

UNITED STATES BANKRUPTCY COURT
Eastern District of California
Honorable René Lastreto II
Hearing Date: Wednesday, June 24, 2020
Place: Department B - Courtroom #13
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.

9:30 AM

1. [20-11300](#)-B-13 **IN RE: KENNETH/KIMBERLY CLAY**
[ALG-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY QUICKEN LOANS, LLC
4-13-2020 [[15](#)]

QUICKEN LOANS, LLC/MV
JEFFREY MEISNER/ATTY. FOR DBT.
ARNOLD GRAFF/ATTY. FOR MV.
WITHDRAWN

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

DISPOSITION: Dropped from calendar.

NO ORDER REQUIRED: Movant withdrew the objection. Doc. #32.

2. [20-11500](#)-B-13 **IN RE: DEREK JACKSON**
[JMM-1](#)

MOTION TO VALUE COLLATERAL OF CAHP CREDIT UNION
6-7-2020 [[16](#)]

DEREK JACKSON/MV
JEFFREY MEISNER/ATTY. FOR DBT.

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 will submit a proposed order after hearing.

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.

The motion is GRANTED. 11 U.S.C. § 1325(a)(*) (the hanging paragraph) states that 11 U.S.C. § 506 is not applicable to claims

described in that paragraph if (1) the creditor has a purchase money security interest securing the debt that is the subject of the claim, (2) the debt was incurred within 910 days preceding the filing of the petition, and (3) the collateral is a motor vehicle acquired for the personal use of the debtor.

11 U.S.C. § 506(a)(1) limits a secured creditor's claim "to the extent of the value of such creditor's interest in the estate's interest in such property . . . and is an unsecured claim to the extent that the value of such creditor's interest . . . is less than the amount of such allowed claim."

11 U.S.C. § 506(a)(2) states that the value of personal property securing an allowed claim shall be determined based on the replacement value of such property as of the petition filing date. "Replacement value" means "the price a retail merchant would charge for property of that kind considering the age and condition of the property at the time value is determined."

Debtor asks the court for an order valuing a 2015 Dodge Challenger ("Vehicle") at \$23,121.00. Doc. #16. The Vehicle is encumbered by a purchase-money security interest in favor of creditor CAHP Credit Union ("Creditor"). Debtor purchased the Vehicle on or about June 1, 2016, which is more than 910 days preceding the petition filing date. Section 1325(a)(*) is inapplicable. So, § 506 applies.

The court notes that debtor's declaration supporting this motion and JMM-2 on this calendar states two vehicles were purchased on the same date. Movant will need to explain that coincidence since it is relevant to application of § 1325(a)(*).

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 \$23,121.00. 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.

3. [20-11500](#)-B-13 **IN RE: DEREK JACKSON**
[JMM-2](#)

MOTION TO VALUE COLLATERAL OF CAHP CREDIT UNION
6-7-2020 [[20](#)]

DEREK JACKSON/MV
JEFFREY MEISNER/ATTY. FOR DBT.

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
will submit a proposed order after hearing.

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.

The motion is GRANTED. 11 U.S.C. § 1325(a)(*) (the hanging paragraph) states that 11 U.S.C. § 506 is not applicable to claims described in that paragraph if (1) the creditor has a purchase money security interest securing the debt that is the subject of the claim, (2) the debt was incurred within 910 days preceding the filing of the petition, and (3) the collateral is a motor vehicle acquired for the personal use of the debtor.

11 U.S.C. § 506(a)(1) limits a secured creditor's claim "to the extent of the value of such creditor's interest in the estate's interest in such property . . . and is an unsecured claim to the extent that the value of such creditor's interest . . . is less than the amount of such allowed claim."

11 U.S.C. § 506(a)(2) states that the value of personal property securing an allowed claim shall be determined based on the replacement value of such property as of the petition filing date. "Replacement value" means "the price a retail merchant would charge for property of that kind considering the age and condition of the property at the time value is determined."

Debtor asks the court for an order valuing a 2015 Jeep Grand Cherokee ("Vehicle") at \$16,259.00. Doc. #20. The Vehicle is encumbered by a purchase-money security interest in favor of creditor CAHP Credit Union ("Creditor"). Debtor purchased the Vehicle on or about June 1, 2016, which is more than 910 days preceding the petition filing date. Section 1325(a)(*) is inapplicable. So, § 506 applies.

The court notes that debtor's declaration supporting this motion and JMM-1 on this calendar states two vehicles were purchased on the same date. Movant will need to explain that coincidence since it is relevant to application of § 1325(a)(*).

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 \$16,259.00. 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.

4. [20-11901](#)-B-13 **IN RE: PAUL/DARLENE HOLLAND**
[PBB-1](#)

MOTION TO EXTEND AUTOMATIC STAY
6-10-2020 [[23](#)]

PAUL HOLLAND/MV
PETER BUNTING/ATTY. FOR DBT.

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 court will issue the order.

This Motion to Extend the Automatic Stay was properly set for hearing on the notice required by Local Rule of Practice ("LBR") 9014-1(f)(2). Consequently, the creditors, the trustee, the U.S. Trustee, and any other parties in interest were not required to file a written response or opposition to the motion. If any of these potential respondents appear at the hearing and offer opposition to the motion, the court will set a briefing schedule and a final hearing unless there is no need to develop the record further. If no opposition is offered at the hearing, the court will take up the merits of the motion.

Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter.

If the debtor has had a bankruptcy case pending within the preceding one-year period, but was dismissed, then under 11 U.S.C. § 362(c)(3)(A), the automatic stay under subsection (a) of this section with respect to any action taken with respect to a debt or property securing such debt or with respect to any lease, shall terminate with respect to the debtor on the 30th day after the filing of the later case.

Debtor had one case pending within the preceding one-year period that was dismissed, case no. 17-11148. That case was filed on March 30, 2017 and was dismissed on October 21, 2019 for failure to make plan payments. This case was filed on May 31, 2020 and the automatic stay will expire on June 30, 2020.

11 U.S.C. § 362(c)(3)(B) allows the court to extend the stay to any or all creditors, subject to any limitations the court may impose, after a notice and hearing where the debtor or a party in interest demonstrates that the filing of the later case is in good faith as to the creditors to be stayed.

Cases are presumptively filed in bad faith if any of the conditions contained in 11 U.S.C. § 362(c)(3)(C) exist. The presumption of bad faith may be rebutted by clear and convincing evidence. *Id.* Under the clear and convincing standard, the evidence presented by the movant must "place in the ultimate factfinder an abiding conviction that the truth of its factual contentions are highly probable. Factual contentions are highly probable if the evidence offered in support of them 'instantly tilt[s] the evidentiary scales in the affirmative when weighed against the evidence [the non-moving party] offered in opposition.'" Emmert v. Taggart (In re Taggart), 548 B.R. 275, 288, n.11 (9th Cir. BAP 2016) (citations omitted) (overruled on other grounds by Taggart v. Lorenzen, No. 18-489, 2019 U.S. LEXIS 3890 (June 3, 2019)).

In this case the presumption of bad faith arises. The subsequently filed case is presumed to be filed in bad faith. The prior case was dismissed because debtor failed to perform the terms of a plan confirmed by the court. 11 U.S.C. § 362(c)(3)(C)(i)(II)(cc).

However, based on the moving papers and the record, and in the absence of opposition, the court is persuaded that the presumption has been rebutted, the debtors' petition was filed in good faith, and it intends to grant the motion to extend the automatic stay as to all creditors.

Debtor's husband is now retired due to medical reasons and his income is solely from pension and disability benefits. Doc. #24. The previous plan attempted to provide for payments on mortgage arrearages, three vehicles, unsecured priority taxes and 100% to unsecured creditors. The current plan attempts to cure mortgage arrearages, arrearages affecting one vehicle, unsecured priority taxes, and 0% to unsecured creditors. *Id.* Debtors' schedules show an ability to make the proposed plan payment.

The motion will be granted and the automatic stay extended for all purposes as to all parties who received notice, unless terminated by further order of this court. 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.

5. [18-10306](#)-B-13 **IN RE: ALEJANDRO CERVANTES**
[TOG-1](#)

MOTION FOR AMENDMENT OR ADDITIONAL FINDINGS OF FACT AND/OR MOTION
FOR JUDGMENT OR ORDER TO BE ALTERED OR AMENDED, MOTION FOR NEW
TRIAL

4-9-2020 [[106](#)]

THOMAS GILLIS/MV
SCOTT LYONS/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. #135.

6. [20-10314](#)-B-13 **IN RE: SERGIO MADRID AND ELIZABETH MAGANA**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES
6-4-2020 [[38](#)]

MARK HANNON/ATTY. FOR DBT.

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

DISPOSITION: The OSC will be vacated.

ORDER: The court will issue an order.

The record shows that the final installment was paid on June 15,
2020. Therefore, the Order to Show will be vacated.

7. [19-12515](#)-B-13 **IN RE: ALICE CAMERON**
[MHM-2](#)

OBJECTION TO CLAIM OF CAVALRY SPV I, LLC, CLAIM NUMBER 6
4-29-2020 [[54](#)]

MICHAEL MEYER/MV
ROBERT WILLIAMS/ATTY. FOR DBT.
DISMISSED 5/15/20

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

DISPOSITION: Overruled as moot.

ORDER: The court will issue an order.

This objection is OVERRULED AS MOOT. The case was dismissed on May
15, 2020. Doc. #72.

8. [19-15117](#)-B-13 **IN RE: RAYMOND CASUGA**
[DRJ-2](#)

CONTINUED MOTION TO CONFIRM PLAN
2-7-2020 [[23](#)]

RAYMOND CASUGA/MV
DAVID JENKINS/ATTY. FOR DBT.
RESPONSIVE PLEADING 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.

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 chapter 13 trustee withdrew his opposition on June 9, 2020. Doc. #67. The confirmation order shall include the docket control number of the motion and it shall reference the plan by the date it was filed.

9. [20-11117](#)-B-13 **IN RE: CLAUDIA CASTRO**
[MHM-1](#)

CONTINUED OBJECTION TO CONFIRMATION OF PLAN BY TRUSTEE MICHAEL H. MEYER
4-27-2020 [[22](#)]

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 objection. Doc. #30.

10. [15-11828](#)-B-13 **IN RE: ALBERT/LINDA CARTER**
[PK-7](#)

MOTION TO INCUR DEBT
5-29-2020 [[104](#)]

ALBERT CARTER/MV
PATRICK KAVANAGH/ATTY. FOR DBT.

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 will submit a proposed order after hearing.

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. Debtors ask the court for permission to borrow an amount not to exceed \$20,000.00 to purchase a new vehicle. One of debtors' two vehicles was "junked" when it became inoperable. Doc. #104. Debtors now seek to purchase a 2018 Malibu Chevrolet Malibu LT from their son. Id. Debtors have completed their plan payments. Doc. #107.

Debtors are authorized, but not required, to incur further debt in order to purchase their son's 2018 Malibu Chevrolet Malibu LT.

11. [19-13328](#)-B-13 **IN RE: LARRY/DOLORES SYRA**
[MAZ-2](#)

MOTION TO CONFIRM PLAN
4-30-2020 [\[55\]](#)

LARRY SYRA/MV
MARK ZIMMERMAN/ATTY. FOR DBT.
RESPONSIVE PLEADING

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

DISPOSITION: Continued to July 29, 2020 at 9:30 a.m. The court
 sets September 2, 2020 as a bar date by which a
 chapter 13 plan must be confirmed or the case will
 be dismissed.

ORDER: The court will issue an order.

The chapter 13 trustee ("Trustee") has filed an objection to the debtors' fully noticed motion to confirm a chapter 13 plan. Unless this case is voluntarily converted to chapter 7, dismissed, or Trustee's opposition to confirmation is withdrawn, the debtors shall file and serve a written response not later than July 15, 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 debtors' position. Trustee shall file and serve a reply, if any, by July 22, 2020.

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 July 22, 2020. If the debtors do 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.

Pursuant to § 1324(b), the court will set September 2, 2020 as a bar date by which a chapter 13 plan must be confirmed, or the case will be dismissed on Trustee's declaration.

12. [19-13328](#)-B-13 **IN RE: LARRY/DOLORES SYRA**
[MHM-2](#)

CONTINUED MOTION TO DISMISS CASE
4-15-2020 [[49](#)]

MICHAEL MEYER/MV
MARK ZIMMERMAN/ATTY. FOR DBT.

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

DISPOSITION: Continued to July 29, 2020 at 9:30 a.m.

ORDER: The court will issue an order.

This matter is continued to July 29, 2020 at 9:30 a.m. to be heard
in conjunction with the continued motion to confirm plan. See MAZ-2.

13. [20-10628](#)-B-7 **IN RE: ANTONIO TELLEZ**
[MHM-1](#)

CONTINUED OBJECTION TO CONFIRMATION OF PLAN BY TRUSTEE MICHAEL
H. MEYER
4-27-2020 [[34](#)]

MARK HANNON/ATTY. FOR DBT.
CONVERTED 5/19/20

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

DISPOSITION: Dropped from calendar.

NO ORDER REQUIRED: The case was converted to chapter 7. Doc. #49.

14. [18-12731](#)-B-13 **IN RE: MARK/ALICIA GARAY**
[PK-4](#)

CONTINUED MOTION TO MODIFY PLAN
4-7-2020 [[67](#)]

MARK GARAY/MV
PATRICK KAVANAGH/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 motion was continued to this date at the previous hearing because the hearing was initially continued in violation of the LBR. The confirmation order shall include the docket control number of the motion and it shall reference the plan by the date it was filed.

15. [20-10334](#)-B-13 **IN RE: GABRIEL STILWELL**
[MHM-1](#)

MOTION TO DISMISS CASE
5-22-2020 [\[27\]](#)

MICHAEL MEYER/MV
ROBERT WILLIAMS/ATTY. FOR DBT.

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 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 there has been unreasonable delay by the debtor that is prejudicial to creditors (11 U.S.C. § 1307(c)(1)). The debtor has failed to make all payments due under the plan (11 U.S.C. § 1307(c)(1) and (c)(4)). The debtor failed to appear at the

scheduled 341 meeting of creditors and failed to set a plan for hearing. Debtor failed to file tax returns for years 2016, 2017 and 2018. Accordingly, the case will be dismissed.

16. [19-13835](#)-B-13 **IN RE: JOSE VITOLAS**
[JBC-4](#)

CONTINUED MOTION TO CONFIRM PLAN
4-8-2020 [[76](#)]

JOSE VITOLAS/MV
JAMES CANALEZ/ATTY. FOR DBT.
RESPONSIVE PLEADING

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

DISPOSITION: Denied as moot.

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

This motion is DENIED as moot. By prior order of the court (doc. #94), debtor had until either June 10, 2020 to file and serve a written response to the chapter 13 trustee's objection to confirmation, or until June 17, 2020 to file, serve, and set for hearing a confirmable modified plan or the objection would be sustained on the grounds therein.

Shortly after the court entered its prior order, the debtor filed a modified plan. The court issued minutes confirming the plan on May 28, 2020. Doc. #96. To date, no order confirming the plan has been entered.

17. [20-10740](#)-B-13 **IN RE: GUILLERMO DE LA ISLA**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES
6-5-2020 [[30](#)]

JAMES CANALEZ/ATTY. FOR DBT.

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

DISPOSITION: The OSC will be vacated.

ORDER: The court will issue an order.

The record shows that the installment fees now due were paid in full on June 18, 2020. Therefore, the Order to Show Cause will be vacated.

18. [19-12845](#)-B-13 **IN RE: WILLIAM GILSTRAP**
[MHM-1](#)

OBJECTION TO CLAIM OF LVNV FUNDING LLC, CLAIM NUMBER 1
4-29-2020 [\[36\]](#)

MICHAEL MEYER/MV
MARK ZIMMERMAN/ATTY. FOR DBT.

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

DISPOSITION: Sustained.

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

This objection was set for hearing on 44 days' notice as required by Local Rule of Practice ("LBR") 3007-1(b)(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 objection is SUSTAINED.

11 U.S.C. § 502(a) states that a claim or interest, evidenced by a proof filed under section 501, is deemed allowed, unless a party in interest objects.

Federal Rule of Bankruptcy Procedure 3001(f) states that a proof of claim executed and filed in accordance with these rules shall constitute prima facie evidence of the validity and amount of the claim. If a party objects to a proof of claim, the burden of proof is on the objecting party. Lundell v. Anchor Constr. Specialists, Inc., 223 F.3d 1035, 1039 (9th Cir. BAP 2000).

Here, the movant has established that the statute of limitations in California bars a creditor's action to recover on a contract, obligation, or liability founded on an oral contract after two years and one founded on a written instrument after four years. See California Code of Civil Procedure §§ 312, 337(1), and 339. In the face of an objection, a claim that is unenforceable under state law is also not allowed under 11 U.S.C. § 502(b)(1) In re GI Indust., Inc., 204 F.3d 1276, 1281 (9th Cir. 2000). Regardless of whether the contract was written or oral, the last transaction on the account

according to the evidence was on October 4, 2005, which is well past the two and four year mark under the statutes of limitations.

Therefore, claim no. 1 filed by LVNV Funding LLC c/o Resurgent Capital Services is disallowed in its entirety.

19. [20-11345](#)-B-13 **IN RE: MICHAEL PORTER**
[MHM-1](#)

MOTION TO DISMISS CASE
5-18-2020 [[36](#)]

MICHAEL MEYER/MV
JANET LAWSON/ATTY. FOR DBT.

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 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 there has been unreasonable delay by the debtor that is prejudicial to creditors (11 U.S.C. § 1307(c)(1)). The debtor failed to appear at the scheduled 341 meeting of creditors, failed to provide the trustee with all required documentation, and failed to set a plan for hearing. Accordingly, the case will be dismissed.

20. [20-11247](#)-B-13 **IN RE: XUE XIONG**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES
6-4-2020 [[27](#)]

ERIC ESCAMILLA/ATTY. FOR DBT.

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

DISPOSITION: The OSC will be vacated.

ORDER: The court will issue an order.

The record shows that the final installments were paid on June 15, 2020. Therefore, the Order to Show will be vacated.

21. [20-11247](#)-B-13 **IN RE: XUE XIONG**
[EPE-1](#)

MOTION TO CONFIRM PLAN
5-21-2020 [[16](#)]

XUE XIONG/MV
ERIC ESCAMILLA/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.

22. [19-12351](#)-B-13 **IN RE: ERICA GOMEZ**
[MHM-5](#)

CONTINUED MOTION TO DISGORGE FEES
3-4-2020 [[69](#)]

MICHAEL MEYER/MV
THOMAS GILLIS/ATTY. FOR DBT.
DISMISSED 11/16/2019, RESPONSIVE PLEADING

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

DISPOSITION: Transferred to Chief Judge Sargis in 20-00202.

ORDER: The court will issue the order.

This matter has been necessarily implicated in an omnibus motion and other motions made by the United States Trustee ("UST") in case no. 20-00202. This miscellaneous proceeding addresses the allowance of Mr. Gillis' fees in certain Chapter 13 cases.

One of the UST's motions is set for hearing on June 23, 2020 before Chief Judge Sargis in Sacramento. Therefore, the matter (MHM-5, only) is transferred to Chief Judge Sargis for further proceedings. It will be heard on July 14, 2020 at 3:00 p.m. by Judge Sargis. Future pleadings filed in this matter will keep the same Docket Control Number but shall be filed in Miscellaneous Proceeding 20-00202.

23. [20-10152](#)-B-13 **IN RE: RANDY/EUFEMIA BROWN**
[MAZ-1](#)

MOTION TO CONFIRM PLAN
5-7-2020 [[52](#)]

RANDY BROWN/MV
MARK ZIMMERMAN/ATTY. FOR DBT.
RESPONSIVE PLEADING

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

DISPOSITION: Dropped from calendar.

NO ORDER REQUIRED: Movant withdrew the motion. Doc. #67

24. [20-10152](#)-B-13 **IN RE: RANDY/EUFEMIA BROWN**
[MAZ-2](#)

MOTION TO AVOID LIEN OF SUNLAN LDP, LLC
5-7-2020 [\[45\]](#)

RANDY BROWN/MV
MARK ZIMMERMAN/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. In order to avoid a lien under 11 U.S.C. § 522(f)(1) the movant must establish four elements: (1) there must be an exemption to which the debtor would be entitled under § 522(b); (2) the property must be listed on the debtor's schedules as exempt; (3) the lien must impair the exemption; and (4) the lien must be either a judicial lien or a non-possessory, non-purchase money security interest in personal property listed in § 522(f)(1)(B). § 522(f)(1); Goswami v. MTC Distrib. (In re Goswami), 304 B.R. 386, 390-91 (9th Cir. BAP 2003), quoting In re Mohring, 142 B.R. 389, 392 (Bankr. E.D. Cal. 1992), aff'd 24 F.3d 247 (9th Cir. 1994).

A judgment was entered against the debtor in favor of Sunlan LDP, LLC in the sum of \$2,922.10 on August 5, 2016. Doc. #48. The abstract of judgment was recorded with Kings County on October 21, 2016. Id. That lien attached to the debtor's interest in a residential real property in Hanford, CA. The motion will be granted pursuant to 11 U.S.C. § 522(f)(1)(A). The subject real property had an approximate value of \$260,000.00 as of the petition date. Doc. #33. The unavoidable liens totaled \$213,174.00 on that same date, consisting of a first deed of trust in favor of Chase. Doc. #1. The

debtor claimed an exemption pursuant to Cal. Civ. Proc. Code § 704.730(a)(2) in the amount of \$100,000.00. Doc. #1.

Movant has established the four elements necessary to avoid a lien under § 522(f)(1). After application of the arithmetical formula required by 11 U.S.C. § 522(f)(2)(A), there is no equity to support the judicial lien. Therefore, the fixing of this judicial lien impairs the debtor's exemption of the real property and its fixing will be avoided subject to 11 U.S.C. § 349(b)(1)(B).

25. [17-14157](#)-B-13 **IN RE: VICTOR ISLAS AND LORENA GONZALEZ**
[TCS-4](#)

CONTINUED MOTION TO DISGORGE FEES
3-13-2020 [[133](#)]

VICTOR ISLAS/MV
TIMOTHY SPRINGER/ATTY. FOR DBT.
RESPONSIVE PLEADING

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

DISPOSITION: Transferred to Chief Judge Sargis in 20-00202.

ORDER: The court will issue the order.

This matter has been necessarily implicated in an omnibus motion and other motions made by the United States Trustee ("UST") in case no. 20-00202. This miscellaneous proceeding addresses the allowance of Mr. Gillis' fees in certain Chapter 13 cases.

One of the UST's motions is set for hearing on June 23, 2020 before Chief Judge Sargis in Sacramento. Therefore, the matter (TCS-4, only) is transferred to Chief Judge Sargis for further proceedings. It will be heard on July 14, 2020 at 3:00 p.m. by Judge Sargis. Future pleadings filed in this matter will keep the same Docket Control Number but shall be filed in Miscellaneous Proceeding 20-00202.

26. [19-12957](#)-B-13 **IN RE: MARIA BATRES AND ISABEL CRUZ VARGAS**
[MHM-1](#)

OBJECTION TO CLAIM OF CAVALRY SPV I, LLC, CLAIM NUMBER 1
4-29-2020 [\[36\]](#)

MICHAEL MEYER/MV
ERIC ESCAMILLA/ATTY. FOR DBT.

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

DISPOSITION: Sustained.

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

This objection was set for hearing on 44 days' notice as required by Local Rule of Practice ("LBR") 3007-1(b)(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 objection is SUSTAINED.

11 U.S.C. § 502(a) states that a claim or interest, evidenced by a proof filed under section 501, is deemed allowed, unless a party in interest objects.

Federal Rule of Bankruptcy Procedure 3001(f) states that a proof of claim executed and filed in accordance with these rules shall constitute prima facie evidence of the validity and amount of the claim. If a party objects to a proof of claim, the burden of proof is on the objecting party. Lundell v. Anchor Constr. Specialists, Inc., 223 F.3d 1035, 1039 (9th Cir. BAP 2000).

Here, the objector has established that the statute of limitations in California bars a creditor's action to recover on a contract, obligation, or liability founded on an oral contract after two years and one founded on a written instrument after four years. See California Code of Civil Procedure §§ 312, 337(1), and 339. When subject to objection, a claim that is unenforceable under state law is also not allowed under 11 U.S.C. § 502(b)(1). In re GI Indust., Inc., 204 F.3d 1276, 1281 (9th Cir. 2000). Regardless of whether the contract was written or oral, the last transaction on the account

according to the evidence was on November 19, 2010, which is well past the two and four year mark under the statutes of limitations.

Therefore, claim no. 1 filed by Cavalry SPV I, LLC is disallowed in its entirety.

27. [19-12957](#)-B-13 **IN RE: MARIA BATRES AND ISABEL CRUZ VARGAS**
[MHM-2](#)

OBJECTION TO CLAIM OF JEFFERSON CAPITAL SYSTEMS, LLC, CLAIM
NUMBER 4
4-29-2020 [\[40\]](#)

MICHAEL MEYER/MV
ERIC ESCAMILLA/ATTY. FOR DBT.

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

DISPOSITION: Sustained.

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

This objection was set for hearing on 44 days' notice as required by Local Rule of Practice ("LBR") 3007-1(b)(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 objection is SUSTAINED.

11 U.S.C. § 502(a) states that a claim or interest, evidenced by a proof filed under section 501, is deemed allowed, unless a party in interest objects.

Federal Rule of Bankruptcy Procedure 3001(f) states that a proof of claim executed and filed in accordance with these rules shall constitute prima facie evidence of the validity and amount of the claim. If a party objects to a proof of claim, the burden of proof is on the objecting party. Lundell v. Anchor Constr. Specialists, Inc., 223 F.3d 1035, 1039 (9th Cir. BAP 2000).

Here, the objector has established that the statute of limitations in California bars a creditor's action to recover on a contract, obligation, or liability founded on an oral contract after two years and one founded on a written instrument after four years. See California Code of Civil Procedure §§ 312, 337(1), and 339. When subject to objection, a claim that is unenforceable under state law is also not allowed under 11 U.S.C. § 502(b)(1). In re GI Indust., Inc., 204 F.3d 1276, 1281 (9th Cir. 2000). Regardless of whether the contract was written or oral, the last transaction on the account according to the evidence was on February 2, 2011, which is well past the two and four year mark in the statutes of limitations.

Therefore, claim no. 1 filed by Jefferson Capital Systems LLC is disallowed in its entirety.

28. [20-10957](#)-B-13 **IN RE: GURMIT SANDHU AND KARAMJIT BRAR**
[PBB-2](#)

MOTION TO CONFIRM PLAN
5-7-2020 [\[39\]](#)

GURMIT SANDHU/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.

29. [20-10957](#)-B-13 **IN RE: GURMIT SANDHU AND KARAMJIT BRAR**
[PBB-3](#)

MOTION TO VALUE COLLATERAL OF TRANSPORT FUNDING LLC
5-7-2020 [[45](#)]

GURMIT SANDHU/MV
PETER BUNTING/ATTY. FOR DBT.
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.

The respondent's secured claim will be fixed at \$27,425.00. See claim #4. The only evidence movant submits to support the valuation is creditor's claim (claim #4), which lists that amount as secured. This is an admission by the creditor of the secured amount of the claim.

This jurisdiction's local rules require a motion to value collateral be noticed and set for a hearing before a plan can be confirmed if the plan reduces an allowed secured claim in class 2 based on collateral value. See LBR 3015-1(i). Because respondent's claim is not actually being impaired, a declaration from the debtor, an appraisal, or some other form of evidence is unnecessary, here, to value the collateral at \$27,425.00. Additionally, respondent filed non-opposition. Doc. #58.

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.

30. [20-10957](#)-B-13 **IN RE: GURMIT SANDHU AND KARAMJIT BRAR**
[PBB-4](#)

MOTION TO VALUE COLLATERAL OF MERCEDES-BENZ FINANCIAL SERVICES
USA, LLC
5-7-2020 [\[53\]](#)

GURMIT SANDHU/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 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 respondent's secured claim will be fixed at \$26,715.00. The only evidence movant submits to support the valuation is debtor's schedule A/B, listing the value of the secured claim as \$26,715.00. The secured creditor, Mercedes-Benz Financial Services USA, LLC, has not filed a claim nor opposed the motion.

This jurisdiction's local rules require a motion to value collateral be noticed and set for a hearing before a plan can be confirmed if the plan reduces an allowed secured claim in class 2 based on collateral value. See LBR 3015-1(i).

Since the motion is unopposed, the court will not require further affirmative evidence of replacement value of this vehicle. Ordinarily, the motion would be denied if opposed since the value listed in the schedules is not necessarily the relevant value under § 506 (a) (2). The debtor's declaration does state his belief that the schedules accurately state the replacement value of the vehicle.

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.

31. [20-10858](#)-B-13 **IN RE: CHRISTOPHER/TRACEY PRESS**
[MHM-2](#)

OBJECTION TO DEBTOR'S CLAIM OF EXEMPTIONS
5-26-2020 [[27](#)]

MICHAEL MEYER/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. #33.

32. [20-10263](#)-B-13 **IN RE: MANUELA MATA**
[MHM-1](#)

CONTINUED OBJECTION TO CONFIRMATION OF PLAN BY TRUSTEE MICHAEL
H. MEYER
3-6-2020 [[30](#)]

BENNY BARCO/ATTY. FOR DBT.
RESPONSIVE PLEADING

NO RULING.

33. [20-10578](#)-B-13 **IN RE: ROBERT GRAY AND BONNIE HENDRIX**
[MHM-1](#)

CONTINUED OBJECTION TO CONFIRMATION OF PLAN BY TRUSTEE MICHAEL
H. MEYER
4-27-2020 [[19](#)]

NICHOLAS WAJDA/ATTY. FOR DBT.
WITHDRAWN

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

DISPOSITION: Dropped from calendar.

NO ORDER REQUIRED: Movant withdrew the objection. Doc. #35.

34. [17-10683](#)-B-13 **IN RE: MALYNDA KEMMER**
[MJA-3](#)

MOTION TO MODIFY PLAN
4-20-2020 [[42](#)]

MALYNDA KEMMER/MV
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 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.

10:00 AM

1. [19-15103](#)-B-7 **IN RE: NATHAN/AMY PERRY**
[20-1017](#)

RESCHEDULED STATUS CONFERENCE RE: COMPLAINT
3-15-2020 [[1](#)]

RICHNER ET AL V. PERRY
RICHARD FREEMAN/ATTY. FOR PL.
RESPONSIVE PLEADING

NO RULING.

2. [19-12217](#)-B-7 **IN RE: JASON BLANKENSHIP**
[20-1015](#)

RESCHEDULED STATUS CONFERENCE RE: COMPLAINT
3-12-2020 [[1](#)]

BLANKENSHIP V. SUNSET CREDIT SERVICES, INC. ET AL
NANCY KLEPAC/ATTY. FOR PL.

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

DISPOSITION: Continued to July 8, 2020 at 11:00 a.m. If a new summons and the complaint are not properly served, an order to show cause why the proceeding should not be dismissed for lack of prosecution will be issued.

ORDER: The court will issue an order.

At the hearing on May 13, 2020, the court's minutes stated that the plaintiff did not properly serve the summons and complaint on the named defendants on March 12, 2020. See doc. #13. Since that date, a new summons and the complaint have not been properly served.

This matter is continued to July 8, 2020 at 11:00 a.m. If a new summons and the complaint are not properly served, the court will issue an order to show cause why the proceeding should not be dismissed for lack of prosecution.

3. [18-11651](#)-B-11 **IN RE: GREGORY TE VELDE**
[MB-73](#)

RESCHEDULED STATUS CONFERENCE RE: OBJECTION TO CLAIM OF VALMONT
NORTHWEST, INC., CLAIM NUMBER 28
10-7-2019 [[2799](#)]

RANDY SUGARMAN/MV
MICHAEL COLLINS/ATTY. FOR DBT.
JOHN MACCONAGHY/ATTY. FOR MV.

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

DISPOSITION: This status conference will be removed from
 calendar.

ORDER: The court will issue a Scheduling Order and an order
 removing this status conference from calendar.

The court has received and reviewed the Joint Status Report filed
June 5, 2020. Doc. #3260. The court thanks the parties. The court
will issue a Scheduling Order using the suggested dates by counsel
as a guide. The Scheduling Order may not precisely conform to the
suggested dates. The Scheduling Order will govern the future
proceedings in this matter.

4. [17-13797](#)-B-9 **IN RE: TULARE LOCAL HEALTHCARE DISTRICT**
[20-1002](#)

RESCHEDULED STATUS CONFERENCE RE: COMPLAINT
1-14-2020 [[1](#)]

TULARE LOCAL HEALTHCARE DISTRICT V. BAKER & HOSTETLER
RILEY WALTER/ATTY. FOR PL.

NO RULING.

The court has received and reviewed the joint status report. The
hearing will proceed to discuss further scheduling.

11:00 AM

1. [19-11635](#)-B-7 **IN RE: KARL/JULLETTA FICK**
[20-1004](#)

CONTINUED STATUS CONFERENCE RE: COMPLAINT
1-24-2020 [[1](#)]

FICK ET AL V. UNITED STATES OF AMERICA, DEPARTMENT OF
DAVID JENKINS/ATTY. FOR PL.
DISMISSED 5/13/20, CLOSED

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. #16.

2. [19-15277](#)-B-11 **IN RE: SVENHARD'S SWEDISH BAKERY**
[20-1022](#)

STATUS CONFERENCE RE: COMPLAINT
4-17-2020 [[1](#)]

SVENHARD'S SWEDISH BAKERY V. UNITED STATES BAKERY
DERRICK TALERICO/ATTY. FOR PL.
CASE TRANSFERRED TO SACRAMENTO PER ECF ORDER #13

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

DISPOSITION: Dropped from calendar.

NO ORDER REQUIRED: An order transferring the case has already
been entered. Doc. #13.