

UNITED STATES BANKRUPTCY COURT
Eastern District of California
Honorable Jennifer E. Niemann
Hearing Date: Thursday, February 25, 2021
Place: Department A - Courtroom #11
Fresno, California

**ALL APPEARANCES MUST BE TELEPHONIC
(Please see the court's website for instructions.)**

Pursuant to District Court General Order 618, no persons are permitted to appear in court unless authorized by order of the court until further notice. All appearances of parties and attorneys shall be telephonic through CourtCall. The contact information for CourtCall to arrange for a phone appearance is: (866) 582-6878.

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.

1. [20-10301](#)-A-13 **IN RE: HELIBERTO ELIZONDO**
[GS-4](#)

NOTICE OF DEFAULT AND MOTION TO DISMISS CASE FOR FAILURE TO
MAKE PLAN PAYMENTS
1-6-2021 [[76](#)]

GARY SAUNDERS/ATTY. FOR DBT.
RESPONSIVE PLEADING

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

DISPOSITION: Continued to March 4, 2021 at 9:00 a.m.

ORDER: The court will issue an order.

The hearing on this motion will be continued to March 4, 2021 at 9:00 a.m. to track with the Forbearance Status Conference also scheduled on that date. See Order, Doc. #89.

On January 6, 2021, Michael H. Meyer ("Trustee"), the Chapter 13 trustee of the bankruptcy estate of Heliberto Elizondo ("Debtor"), filed a Notice of Default and Intent to Dismiss Case for Debtor's failure to submit plan payments. Doc. #76. Debtor filed a written response on January 20, 2021, asserting that Debtor was granted a forbearance from the mortgage lender and Debtor was not in default of plan payments. Doc. #78. Trustee replied, explaining that Trustee would not seek dismissal of Debtor's case if the forbearance is granted at the Forbearance Status Conference. Doc. #82. The Forbearance Status Conference is set for a continued hearing on March 4, 2021 at 9:00 a.m. The court notes that on February 15, 2021, Lakeview Loan Servicing, LLC filed a Notice of Debtor's Request for Forbearance Due to the COVID-19 Pandemic, doc(3).

2. [18-14905](#)-A-13 **IN RE: TRACEY PRITCHETT**
[TCS-7](#)

MOTION TO MODIFY PLAN
1-7-2021 [[116](#)]

TRACEY PRITCHETT/MV
TIMOTHY SPRINGER/ATTY. FOR DBT.
RESPONSIVE PLEADING

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

DISPOSITION: Continued to April 1, 2021 at 9:30 a.m.

ORDER: The court will issue an order.

This motion was set for hearing on at least 35 days' notice as required by Local Rule of Practice ("LBR") 3015-1(d)(2). The Chapter 13 trustee ("Trustee") filed an objection to the debtor's motion to modify the Chapter 13 plan. Tr.'s Opp'n, Doc. #123. 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 no later than March 11, 2021. The response shall specifically address each issue raised in the objection 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 March 18, 2021.

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 March 18, 2021. If the debtor does not timely file a modified plan or a written response, this motion will be denied on the grounds stated in Trustee's opposition without a further hearing.

If the debtor elects to file a modified plan, the Notice of Hearing must comply with LBR 9014-1(d)(3)(B) which requires the names and addresses of the person who must be served with any opposition.

3. [20-11908](#)-A-13 **IN RE: BRIAN/STEPHANIE RICH**
[PBB-5](#)

OBJECTION TO CLAIM OF ROGERS JEWELERS, CLAIM NUMBER 18
12-30-2020 [[61](#)]

BRIAN RICH/MV
PETER BUNTING/ATTY. FOR DBT.
RESPONSIVE PLEADING

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

DISPOSITION: Overruled without prejudice.

ORDER: The court will issue an order.

The objection to the claim of Merchants Acquisition Group LLC d/b/a Merchants Credit Solutions ("Claimant") is OVERRULED WITHOUT PREJUDICE. This objection relates to Claim Number 18-1 filed by Claimant on November 25, 2020. See Doc. #61. Claimant filed an amended proof of claim on February 11, 2021, mooting this objection to claim. Claim No. 18-2. Per the debtors' request, this objection to claim is denied without prejudice to the debtors' right to object to Claimant's amended claim. Doc. #75.

4. [20-10509](#)-A-13 **IN RE: EDDIE CALDWELL**
[TCS-3](#)

MOTION TO MODIFY PLAN
1-21-2021 [[74](#)]

EDDIE CALDWELL/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 at least 35 days' notice as required by Local Rule of Practice ("LBR") 3015-1(d)(2). The failure of creditors, 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 Sys., Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires a moving party make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

As a procedural matter, the notice of hearing filed in connection with this motion does not comply with LBR 9014-1(d)(3)(B) which requires the notice of hearing to include "the names and addresses of the persons who must be served with any opposition." Counsel is encouraged to review the local rules to ensure compliance in future matters.

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.

5. [20-10627](#)-A-13 **IN RE: JOHN/DEBRA TAWNEY**
[SDS-2](#)

MOTION FOR COMPENSATION FOR SUSAN D. SILVEIRA, DEBTORS ATTORNEY(S)
1-28-2021 [\[69\]](#)

SUSAN SILVEIRA/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 at least 28 days' notice pursuant to Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of creditors, the debtors, 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 a moving party make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

Silveira Law Offices ("Movant"), counsel for John A. Tawney and Debra D. Tawney ("Debtors"), the debtors in this chapter 13 case, requests allowance of interim

compensation in the amount of \$18,662.50 and reimbursement for expenses in the amount of \$152.50 for services rendered September 1, 2019 through January 27, 2021. Doc. #69.

Section 330(a) of the Bankruptcy Code authorizes "reasonable compensation for actual, necessary services rendered" and "reimbursement for actual, necessary expenses" to a debtor's attorney in a chapter 13 case. 11 U.S.C. § 330(a)(1), (4)(B). In determining the amount of reasonable compensation, the court shall consider the nature, extent, and value of such services, taking into account all relevant factors. 11 U.S.C. § 330(a)(3). Here, Movant demonstrates services rendered relating to: (1) pre-petition consultation and fact gathering; (2) case administration; (3) original plan, hearings, and objections; (4) preparing more than 200 pages of documents to address the chapter 13 trustee's document demands; and (5) amending schedules and amending and modifying the chapter 13 plan. Doc. #71. Although the amount requested by Movant exceeds the amount set aside in Debtors' plan, Movant asserts that payment of the additional \$3,815.00 is feasible based on a review of claims filed. Doc. #69. On February 1, 2021, Debtors filed a declaration in support of Movant's application. Doc. #73. The court finds that the compensation and reimbursement sought are reasonable, actual, and necessary, and the court will approve the motion on an interim basis.

This motion is GRANTED. The court allows interim compensation in the amount of \$18,662.50 and reimbursement for expenses in the amount of \$152.50, less any amounts already paid, to be paid in a manner consistent with the terms of the confirmed plan.

6. [20-12732](#)-A-13 **IN RE: JOSE CUIRIZ**
[MHM-2](#)

MOTION TO DISMISS CASE
1-15-2021 [\[54\]](#)

MICHAEL MEYER/MV
CHINONYE UGORJI/ATTY. FOR DBT.
RESPONSIVE PLEADING

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Granted.

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

This motion was set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1). The debtor filed written opposition on February 10, 2021. Doc. #58. The failure of creditors, 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). Therefore, the defaults of the above-mentioned non-responding parties in interest are entered. Constitutional due process requires a movant make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

Here, the chapter 13 trustee asks the court to dismiss this case for unreasonable delay by the debtor that is prejudicial to creditors (11 U.S.C. § 1307(c)(1)) and because the debtor has failed to set a modified plan for hearing with notice to creditors. Doc. #54. The debtor's response contended that an amended plan was filed on February 10, 2021 which would resolve the trustee's motion to dismiss. Doc. #58. However, the modified plan filed on February 10, 2021 has not been set for a confirmation hearing nor has notice to creditors been sent.

Under 11 U.S.C. § 1307(c), the court may convert or dismiss a case, whichever is in the best interests of creditors and the estate, for cause. "A debtor's unjustified failure to expeditiously accomplish any task required either to propose or to confirm a chapter 13 plan may constitute cause for dismissal under § 1307(c)(1)." Ellsworth v. Lifescape Med. Assocs., P.C. (In re Ellsworth), 455 B.R. 904, 915 (B.A.P. 9th Cir. 2011). There is "cause" for dismissal under 11 U.S.C. § 1307(c)(1) for unreasonable delay by debtor that is prejudicial to creditors and for failing to set a modified plan for hearing with notice to creditors

Accordingly, unless the trustee's motion is withdrawn or the debtor moves to confirm the modified plan and sends notice to creditors before the hearing on this motion, this motion will be GRANTED for cause shown. The case will be dismissed.

7. [18-15035](#)-A-13 **IN RE: HENRY LOYA HERNANDEZ AND ALICE HERNANDEZ**
[RPZ-2](#)

CONTINUED MOTION FOR RELIEF FROM AUTOMATIC STAY
12-28-2020 [74]

WELLS FARGO BANK, N.A./MV
SCOTT LYONS/ATTY. FOR DBT.
ROBERT ZAHRADKA/ATTY. FOR MV.
RESPONSIVE PLEADING

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

DISPOSITION: Continued to March 18, 2021 at 9:30 a.m.

ORDER: The court will issue an order

Pursuant to the Status Report filed by Wells Fargo Bank, N.A. as Trustee for the Carrington Mortgage Loan Trust, Series 2007-FRE1, Asset-Backed Pass-Through Certificates (Doc. #101) ("Status Report"), the hearing on this motion will be continued to March 18, 2021 at 9:30 a.m. to track with the debtors' motion to confirm the third modified plan. The court deems the request of the parties as set forth in paragraph 8 of the Status Report to be the consent required by 11 U.S.C. § 362(e)(2)(B)(i) to the extension of the 60-day period for resolution of this motion as provided in 11 U.S.C. § 362(e)(2).

8. [18-15035](#)-A-13 **IN RE: HENRY LOYA HERNANDEZ AND ALICE HERNANDEZ**
[SL-2](#)

CONTINUED MOTION TO MODIFY PLAN
12-3-2020 [[65](#)]

HENRY LOYA HERNANDEZ/MV
SCOTT LYONS/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 debtors filed a third modified plan on February 8, 2021 (SL-3, Doc. ##92-96), with a motion to confirm the modified plan set for hearing on March 18, 2021 at 9:30 a.m.

9. [18-12336](#)-A-13 **IN RE: CLIFFORD LLOYD AND LAURA SIDSWORTH**
[PBB-3](#)

MOTION TO MODIFY PLAN
1-8-2021 [[52](#)]

CLIFFORD LLOYD/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 at least 35 days' notice as required by Local Rule of Practice ("LBR") 3015-1(d)(2). The failure of creditors, 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 Sys., Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires a moving party 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.

10. [20-11944](#)-A-13 **IN RE: CHAD/ALLISON GILLIES**
[NES-3](#)

MOTION TO MODIFY PLAN
1-18-2021 [50]

CHAD GILLIES/MV
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 at least 35 days' notice as required by Local Rule of Practice ("LBR") 3015-1(d)(2). The failure of creditors, 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 Sys., Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires a moving party make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

As a procedural matter, the notice of hearing filed in connection with this motion does not comply with LBR 9014-1(d)(3)(B) which requires the notice of hearing to include "the names and addresses of the persons who must be served with any opposition." Counsel is encouraged to review the local rules to ensure compliance in future matters.

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.

11. [18-14461](#)-A-13 **IN RE: MARIA RODRIGUEZ**
[MJA-3](#)

MOTION FOR COMPENSATION BY THE LAW OFFICE OF ARNOLD LAW
GROUP, APC. FOR MICHAEL J. ARNOLD, DEBTORS ATTORNEY(S)
1-6-2021 [38]

MICHAEL ARNOLD/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 at least 28 days' notice pursuant to Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of 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 a moving party make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

Arnold Law Group, APC ("Movant"), counsel for Maria Isabel Rodriguez, the debtor in this chapter 13 case, requests allowance of interim compensation in the amount of \$5,675.10 and reimbursement for expenses in the amount of \$324.90 for services rendered August 13, 2018 through January 6, 2021. Doc. #38.

Section 330(a) of the Bankruptcy Code authorizes "reasonable compensation for actual, necessary services rendered" and "reimbursement for actual, necessary expenses" to a debtor's attorney in a chapter 13 case. 11 U.S.C. § 330(a)(1), (4)(B). In determining the amount of reasonable compensation, the court shall consider the nature, extent, and value of such services, taking into account all relevant factors. 11 U.S.C. § 330(a)(3). Here, Movant demonstrates services rendered relating to: (1) pre-petition consultation and fact gathering; (2) case administration; (3) original plan, hearings, and modification; and (4) claims administration and objections. Doc. ##38, 40. The court finds that the compensation and reimbursement sought are reasonable, actual, and necessary, and the court will approve the motion on an interim basis.

This motion is GRANTED. The court allows interim compensation in the amount of \$5,675.10 and reimbursement for expenses in the amount of \$324.90. Movant is authorized to withdraw \$1,500.00 being held in trust with the remainder to be paid in a manner consistent with the terms of the confirmed plan.

12. [20-13687](#)-A-13 **IN RE: ALMA INZUNZA**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES
1-27-2021 [[33](#)]

DISMISSED 1/29/21

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

DISPOSITION: Dropped as moot.

NO ORDER REQUIRED.

An order dismissing the case was entered on January 29, 2021, Doc. #36. The Order to Show Cause will be dropped as moot. No appearance is necessary.

13. [18-11292](#)-A-13 **IN RE: ANGEL PEREZ**
[MHM-3](#)

STATUS CONFERENCE RE: CHAPTER 13 TRUSTEE'S FORBEARANCE
1-15-2021 [[177](#)]

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 notice of status conference on February 10, 2021.
Doc. #186.

14. [18-11292](#)-A-13 **IN RE: ANGEL PEREZ**
[TCS-9](#)

CONTINUED MOTION TO MODIFY PLAN
12-10-2020 [[159](#)]

ANGEL PEREZ/MV
TIMOTHY SPRINGER/ATTY. FOR DBT.
OPPOSITION WITHDRAWN

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.

Debtor Angel Ann Perez ("Debtor") filed and served this motion to confirm the seventh modified Chapter 13 plan pursuant to Local Rule of Practice ("LBR") 3015-1(d)(2) and set for hearing on January 14, 2021. Doc. ##159-165. The Chapter 13 trustee ("Trustee") filed an opposition to Debtor's motion. Doc. #168. Debtor replied to Trustee's opposition on December 28, 2020, asserting that a forbearance had been granted by Debtor's mortgage lender. Doc. #28. The court continued the hearing on this matter to February 25, 2021 at 9:30 a.m. to give the parties an opportunity to resolve this dispute. On February 10, 2021, Trustee withdrew his opposition. Doc. #184.

Accordingly, Debtor's motion to confirm the seventh modified Chapter 13 plan 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.

MOTION TO APPROVE LOAN MODIFICATION
1-19-2021 [\[66\]](#)

JOHN BEVINGTON/MV
JEFFREY ROWE/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 at least 28 days' notice pursuant to Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of creditors, 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 Sys., Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires a moving party make a *prima facie* showing that they

John Douglas Bevington and Lisa Gaye Bevington (together, "Debtors"), the debtors in this chapter 13 case, seek authorization from this court to enter into a loan modification agreement with MidFirst Bank Mortgage ("Lender"). Doc. #66.

Lender holds the first mortgage in Debtors' interest in a parcel of residential real property commonly known as 4684 Ganns Corral Road, Mariposa, CA 95338 ("Property"). Doc. #68. Debtors assert that they will be able to successfully make payments and that the terms are advantageous. Decl., Doc. #68. The proposed modification includes the following changes:

Current Terms		Proposed Modified Terms	
Current UPB	\$312,824.13	Post-Modification UPB	\$251,478.00
Current Maturity Date	12/01/2047	Post-Modification Maturity Date	01/01/2051
Current Term (months)	360	Post-Modification Terms (months)	360
Current Payment Due Date	First of Month	Post-Modification Due Date	First of Month
Current Payment Amount	\$2,291.65	Estimated Post-Modification Amount (with escrow)	\$1,695.75
Current Interest Rate	4.625%	Post-Modification Interest Rate	3.23%

This motion is GRANTED. Debtors are authorized, but not required, to complete the loan modification with Lender. Debtors shall continue making plan payments

in accordance with their confirmed Chapter 13 plan. Debtors must modify the plan if the payments under the modified loan prevent them from paying under the plan.

11:00 AM

1. [18-14207](#)-A-7 **IN RE: ELMER/KATHLEEN FALK**
[20-1057](#) [DW-2](#)

MOTION TO DISMISS ADVERSARY PROCEEDING/NOTICE OF REMOVAL
1-25-2021 [[31](#)]

SALVEN V. MOORE ET AL
MATTHEW OLSON/ATTY. FOR MV.
CONT'D TO 7/1/21 PER ORDER DOC #43

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

DISPOSITION: Continued to July 1, 2021 at 11:00 a.m.

NO ORDER REQUIRED.

On February 10, 2021, the court issued an order continuing the hearing on the motion to dismiss the adversary proceeding to July 1, 2021 at 11:00 a.m. Doc. #43.