

UNITED STATES BANKRUPTCY COURT
Eastern District of California
Honorable René Lastreto II
Hearing Date: Tuesday, June 26, 2018
Place: Department B - Courtroom #13
Fresno, California

INSTRUCTIONS FOR PRE-HEARING DISPOSITIONS

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

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

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

Final Ruling: Unless otherwise ordered, there will be no hearing on these matters. The final disposition of the matter is set forth in the ruling and it will appear in the minutes. The final ruling may or may not finally adjudicate the matter. If it is finally adjudicated, the minutes constitute the court's findings and conclusions. If the parties stipulate to continue the hearing on the matter or agree to resolve the matter in a way inconsistent with the final ruling, then the court will consider vacating the final ruling only if the moving party notifies chambers before 4:00 p.m. (Pacific time) at least one business day before the hearing date: Department A-Kathy Torres (559)499-5860; Department B-Jennifer Dauer (559)499-5870. If a party has grounds to contest a final ruling under FRCP 60(a)(FRBP 9024) because of the court's error ["a clerical mistake (by the court) or a mistake arising from (the court's) oversight or omission"] the party shall notify chambers (contact information above) and any other party affected by the final ruling by 4:00 p.m. (Pacific time) one business day before the hearing.

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

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

9:30 AM

1. [17-10327](#)-B-12 IN RE: EDWARD/LISA UMADA
[FW-14](#)

RESCHEDULED HEARING RE: MOTION FOR COMPENSATION BY THE LAW
OFFICE OF FEAR WADDELL, P.C. FOR PETER A. SAUER, DEBTORS
ATTORNEY(S)
3-29-2018 [[279](#)]

PETER FEAR
CONT'D TO 8/23/18 PER ECF ORDER NO. 305

FINAL RULING: There will be no hearing on this matter.
DISPOSITION: Continued to August 23, 2018 at 9:30 a.m.
NO ORDER REQUIRED: The court already ordered the continuance.
Doc. #305.

2. [18-11166](#)-B-11 IN RE: JOSE/MARY VALADAO

CONTINUED STATUS CONFERENCE RE: CHAPTER 11 VOLUNTARY
PETITION
3-29-2018 [[1](#)]

RILEY WALTER

FINAL RULING: There will be no hearing on this matter.
DISPOSITION: Continued to August 2, 2018 at 9:30 a.m.
ORDER: The court will issue an order.

At the previous status conference held on May 10, 2018, the court continued the status conference to June 26, 2018 at 9:30 a.m. unless a plan and disclosure statement were filed and set for hearing prior to June 26. A plan and disclosure statement have been filed (doc. #112, 113) and set for hearing on August 2, 2018 at 9:30 a.m. Therefore the status conference will be continued to that date and time.

3. [18-10390](#)-B-11 **IN RE: HELP KIDS, INC.**

CONTINUED STATUS CONFERENCE RE: CHAPTER 11 VOLUNTARY
PETITION
2-6-2018 [[1](#)]

LEONARD WELSH

NO RULING.

4. [18-10390](#)-B-11 **IN RE: HELP KIDS, INC.**
[LKW-4](#)

CHAPTER 11 DISCLOSURE STATEMENT FILED BY DEBTOR HELP KIDS,
INC.
5-15-2018 [[44](#)]

LEONARD WELSH

NO RULING.

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

RESCHEDULED STATUS CONFERENCE RE: CHAPTER 9 VOLUNTARY
PETITION
9-30-2017 [[1](#)]

RILEY WALTER
RESPONSIVE PLEADING

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

DISPOSITION: Continued to August 15, 2018 at 1:30 p.m.

ORDER: The court will issue an order.

This matter will be continued to August 15, 2018 at 1:30 p.m. to be heard concurrently with debtor's motion for examination and for production of documents (WW-32). Joint or unilateral status conference statements must be filed at least seven days prior to the hearing.

6. [17-13797](#)-B-9 **IN RE: TULARE LOCAL HEALTHCARE DISTRICT**
[WW-32](#)

MOTION FOR EXAMINATION AND FOR PRODUCTION OF DOCUMENTS
5-30-2018 [[539](#)]

TULARE LOCAL HEALTHCARE
DISTRICT/MV
RILEY WALTER
RESPONSIVE PLEADING

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

DISPOSITION: Continued to August 15, 2018 at 1:30 p.m.

NO ORDER REQUIRED: The court already entered an order. Doc. #575.

1:30 PM

1. [18-10522](#)-B-13 **IN RE: LUIS BRAVO**
[MHM-1](#)

MOTION TO DISMISS CASE
5-18-2018 [[36](#)]

MICHAEL MEYER/MV
THOMAS GILLIS
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 court will issue the order.

This motion is GRANTED.

The trustee's motion to dismiss was filed on the grounds that debtor failed to provide certain documents. The motion was timely opposed by debtor, who stated that the requested documents were filed on May 29, 2018. The court sees that doc. #41 appears to contain all the documents requested by trustee.

This matter will be called in order for the trustee to confirm that the necessary documents were filed and that they are accurate.

2. [18-11537](#)-B-13 **IN RE: THERESA MORALES**
[PBB-1](#)

MOTION TO VALUE COLLATERAL OF WELLS FARGO FINANCIAL NATIONAL BANK
5-25-2018 [[15](#)]

THERESA MORALES/MV
PETER BUNTING

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 objection 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 debtor is competent to testify as to the value of the couches, end table, and lamps. 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). The respondent's secured claim will be fixed at \$500.00. 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. [17-14039](#)-B-13 **IN RE: PETER/ADRIANNA BISACCA**
[MAZ-2](#)

MOTION TO CONFIRM PLAN
5-17-2018 [68]

PETER BISACCA/MV
MARK ZIMMERMAN

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.

4. [17-14039](#)-B-13 **IN RE: PETER/ADRIANNA BISACCA**
[MHM-2](#)

CONTINUED MOTION TO DISMISS CASE
5-2-2018 [[62](#)]

MICHAEL MEYER/MV
MARK ZIMMERMAN

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 for this motion to dismiss are that debtor has failed to confirm a chapter 13 plan and therefore there was an unreasonable delay that was prejudicial to creditors. 11 U.S.C. § 1307(c). Debtor's motion to confirm plan (MAZ-2, matter #3 on this calendar) is granted, and because the grounds for dismissal no longer exist, this motion is DENIED AS MOOT.

5. [18-11740](#)-B-13 **IN RE: LARAYE ROBERSON**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES
6-5-2018 [[18](#)]

MARK ZIMMERMAN
\$200.00 INSTALLMENT PAYMENT 6/12/18

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 debtor made an installment payment of \$200.00 on June 12, 2018.

The order permitting the payment of filing fees in installments will be modified to provide that if future installments are not received by the due date, the case will be dismissed without further notice or hearing.

6. [18-10749](#)-B-13 **IN RE: DAHNE FRAKER**
[MHM-1](#)

MOTION TO DISMISS CASE
5-9-2018 [[13](#)]

MICHAEL MEYER/MV
TIMOTHY SPRINGER

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. The debtor has failed to confirm a Chapter 13 Plan. 11 U.S.C. § 1307(c)(1) and (3). Accordingly, the case will be dismissed.

7. [18-11472](#)-B-13 **IN RE: EFRAIN MEJIA**
[AP-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY WILMINGTON SAVINGS FUND
SOCIETY, FSB
6-5-2018 [[32](#)]

WILMINGTON SAVINGS FUND
SOCIETY, FSB/MV
DAVID JENKINS
JAMIE HANAWALT/ATTY. FOR MV.

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

DISPOSITION: Continued to August 2, 2018 at 1:30 p.m.

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

The trustee has not yet concluded the meeting of creditors and by prior order of the court, the trustee has another 7 days after completion of the creditors' meeting to file his objection to the plan. At the continued hearing, if the § 341 meeting has concluded, the court will call the matter and may set an evidentiary hearing or schedule further proceedings, if any are necessary.

8. [16-11473](#)-B-13 **IN RE: SHELBY/CAROL KING**
[LKW-18](#)

MOTION TO CONFIRM SALE OF REAL PROPERTY AT PUBLIC AUCTION
6-1-2018 [[369](#)]

SHELBY KING/MV
LEONARD WELSH
RESPONSIVE PLEADING

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: None.

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.

At an auction in mid-May and pursuant to a court order (doc. #364), 15 of the debtor's 17 parcels of real property were sold at an auction to a single buyer for \$142,000.00. The trustee filed a statement and requested that the court make a determination as to whether the sale price represents a fair value of the subject properties. The third modified plan listed the total value of the 17 parcels at just over \$500,000.00. Doc. #271. Because the sale proceeds are to be used to fund the plan, and the net proceeds from the sale are far less than the estimated value of the parcels, the trustee believes that the confirmed plan is no longer feasible.

This matter will proceed to allow debtor to respond to trustee's statement and the court may call this matter as a scheduling conference.

9. [18-10489](#)-B-13 **IN RE: JAVIER/GABRIELA DIAZ**
[APN-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
5-24-2018 [[43](#)]

TOYOTA MOTOR CREDIT
CORPORATION/MV
JEFFREY ROWE
AUSTIN NAGEL/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.

The movant, Toyota Motor Credit Corporation, seeks relief from the automatic stay under § 362(d)(1) and (d)(2) with respect to a 2015 Toyota Camry.

11 U.S.C. § 362(d)(1) allows the court to grant relief from stay for cause, including the lack of adequate protection. "Because there is no clear definition of what constitutes 'cause,' discretionary relief from the stay must be determined on a case by case basis." In re Mac Donald, 755 F.2d 715, 717 (9th Cir. 1985).

11 U.S.C. § 362(d)(2) allow the court to grant relief from stay if the debtor does not have equity in the property and the property is not necessary to an effective reorganization.

After review of the included evidence, the court concludes that "cause" exists to lift the stay because debtors have not made payments to movant for the months of March, April, and May 2018. Additionally, there is no equity in the vehicle and no evidence exists that it is necessary to a reorganization. The chapter 13 plan

shows that debtor intends to surrender the vehicle to movant. Doc. #50, § 3.09.

The movant has produced evidence that the vehicle has a value of \$19,320.90 and debtor owes \$19,320.90.

Accordingly, the motion will be granted pursuant to 11 U.S.C. § 362(d)(1) and (d)(2) to permit the movant to dispose of its collateral pursuant to applicable law and to use the proceeds from its disposition to satisfy its claim. No other relief is awarded.

Because the movant has not established that the value of its collateral exceeds the amount of its secured claim, the court awards no fees and costs in connection with the movant's secured claim as a result of the filing and prosecution of this motion. 11 U.S.C. § 506(b).

The 14-day stay of Fed. R. Bankr. P. 4001(a)(3) will be ordered waived due to the fact that the collateral is a vehicle and it is depreciating in value.

10. [17-14293](#)-B-13 **IN RE: ERIC/MEREDITH KURTZ**
[NES-5](#)

MOTION TO INCUR DEBT
6-12-2018 [[61](#)]

ERIC KURTZ/MV
NEIL SCHWARTZ

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 are authorized to take out a loan to purchase another vehicle to replace their surrendered 2015 Jeep Cherokee. Debtors are authorized to borrow not more than \$19,295.59 at a term no longer than 57 months at a rate not greater than 22.9%.

11. [18-10894](#)-B-13 **IN RE: JUAN REBOLLERO**
[TOG-2](#)

MOTION TO CONFIRM PLAN
5-21-2018 [[46](#)]

JUAN REBOLLERO/MV
THOMAS GILLIS

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. [18-10696](#)-B-13 **IN RE: DAVID/JENNIFER CASTRO**
[NEA-1](#)

MOTION TO CONFIRM PLAN
5-15-2018 [[36](#)]

DAVID CASTRO/MV
NICHOLAS ANIOTZBEHERE

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").

The notice did not contain the language required under LBR 9014-1(d)(3)(B)(iii). LBR 9014-1(d)(3)(B), which is about noticing requirements, requires movants to notify respondents that they can determine whether the matter has been resolved without oral argument or if the court has issued a tentative ruling by checking the Court's website at www.caeb.uscourts.gov after 4:00 p.m. the day before the hearing.

Additionally, the motion did not confirm with LBR 3015-1(d)(1). An amended plan was filed with the court on May 11, 2018. Doc. #28. The plan appears to have been included with an amended petition for relief. However, the proof of service filed on May 11, 2018 (doc. #33) does not show that the amended plan was served with the other documents. LBR 3015-1(d)(1) requires the debtor to file and serve the modified plan with a motion to confirm it.