABRIEL WADDELL/ATTY. FOR DBT.

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

DISPOSITION:     Granted.

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

This motion was set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of the creditors, the debtor, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument. 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.

This motion is GRANTED. Movant is awarded \$3,079.00 in fees and \$328.97 in costs.

3. [19-14108](#)-B-13     **IN RE: JAMES WEST**  
[TCS-1](#)

MOTION TO VALUE COLLATERAL OF FIRST INVESTORS SERVICING  
CORPORATION  
12-16-2019    [\[17\]](#)

JAMES WEST/MV  
TIMOTHY SPRINGER/ATTY. FOR DBT.  
RESPONSIVE PLEADING

TENTATIVE RULING:        This matter will proceed as scheduled.

DISPOSITION:                This matter will proceed as a scheduling  
conference.

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

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

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

Based on the record, the factual issues appear to include: the  
replacement value of the subject vehicle.

4. [19-11512](#)-B-13     **IN RE: TEOFILO/CHRISTY RODRIGUEZ**  
[SLL-5](#)

MOTION FOR COMPENSATION FOR STEPHEN LABIAK, DEBTORS ATTORNEY(S)  
12-5-2019    [\[99\]](#)

STEPHEN LABIAK/ATTY. FOR DBT.

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

DISPOSITION:                Granted.

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

This motion was set for hearing on 28 days' notice as required by  
Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of the  
creditors, the debtor, the U.S. Trustee, or any other party in  
interest to file written opposition at least 14 days prior to the  
hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of  
any opposition to the granting of the motion. Cf. Ghazali v. Moran,  
46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not  
materially alter the relief requested by the moving party, an actual  
hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d

592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument. 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 motion will be GRANTED. Debtors' bankruptcy counsel, Stephen Labiak, requests fees of \$11,555.00 and costs of \$88.20 for services rendered from March 7, 2019 through September 10, 2019.

11 U.S.C. § 330(a)(1)(A) & (B) permits approval of "reasonable compensation for actual necessary services rendered by . . . [a] professional person" and "reimbursement for actual, necessary expenses." Movant's services included, without limitation: (1) Advising debtors about their chapter 13 case and options outside bankruptcy, (2) Prepared for and attended the § 341 meeting of creditors, (3) Preparing for and confirming a chapter 13 plan, and (4) Answering debtors questions. The court finds the services reasonable and necessary and the expenses requested actual and necessary. No party has opposed this motion.

Movant shall be awarded \$11,555.00 in fees and \$88.20 in costs.

5. [19-14716](#)-B-13     **IN RE: JUAN/TAMMY RAMIREZ**  
[EAT-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY LAKEVIEW LOAN SERVICING, LLC  
12-17-2019    [\[17\]](#)

LAKEVIEW LOAN SERVICING, LLC/MV  
ERIC ESCAMILLA/ATTY. FOR DBT.  
CASSANDRA RICHEY/ATTY. FOR MV.

TENTATIVE RULING:            This matter will proceed as scheduled.

DISPOSITION:                Overruled.

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

Creditor Lakeview Loan Servicing, LLC ("Creditor") objects to plan confirmation because the plan does not account for the entire amount of the pre-petition arrearages that debtor owes to Creditor. Doc. #17. As of January 12, 2020, Creditor has not yet filed a proof of claim.

Section 3.02 of the plan provides that it is the proof of claim, not the plan itself, that determines the amount that will be repaid under the plan. Doc. #15. Creditor has not yet filed a proof of claim, and provides no evidence that the arrearage in the plan is

incorrect - only the motion states that the arrearage is incorrect, and the motion is not itself evidence.

Therefore, this objection is OVERRULED.

6. [19-14526](#)-B-13     **IN RE: YESENIA BAROCIO**  
[MHM-2](#)

MOTION TO DISMISS CASE  
12-11-2019    [\[40\]](#)

MICHAEL MEYER/MV  
PETER BUNTING/ATTY. FOR DBT.

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

DISPOSITION:                    Dropped from calendar.

NO ORDER REQUIRED:            Movant withdrew the motion. Doc. #47.

7. [19-13230](#)-B-13     **IN RE: RUSSELL/MARICELA STANFORD**  
[AP-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY  
12-17-2019    [\[63\]](#)

SELECT PORTFOLIO SERVICING, INC./MV  
TIMOTHY SPRINGER/ATTY. FOR DBT.  
WENDY LOCKE/ATTY. FOR MV.  
RESPONSIVE PLEADING

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

DISPOSITION:                    Granted.

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

This motion was set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of the creditors, the debtor, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument. 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.

This motion is GRANTED. Plan section 3.11(a) states that upon confirmation, the automatic stay is terminated as to the holders of Class 3 secured claims to exercise their rights against their collateral. Doc. #55. Movant's collateral is in Class 3. The plan was confirmed on January 7, 2020. Doc. #78. The debtors also filed non-opposition. Doc. #76.

8. [15-14038](#)-B-13     **IN RE: MARGARITA HERNANDEZ**  
[TCS-1](#)

MOTION TO VACATE DISMISSAL OF CASE  
12-24-2019    [\[42\]](#)

MARGARITA HERNANDEZ/MV  
TIMOTHY SPRINGER/ATTY. FOR DBT.  
DISMISSED 12/18/2019

TENTATIVE RULING:            This matter will proceed as scheduled.

DISPOSITION:                    Granted without prejudice to any party in  
interest who has relied on the dismissal in  
protecting their interests.

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

This motion was filed and served pursuant to Local Rule of Practice ("LBR") 9014-1(f)(2) and will proceed as scheduled. Unless opposition is presented at the hearing, the court intends to enter the respondents' defaults and grant the motion. If opposition is presented at the hearing, the court will consider the opposition and whether further hearing is proper pursuant to LBR 9014-1(f)(2). The court will issue an order if a further hearing is necessary.

This motion is GRANTED. Federal Rule of Civil Procedure 60(b) (made applicable by Federal Rule of Bankruptcy Procedure 9024) states that, "on motion and just terms, the court may relieve a party of its legal representative from a final judgment, order, or proceedings for the following reasons: mistake, inadvertence, surprise, or excusable neglect. . . any other reason that justifies relief."

In this case, debtor's case was dismissed for failing to make plan payments. Doc. #39. Debtor was unable to continue making the plan payments when she had a baby and her income was insufficient to provide for her family and make the plan payments. Doc. #44. Debtor states that she has the funds to bring her case current, and the funds have been deposited with her attorneys in their trust account and will be paid when the motion is granted. Id. Debtor has been in bankruptcy for 50 months. Id.

The court finds excusable neglect sufficient to grant the requested relief and grant the motion. Debtor's life and expenses changed dramatically when she had her baby. Unless opposition is presented at the hearing, this motion is GRANTED without prejudice to any party who has relied on the dismissal in protecting their rights.

9. [18-13354](#)-B-13     **IN RE: DAHNE FRAKER**  
[TCS-3](#)

MOTION TO INCUR DEBT  
12-27-2019    [\[43\]](#)

DAHNE FRAKER/MV  
TIMOTHY SPRINGER/ATTY. FOR DBT.

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

DISPOSITION:        Denied without prejudice.

ORDER:                The court will issue an order.

This motion is DENIED WITHOUT PREJUDICE for failure to comply with the Local Rules of Practice ("LBR").

LBR 9014-1(f)(2)(C) states that motions filed on less than 28 days' notice, but at least 14 days' notice, require the movant to notify the respondent or respondents that no party in interest shall be required to file written opposition to the motion. Opposition, if any, shall be presented at the hearing on the motion. If opposition is presented, or if there is other good cause, the Court may continue the hearing to permit the filing of evidence and briefs.

This motion was filed and served on December 27, 2019 and set for hearing on January 15, 2020. Doc. #44, 48. January 15, 2020 is less than 28 days after December 27, 2019, and therefore this hearing was set on less than 28 days' notice under LBR 9014-1(f)(2). The notice stated that written opposition was required and must be filed at least 14 days preceding the date of the hearing. Doc. #44. That is incorrect. Because the hearing was set on less than 28 days' notice, the notice should have stated that no written opposition was required. Because this motion was filed, served, and noticed on less than 28 days' notice, the language of LBR 9014-1(f)(2)(C) needed to have been included in the notice.



10. [19-12058](#)-B-13     **IN RE: RICHARD/DAWN MARTINES**  
[MHM-4](#)

CONTINUED MOTION TO DISMISS CASE  
9-16-2019    [\[42\]](#)

MICHAEL MEYER/MV  
TIMOTHY SPRINGER/ATTY. FOR DBT.  
RESPONSIVE PLEADING

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

DISPOSITION:     Denied as moot.

ORDER:             The court will issue an order.

This motion is DENIED AS MOOT. The grounds of the motion is that debtors' have failed to confirm a chapter 13 plan. Doc. #42. The plan is confirmed on debtors' motion, matter #11 below. See TCS-2.

11. [19-12058](#)-B-13     **IN RE: RICHARD/DAWN MARTINES**  
[TCS-2](#)

MOTION TO CONFIRM PLAN  
11-27-2019    [\[87\]](#)

RICHARD MARTINES/MV  
TIMOTHY SPRINGER/ATTY. FOR DBT.

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

DISPOSITION:     Granted.

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

This motion was set for hearing on 35 days' notice as required by Local Rule of Practice ("LBR") 3015-1(d)(1). The failure of the creditors, the debtor, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument. 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.

This motion is GRANTED. 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. [19-14666](#)-B-13     **IN RE: JAMES CULVER**  
[TCS-1](#)

MOTION TO CONFIRM PLAN  
11-27-2019    [\[16\]](#)

JAMES CULVER/MV  
TIMOTHY SPRINGER/ATTY. FOR DBT.  
RESPONSIVE PLEADING

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

DISPOSITION:        Continued to February 26, 2020 at 9:30 a.m.

ORDER:                The court will issue an order.

The chapter 13 trustee ("Trustee") has filed an opposition to the debtor's fully noticed motion to confirm a chapter 13 plan. Debtor failed to appear at the § 341 meeting of creditors held on December 10, 2019. The continued § 341 meeting is scheduled for January 21, 2020. If Trustee has further objections after the continued § 341 meeting is concluded, Trustee shall file and serve those objections not later than January 28, 2020. If Trustee has not further objections, Trustee shall withdraw the opposition.

Unless this case is voluntarily converted to chapter 7, dismissed, or Trustee's opposition to confirmation is withdrawn, the debtor shall file and serve a written response not later than February 12, 2020. The response shall specifically address each issue raised in the opposition to confirmation, state whether the issue is disputed or undisputed, and include admissible evidence to support the debtor's position. Trustee shall file and serve a reply, if any, by February 19, 2020.

If the debtor elects to withdraw this plan and file a modified plan in lieu of filing a response, then a confirmable modified plan shall be filed, served, and set for hearing, not later than February 19, 2020. If the debtor does not timely file a modified plan or a written response, this motion will be denied on the grounds stated in the opposition without a further hearing.

13. [19-14574](#)-B-13     **IN RE: JOSE MORALES**  
[TOG-1](#)

MOTION TO VALUE COLLATERAL OF ONEMAIN FINANCIAL  
12-14-2019    [\[18\]](#)

JOSE MORALES/MV  
THOMAS GILLIS/ATTY. FOR DBT.

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

DISPOSITION:     Granted.

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

This motion was set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of the creditors, the debtor, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014- 1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument. 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 motion is GRANTED. 11 U.S.C. § 1325(a)(\*) (the hanging paragraph) gives a debtor the ability to value a motor vehicle acquired for the personal use of the debtor at its current amount, as opposed to the amount due on the loan, when the loan was a purchase money security interest secured by the vehicle and the debt was not incurred within the 910-day period preceding the date of the filing.

Debtor asks the court for an order valuing a 2007 Chevrolet Tahoe ("Vehicle") at \$5,473.00. Doc. #20. Creditor Onemain Financial Group, LLC's ("Creditor") claim states the amount owed to be \$18,527.19. Claim #1. Debtor's declaration states that the replacement value (as defined in 11 U.S.C. § 506(a)(2)) is \$5,473.00. Doc. #20. Though the loan made was a title loan and therefore the creditor does not have a purchase money security interest in the vehicle and § 1325(a)(\*) is not applicable, 11 U.S.C. § 506 is.

The debtor is competent to testify as to the value of the Vehicle. Given the absence of contrary evidence, the debtor's opinion of value may be conclusive. Enewally v. Washington Mutual Bank (In re Enewally), 368 F.3d 1165, 1173 (9th Cir. 2004). Creditor's secured

claim will be fixed at \$5,473.00. The proposed order shall specifically identify the collateral, and if applicable, the proof of claim to which it relates. The order will be effective upon confirmation of the chapter 13 plan.

14. [19-12075](#)-B-13     **IN RE: MARIA DEL ROCIO SAAVEDRA**  
[SLL-5](#)

MOTION FOR COMPENSATION FOR STEPHEN L LABIAK, DEBTORS  
ATTORNEY(S)  
12-5-2019    [\[57\]](#)

STEPHEN LABIAK/ATTY. FOR DBT.

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

DISPOSITION:     Granted.

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

This motion was set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of the creditors, the debtor, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument. 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.

This motion is GRANTED. Movant is awarded \$6,115.00 in fees and \$56.20 in costs.

15. [19-14186](#)-B-13     **IN RE: HUMBERTO/NANCY VIDALES**  
[KMK-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY WELLS FARGO BANK, N.A.  
12-30-2019    [\[82\]](#)

WELLS FARGO BANK, N.A./MV  
TIMOTHY SPRINGER/ATTY. FOR DBT.  
KELLY RAFTERY/ATTY. FOR MV.  
RESPONSIVE PLEADING

TENTATIVE RULING:            This matter will proceed as scheduled.

DISPOSITION:                    Overruled.

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

This objection is OVERRULED. Constitutional due process requires that the movant make a *prima facie* showing that they are entitled to the relief sought. Here, the moving papers do not present "sufficient factual matter, accepted as true, to 'state a claim to relief that is plausible on its face.'" In re Tracht Gut, LLC, 503 B.R. 804, 811 (9th Cir. BAP, 2014), citing Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009), and Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 570 (2007).

Creditor Wells Fargo Bank, N.A.'s ("Creditor") objection is that the plan does not account for the entire amount of the pre-petition arrearages that debtors owe to Creditor. Doc. #82, claim #2.

Section 3.02 of the plan provides that it is the proof of claim, not the plan itself, that determines the amount that will be repaid under the plan. Doc. #4. Creditor's proof of claim, filed October 18, 2019, states a claimed arrearage of \$1,608.64. This claim is classified in class 4 - paid directly by debtors. If confirmed, the plan terminates the automatic stay for Class 4 creditors. Plan section 3.11. The debtors may need to modify the plan to account for the arrearage. If they do not and the plan is confirmed, Creditor will have stay relief. If the plan is modified, then this objection may be moot.

Therefore, this objection is OVERRULED.

16. [19-14186](#)-B-13     **IN RE: HUMBERTO/NANCY VIDALES**  
[TCS-1](#)

MOTION TO CONFIRM PLAN  
11-27-2019    [\[38\]](#)

HUMBERTO VIDALES/MV  
TIMOTHY SPRINGER/ATTY. FOR DBT.  
WITHDRAWN

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

DISPOSITION:                    Dropped from calendar.

NO ORDER REQUIRED:            Movant withdrew the motion. Doc. #52.

17. [19-14186](#)-B-13     **IN RE: HUMBERTO/NANCY VIDALES**  
[TCS-3](#)

MOTION TO CONFIRM PLAN  
12-12-2019    [\[53\]](#)

HUMBERTO VIDALES/MV  
TIMOTHY SPRINGER/ATTY. FOR DBT.

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

DISPOSITION:                    Granted.

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

This motion was set for hearing on 35 days' notice as required by Local Rule of Practice ("LBR") 3015-1(d)(1). The failure of the creditors, the debtor, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument. 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.

This motion is GRANTED. The confirmation order shall include the docket control number of the motion and it shall reference the plan by the date it was filed.

18. [19-10389](#)-B-13     **IN RE: PATRICK/MICHELE PENA**  
[PBB-1](#)

MOTION TO MODIFY PLAN  
12-11-2019    [\[38\]](#)

PATRICK PENA/MV  
PETER BUNTING/ATTY. FOR DBT.

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

DISPOSITION:     Granted.

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

This motion was set for hearing on 35 days' notice as required by Local Rule of Practice ("LBR") 3015-1(d)(1). The failure of the creditors, the debtor, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument. 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.

This motion is GRANTED. The confirmation order shall include the docket control number of the motion and it shall reference the plan by the date it was filed.

19. [17-14293](#)-B-13     **IN RE: ERIC/MEREDITH KURTZ**  
[NES-8](#)

MOTION FOR COMPENSATION FOR NEIL E. SCHWARTZ, DEBTORS  
ATTORNEY(S)  
12-16-2019    [\[85\]](#)

NEIL SCHWARTZ/ATTY. FOR DBT.

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

DISPOSITION:     Granted.

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

This motion was set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of the creditors, the debtor, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument. 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 motion will be GRANTED. Debtor's bankruptcy counsel, Neil E. Schwartz, requests fees of \$10,380.00 and costs of \$413.00 for a total of \$10,793.00 for services rendered from March 1, 2017 through September 5, 2019. Doc. #85.

11 U.S.C. § 330(a)(1)(A) & (B) permits approval of "reasonable compensation for actual necessary services rendered by . . . [a] professional person" and "reimbursement for actual, necessary expenses." Movant's services included, without limitation: (1) Counseling and fact gathering pre-petition, (2) Preparing and filing the petition and schedules, (3) Preparing for and attending the meeting of creditors, (4) general case administration, and (5) successfully confirming a plan. The court finds the services reasonable and necessary and the expenses requested actual and necessary.

Movant shall be awarded \$10,380.00 in fees and \$413.00 in costs.



20. [19-14295](#)-B-13     **IN RE: RUBEN/MARIA QUINTANILLA**  
[MHM-2](#)

MOTION TO DISMISS CASE  
12-11-2019    [\[44\]](#)

MICHAEL MEYER/MV  
SCOTT LYONS/ATTY. FOR DBT.  
MICHAEL MEYER/ATTY. FOR MV.

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

DISPOSITION:     Granted.

ORDER:             The court will issue an order.

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

This matter was fully noticed in compliance with the Local Rules of Practice and there is no opposition. Accordingly, the 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 record shows that the debtors have failed to make all payments due under the plan (11 U.S.C. § 1307(c)(1) and/or (c)(4)). Accordingly, the case will be dismissed.

11:00 AM

1. [18-11651](#)-B-11     **IN RE: GREGORY TE VELDE**  
[19-1038](#)

CONTINUED STATUS CONFERENCE RE: NOTICE OF REMOVAL  
9-7-2018    [[1](#)]

SINECO CONSTRUCTION, LLC V. BOARDMAN TREE FARM, LLC ET AL  
DOUGLAS HOOKLAND/ATTY. FOR PL.  
RESPONSIVE PLEADING

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

DISPOSITION:                    Dropped from calendar.

NO ORDER REQUIRED:            An order dismissing the case has already been  
entered. Doc. #127.

2. [19-12058](#)-B-13     **IN RE: RICHARD/DAWN MARTINES**  
[19-1116](#)

STATUS CONFERENCE RE: COMPLAINT  
10-24-2019    [[1](#)]

MARTINES ET AL V. VIVINT SOLAR  
NANCY KLEPAC/ATTY. FOR PL.

NO RULING.

3. [17-11570](#)-B-13     **IN RE: GREGGORY KIRKPATRICK**  
[19-1100](#)

CONTINUED STATUS CONFERENCE RE: COMPLAINT  
9-24-2019    [[1](#)]

KIRKPATRICK V. CALLISON ET AL  
MARTIN GAMULIN/ATTY. FOR PL.  
RESPONSIVE PLEADING

NO RULING.

4. [17-11570](#)-B-13     **IN RE: GREGGORY KIRKPATRICK**  
[19-1100](#)     [JLW-2](#)

CONTINUED MOTION REQUESTING ABSTENTION PURSUANT TO 28 U.S.C.  
1334 (C)  
11-7-2019     [\[12\]](#)

KIRKPATRICK V. CALLISON ET AL  
JODY WINTER/ATTY. FOR MV.  
RESPONSIVE PLEADING

NO RULING.

5. [17-13797](#)-B-9     **IN RE: TULARE LOCAL HEALTHCARE DISTRICT**  
[19-1112](#)     [WJH-1](#)

MOTION FOR ENTRY OF DEFAULT JUDGMENT  
12-17-2019     [\[16\]](#)

TULARE LOCAL HEALTHCARE DISTRICT V. SOHRABI, MD  
MICHAEL WILHELM/ATTY. FOR MV.

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

DISPOSITION:     Granted.

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

This motion was set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of the creditors, the debtor, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument. 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.

This motion is GRANTED. Judgment is entered against defendant Homayoun Sohrabi, MD for \$21,830.00 plus interest at the federal judgment rate under 28 U.S.C. § 1961.

6. [17-13797](#)-B-9     **IN RE: TULARE LOCAL HEALTHCARE DISTRICT**  
[19-1113](#)     [WJH-1](#)

MOTION FOR ENTRY OF DEFAULT JUDGMENT  
12-17-2019     [\[16\]](#)

TULARE LOCAL HEALTHCARE DISTRICT V. KOLLEN, MD  
MICHAEL WILHELM/ATTY. FOR MV.

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

DISPOSITION:                     Continued to February 12, 2020 at 11:00 a.m.

NO ORDER REQUIRED:             The court already issued an order. Doc. #22.

7. [17-13797](#)-B-9     **IN RE: TULARE LOCAL HEALTHCARE DISTRICT**  
[19-1117](#)

STATUS CONFERENCE RE: COMPLAINT  
10-24-2019     [\[1\]](#)

TULARE LOCAL HEALTHCARE DISTRICT V. MORRISON  
MICHAEL WILHELM/ATTY. FOR PL.  
DISMISSED 12/18/19

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

DISPOSITION:                     Dropped from calendar.

NO ORDER REQUIRED:             An order dismissing the case has already been  
entered. Doc. #11.

8. [17-13797](#)-B-9     **IN RE: TULARE LOCAL HEALTHCARE DISTRICT**  
[19-1118](#)

STATUS CONFERENCE RE: COMPLAINT  
10-24-2019     [\[1\]](#)

TULARE LOCAL HEALTHCARE DISTRICT V. BIO RAD  
MICHAEL WILHELM/ATTY. FOR PL.  
DISMISSED 12/31/19

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

DISPOSITION:                     Dropped from calendar.

NO ORDER REQUIRED:             An order dismissing the case has already been  
entered. Doc. #8.

9. [17-13797](#)-B-9     **IN RE: TULARE LOCAL HEALTHCARE DISTRICT**  
[19-1119](#)

STATUS CONFERENCE RE: COMPLAINT  
10-24-2019    [[1](#)]

TULARE LOCAL HEALTHCARE DISTRICT V. CUMMINS INC.  
MICHAEL WILHELM/ATTY. FOR PL.  
RESPONSIVE PLEADING

NO RULING.

10. [17-13797](#)-B-9     **IN RE: TULARE LOCAL HEALTHCARE DISTRICT**  
[19-1127](#)

STATUS CONFERENCE RE: COMPLAINT  
11-20-2019    [[1](#)]

TULARE LOCAL HEALTHCARE DISTRICT V. GUPTA-KUMAR  
MICHAEL WILHELM/ATTY. FOR PL.

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

DISPOSITION:     Continued to February 12, 2020 at 11:00 a.m.

ORDER:             The court will issue an order.

It appears that the summons and complaint were properly and timely served on the defendant. Defendant has not answered or responded to the complaint in the 30-day time limit. Plaintiff shall file a motion for default and judgment or dismissal before the continued hearing. If such a motion is filed, the status conference will be dropped and the court will hear the motion when scheduled. If no motion for default and judgment or dismissal is filed prior to the continued hearing, the court will issue an order to show cause on why this case should not be dismissed.

11. [17-13797](#)-B-9     **IN RE: TULARE LOCAL HEALTHCARE DISTRICT**  
[19-1112](#)

CONTINUED STATUS CONFERENCE COMPLAINT  
10-14-2019    [1](#)

TULARE LOCAL HEALTHCARE DISTRICT V. SOHRABI, MD  
MICHAEL WILHELM/ATTY. FOR PL.

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

DISPOSITION:        Dropped from calendar.

ORDER:                The court will issue the order.

Judgment is entered in favor of plaintiff on plaintiff's motion for entry of default judgment, matter #5 above, WJH-1.

12. [17-13797](#)-B-9     **IN RE: TULARE LOCAL HEALTHCARE DISTRICT**  
[19-1113](#)

CONTINUED STATUS CONFERENCE COMPLAINT  
10-14-2019    [1](#)

TULARE LOCAL HEALTHCARE DISTRICT V. KOLLEN, MD  
MICHAEL WILHELM/ATTY. FOR PL.

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

DISPOSITION:        Continued to February 12, 2020 at 11:00 a.m.

ORDER:                The court will issue an order.

The hearing on plaintiff's motion for entry of default judgment is continued to February 12, 2020 at 11:00 a.m. Therefore this status conference is continued to that date and time.