UNITED STATES BANKRUPTCY COURT
Eastern District of California
Honorable René Lastreto II
Hearing Date: Thursday, August 9, 2018
Place: Department B – 510 19th Street
Bakersfield, California

INSTRUCTIONS FOR PRE-HEARING DISPOSITIONS

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

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

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

Final Ruling: Unless otherwise ordered, there will be no hearing on these matters. The final disposition of the matter is set forth in the ruling and it will appear in the minutes. The final ruling may or may not finally adjudicate the matter. If it is finally adjudicated, the minutes constitute the court's findings and conclusions.

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

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

9:00 AM

1. 18-11505-B-13 **IN RE: MIGUEL GONZALEZ AND ADRIANA MELENDREZ-GONZALEZ**
PK-5

MOTION TO VALUE COLLATERAL OF WILSHIRE CONSUMER CREDIT
7-19-2018 [69]

MIGUEL GONZALEZ/MV
PATRICK KAVANAGH

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 debtor is competent to testify as to the value of the 2005 Honda Pilot. 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 $3,500.00. 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.

2. 18-10913-B-13 **IN RE: WALTER/KATHRYN COVEY**
MHM-3

CONTINUED OBJECTION TO CONFIRMATION OF PLAN BY TRUSTEE
MICHAEL H. MEYER
6-25-2018 [31]

ROBERT WILLIAMS
RESPONSIVE PLEADING

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Overruled without prejudice.

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

This objection is OVERRULED WITHOUT PREJUDICE.

This objection was continued to allow the debtor to respond to the trustee's detailed objection.

Based on the declaration of debtor, counsel's representations, and the attached evidence, the court is mostly persuaded that the plan can be confirmed.

However, the recalculated means test results in an increased dividend to unsecured creditors to 75% of allowed unsecured claims. The debtors are experiencing a reduction in income yet the tax withholding has increased from what it was in the original Form 122-C. The debtor claims the tax analysis has been provided to the Trustee. The court does not know if the analysis is acceptable to the trustee. The debtors have reduced the claimed deductions for health care costs, communications expense and charitable contributions.

This matter will be called to allow trustee an opportunity to respond to debtor's reply.

3. 18-10915-B-13 **IN RE: MARGARET HEAD**
MHM-2

MOTION TO DISMISS CASE
6-20-2018 [22]

MICHAEL MEYER/MV
ROBERT WILLIAMS
RESPONSIVE PLEADING

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Granted. Debtor must file and serve a motion to value or motion to modify the plan on or before September 10, 2018 or the case will be dismissed on trustee's ex parte application.

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)(1) and will proceed as scheduled.

This motion is GRANTED.

The trustee's motion to dismiss was filed on the grounds that debtor has unreasonably delayed confirmation that is prejudicial to creditors because debtor has not filed and set for hearing a motion to value claim held by the IRS as required under LBR 3015-1(i). Debtor timely opposed, stating that debtor does not need to obtain an order valuing the collateral because the IRS filed a claim setting the secured portion for an amount less than provided for in the plan.

The debtor however, provides no evidence or authority to support their contention. Section 3.08(c) of the plan states that debtor may reduce the claim amount to the value of the collateral security it by filing, serving, setting for hearing, and prevailing on a motion to determine the value of that collateral. The failure to do so may result in the denial of confirmation.

Paragraph 3.02 of the form plan provides that the *proof of claim* not the plan or schedules governs the amount and classification of the claim. Paragraph 3.08(c) states the debtor may reduce a secured claim to the value of the collateral by filing, serving, setting for hearing and prevailing on a motion to determine the value of that collateral. Here the plan provides for a slightly higher valuation for the secured claim than asserted by the claimant, the Internal Revenue Service. Absent a stipulation from the claimant, the amount of the secured claim is ambiguous. Since it is unclear, the debtor should either file a modified Plan including the creditor's secured claim amount or filing a motion setting the value to the lower claim asserted by the creditor. The filed claim should be an admission of the creditor and thus proof should be relatively simple.

The court does not find debtor's response persuasive because debtor has not provided any authority or evidence supporting their contention and their position directly contravenes an unambiguous section of the plan. A motion to value or modify the plan must be filed and served on or before September 10, 2018 or the case will be dismissed on the trustee's ex parte application.

4. 17-10622-B-13 **IN RE: JENNIFER RIVAS**
PK-5

CONTINUED MOTION TO MODIFY PLAN
6-4-2018 [122]

JENNIFER RIVAS/MV
PATRICK KAVANAGH
RESPONSIVE PLEADING

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

DISPOSITION: Dropped from calendar.

NO ORDER REQUIRED: Movant withdrew the motion. Doc. #138.

5. 17-14625-B-13 **IN RE: JERRICK/SANDRA BLOCK**
RSW-3

MOTION TO MODIFY PLAN
6-14-2018 [39]

JERRICK BLOCK/MV
ROBERT WILLIAMS

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.

6. 13-15031-B-13 **IN RE: JERALD RIGGS**
MHM-1

MOTION TO DISMISS CASE
6-18-2018 [25]

JERALD RIGGS/MV
PHILLIP GILLET

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 the debtor has failed to make all payments due under the plan. Accordingly, the case will be dismissed.

7. 13-15031-B-13 **IN RE: JERALD RIGGS**
PWG-1

CONTINUED MOTION FOR COMPENSATION FOR PHILLIP W. GILLET, JR., DEBTORS ATTORNEY(S)
6-29-2018 [33]

PHILLIP GILLET

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: GRANTED IN PART and DENIED IN PART.

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

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

First, debtor has still not consented to the fee application. Applicant represented to the court that consent would be obtained. Based on counsel's declaration and the declaration from the Chapter 13 trustee's office, the debtor made a payment in January 2018. The Plan payments are not complete, and the trustee has filed a motion to dismiss on those grounds that is going to be heard on this calendar. Also, counsel's declaration states the debtor believes the fees requested "are too high." Doc. #43. It also appears counsel has attempted to discuss matters with the debtor but the debtor and counsel have not communicated since mid-July 2018. *Id.*

The court has reviewed the fee application. There is no objection by the trustee or the debtor as to the amount of the fees requested. The dispute relates to the other relief that is requested in the application which is discussed below. The court finds the fees reasonable and the expenses requested as necessary. Based on the facts presented, the court will excuse the requirement that the debtor consent since it appears the attorney/client relationship has deteriorated. Fees of $9,612.00 and expenses of $20.52 are approved.

Second, as to the request that "the court order that upon conversion or dismissal of this case that the balance of any approved but unpaid attorney's fees and/or expenses shall be paid prior to a refunds to the debtor. The debtor will consent to this treatment in the declaration and section VIII of the Memorandum of Points and Authorities in Support of this Application cites the authority supporting this request," the court is unable to grant that request.

Harris v. Viegelahn, 135 S.Ct. 1829, 1837 (2015) states that "[a] debtor's postpetition wages, including undisbursed funds in the

hands of a trustee ordinarily do not become part of the Chapter 7 estate created by conversion." The court held that "postpetition wages must be returned to the debtor." *Id.* In reaching that holding, the court relied on the text of 11 U.S.C. §§ 348 and 349, specifically that because § 348 provides that upon conversion the services of the chapter 13 trustee are terminated, and that one of the services a chapter 13 trustee provides is distributing payments to creditors, therefore conversion ends the distribution of payments to creditors. Because the money cannot go to the creditors, it must return to the debtor.

The court is not persuaded by the non-binding cases counsel cites supporting his argument that Harris v. Viegalahn may not necessarily apply in his case. First, counsel cites In re Cooper, case no. 17-49077 (Bankr. E.D. Mich. 2018), which decided that Viegalahn did not apply, and directed the reader to In re Fairnot, 571 B.R. 767 (Bankr. E.D. Mich. 2017) as support for its decision. In re Fairnot distinguished the facts of its case from the analysis in Vieglahn because no plan was confirmed in Fairnot, while a plan was confirmed in Viegalahn. This fact changed the analytical yellow brick road the court in Fairnot was to travel down. 11 U.S.C. § 1326(a)(2) states that if a "plan is not confirmed, the trustee shall return any such payments not previously paid and not yet due and owing to creditors…." This language is plain, unambiguous, and entirely different than § 348 which made up the bulk of the analysis in Viegalahn. Like Fairnot, the debtor in Cooper did not confirm a plan.

However, the debtor in the other case counsel cites, In re Hirsch, 550 B.R. 126 (Bankr. W.D. Mich. 2016), did confirm a chapter 13 plan. Again though, Hirsch can be materially distinguished from the facts of this case because Hirsch dealt with dismissal, and not with conversion as counsel's prayer states. The language of § 349(b)(3) states:" [u]nless the court, *for cause*, orders otherwise, a dismissal of a case other than under § 742 of this title revests the property of the estate in the entity in which such property was vested immediately before the commencement of the case under this title" (emphasis added); therefore the court must find cause in order to grant counsel's request.

Also, in Hirsch, the court did not rule that payment could be made by the trustee to the attorney pursuant to a confirmed plan. Instead the court deferred ruling on that issue to give the debtor an opportunity to respond. Hirsch, 550 B.R. at 134, 149. So, the court's holdings in Hirsch do not help applicant, here.

The court is unable to find cause to vary distribution of estate property upon dismissal. In Cohen v. Tran (In re Tran), 309 B.R. 330 (9th Cir. BAP 2004) the court in a footnote stated that it would be possible that a court could "order otherwise" and award funds on hand to another party if "substantial expense" was proven by an injured party. That is not the case here. The court certainly sympathizes with counsel and the decline in the client/attorney relationship. That said, no facts are presented to the court suggesting it should exercise its discretion under § 349(b). There is also the specific directive to the trustee under § 1326(a)(2)

after confirmation of a plan. The court is unpersuaded that counsel's potential uncompensated representation for nearly five years in this case constitutes "cause" as contemplated in § 349.

The application is GRANTED IN PART and DENIED IN PART.

8. 17-10531-B-13 **IN RE: SALVADOR/EVANGELINA ORTIZ**
RSW-3

MOTION TO COMPROMISE CONTROVERSY/APPROVE SETTLEMENT AGREEMENT WITH WESLEY LIETER, LEONARD CRESPO, TOTAL-WESTERN, INC. AND AMERICAN INVESTMENT COMPANY
7-26-2018 [41]

SALVADOR ORTIZ/MV
ROBERT WILLIAMS

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.

It appears from the moving papers that the debtor has considered the standards of In re Woodson, 839 F.2d 610, 620 (9th Cir. 1987) and In re A & C Properties, 784 F.2d 1377, 1381 (9th Cir. 1986):

a. the probability of success in the litigation;
b. the difficulties, if any, to be encountered in the matter of collection;
c. the complexity of the litigation involved, and the expense, inconvenience and delay necessarily attending it; and
d. the paramount interest of the creditors and a proper deference to their reasonable views in the premises.

Accordingly, it appears that the compromise pursuant to Federal Rule of Bankruptcy Procedure 9019 is a reasonable exercise of the debtor's judgment. The order should be limited to the claims compromised as described in the motion.

In a chapter 13 case, the trustee does not bring these motions. Pursuant to 11 U.S.C. § 1303, the debtor has "exclusive of the trustee, the rights and powers of a trustee under sections 363(b), 363(d), 363(e), 363(f), and 363(l), of this title." Fed. R. Bankr. P. specifically states that the *trustee* may bring a motion to

compromise a controversy. But In re Cohen, 305 B.R. 885, 889 (9th Cir. BAP 2003) held that "a holistic construction of the Bankruptcy Code supports the standing of chapter 13 debtors to exercise trustee avoiding powers without first obtaining special permission from the court…."

The amount of the claim is $0.00, but the debtors have claimed an exemption pursuant to § 703.140(b)(11)(D) in the sum of $26,800.00. Doc. #1. The chapter 13 trustee and the debtors have dual powers to litigate this claim pursuant to In re Cohen, 305 B.R. at 899. The debtors, however, are pursuing this claim.

The debtor requests approval of a settlement agreement between debtor and Wesley Lieter, Leonard Crespo, Total-Western, Inc., and American Investment Company. The claim was precipitated by a vehicle accident that resulted in damages to debtor. Debtor sued in Kern County Superior Court and settled for $17,500.00. Doc. #43.

Under the terms of the compromise, the defendants will pay $17,500.00, and after attorney's fees and costs, debtor will receive $7,296.89. The $17,500 is currently held in the state court attorney's trust account.

On a motion by the trustee (or chapter 13 debtor pursuant to In re Cohen) and after notice and a hearing, the court may approve a compromise or settlement. Fed. R. Bankr. P. 9019. Approval of a compromise must be based upon considerations of fairness and equity. In re A & C Properties, 784 F.2d 1377, 1381 (9th Cir. 1986). The court must consider and balance four factors: 1) the probability of success in the litigation; 2) the difficulties, if any, to be encountered in the matter of collection; 3) the complexity of the litigation involved, and the expense, inconvenience, and delay necessarily attending it; and 4) the paramount interest of the creditors with a proper deference to their reasonable views. In re Woodson, 839 F.2d 610, 620 (9th Cir. 1988).

The court concludes that the Woodson factors balance in favor of approving the compromise. That is: the probability of success is likely; collection will be very easy because the amount is already sitting in a trust account; the litigation is not complex but going to trial would likely decrease the net to the estate due to the legal fees; and the creditors will greatly benefit from the net to the estate, that would otherwise not exist; the settlement is equitable and fair.

Therefore, the court concludes the compromise to be in the best interests of the creditors and the estate. The court may give weight to the opinions of the trustee, the parties, and their attorneys. In re Blair, 538 F.2d 849, 851 (9th Cir. 1976). Furthermore, the law favors compromise and not litigation for its own sake. Id. Accordingly, the motion will be granted.

This ruling is not authorizing the payment of any fees or costs associated with the litigation. No *nunc pro tunc* relief is awarded.

9. 18-11941-B-13 **IN RE: DYAN THOMS**
MHM-1

MOTION TO DISMISS CASE
6-22-2018 [25]

MICHAEL MEYER/MV
ROBERT WILLIAMS
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 grounds of this motion to dismiss are that debtor has failed to provide necessary documents to the trustee's office pursuant to 11 U.S.C. § 521(a)(3) & (4). Doc. #25.

Debtor timely opposed, stating that they have provided the necessary and requested documents, except a "Class 1 Mortgage Checklist" because there is no Class 1 creditor. Debtor however, did not file any evidence to accompany the opposition in accordance with LBR 9014-1(d)(1). Therefore, the court is unable to verify debtor's contentions.

Therefore, unless the trustee withdraws this motion, this motion is GRANTED.

10. 18-11242-B-13 **IN RE: CARMEN AVILA**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES
7-6-2018 [19]

PHILLIP GILLET
DISMISSED

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

DISPOSITION: Dropped as moot.

NO ORDER REQUIRED.

The case has already been dismissed on July 14, 2018 (Doc. #26).

11. 18-11649-B-13 **IN RE: CHARLES/PRISCILLA HERNANDEZ**
MHM-2

MOTION TO DISMISS CASE
6-22-2018 [20]

MICHAEL MEYER/MV
PATRICK KAVANAGH
RESPONSIVE PLEADING

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

DISPOSITION: Dropped from calendar.

NO ORDER REQUIRED: Movant withdrew the motion. Doc. #48.

12. 18-11649-B-13 **IN RE: CHARLES/PRISCILLA HERNANDEZ**
PK-1

MOTION TO VALUE COLLATERAL OF ALLY BANK
7-10-2018 [27]

CHARLES HERNANDEZ/MV
PATRICK KAVANAGH
RESPONSIVE PLEADING

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: This matter will proceed as a scheduling conference.

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

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

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

Based on the record, the factual issues appear to include: the replacement value of the 2015 GMC Canyon.

13. 18-12358-B-13 **IN RE: CHRISTIAN ORNELAS**
KDG-2

MOTION TO DISMISS CASE
7-19-2018 [32]

EQUITY STRATEGIC INVESTMENTS, LLC/MV
NEIL SCHWARTZ
JACOB EATON/ATTY. FOR MV.

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Granted.

ORDER: The court will issue the order.

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

This motion is GRANTED. Creditor Equity Strategic Investments, LLC ("Creditor") brings this motion before the court to dismiss debtor's case on the grounds that there is "cause" under 11 U.S.C. § 1307(c) for the following reasons: debtor cannot confirm a chapter 13 plan because debtor's current monthly income according to schedules I and J is negative $1,735.00; the plan provides for payments that will not pay the debt owed to creditor within 60 months as required by 11 U.S.C. § 1322(d)(1); the debtor failed to appear at the § 341 meeting of creditors; and the case was filed in bad faith. Doc. #32.

11 U.S.C. § 1307(c) states that on request of a party in interest, the court may dismiss a case for "cause." The statute then sets out a non-exhaustive list of reasons to dismiss or convert a case. "Cause" is not defined in the bankruptcy code, but has been interpreted to include reasons like bad-faith filing (*See* Marrama v. Citizens Bank, 549 U.S. 365, 373 (2007). Therefore the court has discretion as to what may be considered "cause" in context of the particular facts of any given case.

In this case, the court finds ample cause and evidence to support dismissal.

First, cause exists to dismiss the case because debtor's schedules I and J show an inability to make *any* plan payment. Doc. #1. Debtor's expenses exceed his income by nearly $2,000.00. Because debtor would be unable to make any plan payment and therefore comply with laws surrounding chapter 13, this case should be dismissed.

Second, cause exists to dismiss the case because even if the plan were confirmed, debtor's proposed plan payments would not be sufficient to pay Creditor's claim within 60 months. According to

Jeralyn Sommers' declaration, the net outstanding balance owed to Creditor is $178,924.72. Doc. #35. At the proposed plan payment of $2,158.12, it would take over 83 months to pay that amount. That violates 11 U.S.C. § 1322(d)(1). The court notes that creditor has not filed a proof of claim in this case yet.

Third, cause exists to dismiss the case because there has been unreasonable delay by the creditor that is prejudicial to creditors. *See* 11 U.S.C. § 1307(c)(1). Creditor did not appear at the § 341 meeting on July 17, 2018. Jacob Eaton's declaration, which states that he was present and appeared on behalf of Creditor at the hearing, states that debtor's attorney informed the chapter 13 trustee that his client "requests dismissal and that Debtor will not likely appear at the continued meeting of creditors." Doc. #34.

Fourth, cause exists to dismiss the case because the case was filed in bad faith in an apparent scheme to delay or hinder Creditor from exercising its rights under non-bankruptcy law pertaining to the real property scheduled in this case, which makes up the overwhelming majority of property in this case. Doc. #1. On or about October 30, 2013, Yekuyeku Properties, Inc. ("Yekuyeku") executed a Promissory Note in the amount of $120,000.00 which is secured by a Deed of Trust against real property at 3312 Elda Avenue in Bakersfield, CA 93307. Doc. #35. After Yekuyeku became delinquent a foreclosure sale was set for February 28, 2018, Yekuyeku transferred the subject property to the debtor, and debtor first filed for bankruptcy relief on February 26, 2018. *Id.* Debtor's first bankruptcy case was dismissed on June 11, 2018. *Id.* Then on June 12, 2018, the debtor filed for bankruptcy relief a second time.

For the above reasons, this court finds that cause exists to dismiss the case and therefore this motion is GRANTED.

14. 18-12358-B-13 **IN RE: CHRISTIAN ORNELAS**
KDG-3

OBJECTION TO CONFIRMATION OF PLAN BY EQUITY STRATEGIC INVESTMENTS, LLC
7-24-2018 [48]

EQUITY STRATEGIC INVESTMENTS, LLC/MV
NEIL SCHWARTZ
JACOB EATON/ATTY. FOR MV.

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Denied as moot.

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 DENIED AS MOOT. Creditor Equity Strategic Investments, LLC's motion to dismiss (KDG-2, matter #13 above) is tentatively granted. If the court grants the above motion, this objection will be overruled as moot. If the court denies or continues the above motion, this objection may be continued or sustained.

15. 17-12561-B-13 **IN RE: VICTOR/KARLA MOORE**
PK-1

CONTINUED MOTION TO MODIFY PLAN
6-4-2018 [32]

VICTOR MOORE/MV
PATRICK KAVANAGH
RESPONSIVE PLEADING

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

DISPOSITION: Dropped from calendar.

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

16. 18-11964-B-13 **IN RE: PAUL/MICHELLE ESPARZA**
MHM-2

MOTION TO DISMISS CASE
6-22-2018 [23]

MICHAEL MEYER/MV
ROBERT WILLIAMS
RESPONSIVE PLEADING

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

DISPOSITION: Dropped from calendar.

NO ORDER REQUIRED: Movant withdrew the motion. Doc. #33.

17. 18-12467-B-13 **IN RE: ALLAN BABB**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES
7-17-2018 [22]

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 required amendment fee was paid on July 30, 2018.

18. 18-11570-B-13 **IN RE: ETHAN APARICIO**
MHM-2

MOTION TO DISMISS CASE
6-26-2018 [24]

MICHAEL MEYER/MV
LEONARD WELSH
RESPONSIVE PLEADING

NO RULING.

19. 18-10575-B-13 **IN RE: NORMA FERNANDEZ**
MHM-3

CONTINUED OBJECTION TO CONFIRMATION OF PLAN BY MICHAEL H. MEYER
5-29-2018 [39]

MICHAEL MEYER/MV
ROBERT WILLIAMS
RESPONSIVE PLEADING

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

DISPOSITION: Sustained.

ORDER: The court will issue the order.

This motion was continued to allow debtor to respond to the trustee's objection or to file a modified plan. Debtor timely responded, stating that trustee's objection should be overruled because debtor will be receiving social security benefits in the 31st month of the plan in the amount of $1,122.00. Doc. #49. That amount, in addition to her current monthly income of $736.97, would be enough, according to the trustee's calculations, to make the necessary plan payments.

However, this court cannot make the proper findings to overrule trustee's objection.

First, debtor provided no evidence as to how they determined the amount debtor would be receiving in social security benefits would be $1,122.00. That amount could be higher, or could be much lower, come the time debtor is eligible to receive such benefits.

Second, debtor's current monthly income could be higher, or could be much lower, come the 31st month of the plan, and even if debtor did in fact receive $1,122.00 a month in social security benefits, that still could not be enough to properly fund the plan within the necessary timeframe.

Debtor's response and plan relies on future speculation rather than current amounts available to debtor. With the evidence in front of the court, the court cannot find that this plan is feasible, and this objection is therefore SUSTAINED.

20. 18-10875-B-13 **IN RE: MICHAEL CHAPMAN**
MHM-3

CONTINUED OBJECTION TO CONFIRMATION OF PLAN BY TRUSTEE
MICHAEL H. MEYER
6-25-2018 [31]

PATRICK KAVANAGH
RESPONSIVE PLEADING

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: This matter will proceed as a scheduling conference.

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

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

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

The legal issues appear to include: whether the "community property agreement" is admissible evidence of a "transmutation of the property"; whether the Robinson Avenue property is community property or separate property.

21. 18-12179-B-13 **IN RE: SAVINO VELASQUEZ AND DORA MEDRANO**
MHM-1

OBJECTION TO CONFIRMATION OF PLAN BY TRUSTEE MICHAEL H. MEYER
7-23-2018 [17]

WILLIAM OLCOTT

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Sustained.

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

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

This objection is SUSTAINED. The grounds for this objection are that debtors are delinquent in the amount of $1,915.00 through June 2018 and will therefore not be able to make all plan payments under the plan and comply with the plan pursuant to 11 U.S.C. § 1325(a)(6). In addition, the July 2018 plan payment of $1,915.00 will come due prior to the hearing date. The fact that debtors are delinquent is evidence that they will be unable to complete plan payments and comply with the terms of the plan.

This matter will be called to confirm that debtors are current on plan payments. If debtors are current as of the hearing date, the objection will be overruled without prejudice. If debtors are not current, the objection will be sustained.

22. 18-10681-B-13 **IN RE: RICHARD/MARIA LAUREYS**
WDO-2

MOTION TO CONFIRM PLAN
7-2-2018 [42]

RICHARD LAUREYS/MV
WILLIAM OLCOTT
RESPONSIVE PLEADING

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

DISPOSITION: Continued to September 6, 2018 at 9:00 a.m. The court sets October 25, 2018 as a bar date by which a chapter 13 plan must be confirmed.

ORDER: The court will issue an order.

This motion will be set for a continued hearing on September 6, 2018 at 9:00 a.m. The court will issue an order. No appearance is necessary.

The trustee has filed a detailed objection to the debtors' fully noticed motion to confirm a chapter 13 plan. Unless this case is voluntarily converted to chapter 7, dismissed, or the trustee's opposition to confirmation is withdrawn, the debtors shall file and serve a written response not later than August 23, 2018. The response shall specifically address each issue raised in the opposition to confirmation, state whether the issue is disputed or undisputed, and include admissible evidence to support the debtors' position. If the debtors elect to withdraw this plan and file a modified plan in lieu of filing a response, then a confirmable modified plan shall be filed, served, and set for hearing, not later than August 30, 2018. If the debtors do not timely file a modified plan or a written response, the motion to confirm the plan will be denied on the grounds stated in the opposition without a further hearing.

Pursuant to § 1324(b), the court will set October 25, 2018 as a bar date by which a chapter 13 plan must be confirmed *or objections to claims must be filed* or the case will be dismissed on the trustee's declaration.

23. 18-12879-B-13 **IN RE: GERALD STULLER AND BARBARA WILKINSON-STULLER**
KWS-1

MOTION TO EXTEND AUTOMATIC STAY
7-27-2018 [10]

GERALD STULLER/MV
SCOTT SAGARIA
OST 7/30/18

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Denied without prejudice.

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

This motion is DENIED WITHOUT PREJUDICE. Constitutional due process requires that the movant make a *prima facie* showing that they are entitled to the relief sought. Here, the moving papers do not present "sufficient factual matter, accepted as true, to 'state a claim to relief that is plausible on its face.'" In re Tracht Gut, LLC, 503 B.R. 804, 811 (9th Cir. BAP, 2014), citing Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009), and Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 570 (2007).

First, 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.

Second, debtor's declaration is unsigned and the date is missing. *See* 28 U.S.C. § 1746.

The automatic stay will expire on August 16, 2018. This court has regular chapter 13 motions scheduled for that day. Counsel may re-file this motion and its supporting documents with the aforementioned corrections and submit another order shortening time, or they may present testimony at this hearing.

10:00 AM

1. 07-13510-B-7 **IN RE: MICHAEL/LAURA TAMARGO**
PWG-2

MOTION TO AVOID LIEN OF FINANCIAL PACIFIC LEASING LLC
7-8-2018 [46]

MICHAEL TAMARGO/MV
PHILLIP GILLET

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

DISPOSITION: Denied as moot.

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 DENIED AS MOOT. This case was filed on October 26, 2007 (doc. #1), the debtor received their discharge on April 7, 2008 (doc. #40), and the case was closed on April 11, 2008 (doc. #42). The case was reopened on July 9, 2018 (doc. #45).

A judgment was entered against the debtor in favor of Financial Pacific Leasing LLC in the sum of $74,117.22 on March 16, 2007. Doc. #50. The abstract of judgment was recorded with Kern County on June 27, 2007. *Id.* That lien attached to the debtor's interest in a residential real property in Bakersfield, CA.

California Code of Civil Procedure ("CCP") § 683.020 states that "upon the expiration of 10 years after the date of entry of a money judgment or a judgment for possession or sale of property: the judgment may not be enforced; all enforcement procedures pursuant to the judgment or to a writ or order issued pursuant to the judgment shall cease; and any lien created by an enforcement procedure pursuant to the judgment is extinguished."

CCP §§ 683.110 through 683.160 state that a judgment is renewable and provides the procedures for renewal.

11 U.S.C. § 108(c) provides that "[i]f applicable nonbankruptcy law…fixes a period for commencing or continuing a civil action in a court other than a bankruptcy court on a claim against the debtor…, then such period does not expire until…30 days after notice of the termination or expiration of the stay under section 362…"

11 U.S.C. § 362(c)(1) provides that "the stay of an act against property of the estate under subsection (a) of this section continues until such property is no longer property of the estate."

11 U.S.C. § 362(a) precludes creditors from renewing judgments while the automatic stay is in effect. *See* In re Spiritos, 221 F.3d 1079, 1080 (9th Cir. 2000).

The stay in this case expired on April 11, 2008, the date which the case was closed. *See* 11 U.S.C. § 362(c)(2)(C). "Reopening does not bring property back into the estate nor does it cause the automatic stay to be revived." In re Lopez, 283 B.R. 22, 32 (B.A.P. 9th Cir. 2002).

Therefore, pursuant to the Ninth Circuit's holding in In re Spiritos, the 10 year expiration date under the California statute of limitations (Cal. Civ. Proc. Code § 683.020) has ran. The bankruptcy case was filed seven months and 11 days after the date of entry of the judgment (the time from March 16, 2007 to October 26, 2007). The time under the judgment was therefore tolled until May 11, 2008 (because May 11, 2008 is the date 30 days after the automatic stay expired; *see* § 108(c)). The time then began to again run on May 11, 2008. From that date until the date of this hearing is 10 years, two months, and 29 days, or 3742 days. Thus the amount of time that has passed pursuant to 11 U.S.C. § 108(c) is beyond the 10 years for expiration of judgments. Even then, pursuant to CCP § 683.110(b), the creditor could not renew the judgment until at least 2013.

2. 17-10123-B-7 **IN RE: MARSHA ELLIOTT**
SL-1

MOTION TO COMPEL ABANDONMENT
7-19-2018 [42]

MARSHA ELLIOTT/MV
SCOTT LYONS

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. 11 U.S.C. § 554(b) provides that "on request of a party in interest and after notice and a hearing, the court may order the trustee to abandon any property of the estate that is burdensome to the estate or that is of inconsequential value and benefit to the estate." In order to grant a motion to abandon property, the bankruptcy court must find either that: (1) the property is burdensome to the estate or (2) of inconsequential value and inconsequential benefit to the estate. In re Vu, 245 B.R. 644, 647 (9th Cir. B.A.P. 2000). As one court noted, "an order compelling abandonment is the exception, not the rule. Abandonment should only be compelled in order to help the creditors by assuring some benefit in the administration of each asset… Absent an attempt by the trustee to churn property worthless to the estate just to increase fees, abandonment should rarely be ordered." In re K.C. Mach. & Tool Co., 816 F.2d 238, 246 (6th Cir. 1987). And in evaluating a proposal to abandon property, it is the interests of the estate and the creditors that have primary consideration, not the interests of the debtor. In re Johnson, 49 F.3d 538, 541 (9th Cir. 1995) (noting that the debtor is not mentioned in § 554). In re Galloway, No. AZ-13-1085-PaKiTa, 2014 Bankr. LEXIS 3626, at 16-17 (B.A.P. 9th Cir. 2014).

The court finds that the residence is of inconsequential value to the estate because the creditor's lien and debtor's exemption provide no equity for the trustee to liquidate and distribute the proceedings to creditors.

3. 17-10443-B-7 **IN RE: ASHO ASSOCIATES, INC.**
JMV-1

MOTION TO PAY
7-12-2018 [105]

JEFFREY VETTER/MV
TODD TUROCI
LISA HOLDER/ATTY. FOR MV.

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

DISPOSITION: Granted.

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

This motion was set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of the

creditors, the debtor, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument. Upon default, factual allegations will be taken as true (except those relating to amount of damages). Televideo Systems, Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires that a plaintiff make a prima facie showing that they are entitled to the relief sought, which the movant has done here.

This motion is GRANTED. The trustee is authorized to pay $829.00 due to the Franchise Tax Board and is authorized to pay an additional amount up to $1,700.00 for any unexpected tax liabilities without further court approval. Any taxing agency that must be paid in excess of $1,700.00 will require court approval.

4. 18-11069-B-7 **IN RE: MARIO GARCIA**
NLG-1

MOTION TO APPROVE LOAN MODIFICATION
6-22-2018 [14]

FEDERAL NATIONAL MORTGAGE ASSOCIATION/MV
R. BELL
NICHOLE GLOWIN/ATTY. FOR MV.

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

DISPOSITION: Granted.

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

This motion was set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of the creditors, the debtor, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument. Upon default, factual allegations will be taken as true (except those relating to amount of damages). Televideo Systems, Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires that a plaintiff make a

prima facie showing that they are entitled to the relief sought, which the movant has done here.

This motion is GRANTED. Debtor and movant are authorized to enter into the proposed Loan Modification Agreement. No further relief is granted. The debtor received his discharge on July 31, 2018. Doc. #23. Therefore, there is no stay as to the debtor.

5. 17-12187-B-7 **IN RE: PAUL/JOAMY BALDERAS**
WEE-2

MOTION TO SET ASIDE DISMISSAL OF CASE
7-12-2018 [49]

PAUL BALDERAS/MV
WILLIAM EDWARDS
DISMISSED 9/11/17

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.

The court also notes that counsel refers to "LBR 9013-1" in paragraph 5 on page 2 of the notice. That is not correct. The correct rule is "9014-1."

6. 17-13297-B-7 **IN RE: ROBERT BENDER AND DEBORAH HALLE**
DMG-1

MOTION TO SELL
7-24-2018 [22]

ROBERT BENDER/MV
STEVEN STANLEY

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.

Federal Rule of Bankruptcy Procedure 2002(a)(2) requires at least 21 days notice on motions to sell property of the estate other than in the ordinary course of business.

This motion and its supporting documents were served on July 24, 2018. Doc. #26. July 24, 2018 is only 16 days before the hearing date. Therefore, the motion was not served in accordance with Fed. R. Bankr. P. 2002(a)(2).

10:30 AM

1. 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.

2. 18-10390-B-11 **IN RE: HELP KIDS, INC.**
LKW-4

CONFIRMATION HEARING RE: DEBTOR'S PLAN
6-22-2018 [64]

LEONARD WELSH

NO RULING.

3. 18-10390-B-11 **IN RE: HELP KIDS, INC.**
LKW-6

MOTION FOR COMPENSATION BY THE LAW OFFICE OF LEONARD K. WELSH DEBTORS ATTORNEY(S)
7-10-2018 [75]

LEONARD WELSH

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

DISPOSITION: Granted.

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

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

Televideo Systems, Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires that a plaintiff make a prima facie showing that they are entitled to the relief sought, which the movant has done here.

The motion will be GRANTED. Debtor's bankruptcy counsel, Leonard K. Welsh, requests fees of $11,832.50 and costs of $158.92 for a total of $11,991.42 for services rendered as debtor's counsel from May 1, 2018 through June 30, 2018.

11 U.S.C. § 330(a)(1)(A) & (B) permits approval of "reasonable compensation for actual necessary services rendered by . . .[a] professional person" and "reimbursement for actual, necessary expenses." Movant's services included, without limitation: (1) Advising debtor about the administration of its chapter 11 case and its duties as debtor-in-possession, (2) Advising debtor about its business operations, (3) Advising debtor's principals about the use of cash collateral, (4) Administering claims, and (5) Preparing and filing a plan of reorganization. The court finds the services reasonable and necessary and the expenses requested actual and necessary.

Movant shall be awarded $11,832.50 in fees and $158.92 in costs.

4. 18-11990-B-11 **IN RE: CENTRO CRISTIANO AGAPE DE BAKERSFIELD INC**

STATUS CONFERENCE RE: CHAPTER 11 VOLUNTARY PETITION
5-18-2018 [1]

D. GARDNER

NO RULING.

5. 18-11990-B-11 **IN RE: CENTRO CRISTIANO AGAPE DE BAKERSFIELD INC**
DMG-3

MOTION TO ASSUME LEASE OR EXECUTORY CONTRACT
7-20-2018 [30]

CENTRO CRISTIANO AGAPE DE BAKERSFIELD INC/MV
D. GARDNER

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. Debtor is authorized to lease the church located at 409-411 Baker Street in Bakersfield, CA to Noe A. Silos, the pastor and minister of La Iglesia de Dios pursuant to the lease attached to this motion.

6. 17-11591-B-11 **IN RE: 5 C HOLDINGS, INC.**
LKW-16

MOTION FOR COMPENSATION FOR LEONARD K. WELSH, DEBTORS ATTORNEY(S)
7-10-2018 [422]

LEONARD WELSH

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

DISPOSITION: Granted.

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

This motion was set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of the creditors, the debtor, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014- 1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument. Upon default, factual allegations will be taken as true (except those relating to amount of damages). Televideo Systems, Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires that a plaintiff make a prima facie showing that they are entitled to the relief sought, which the movant has done here.

The motion will be GRANTED. Debtor's bankruptcy counsel, Leonard K. Welsh, requests fees of $11,775.00 and costs of $92.18 for a total of $11,867.18 for services rendered as debtor's counsel from April 1, 2018 through June 30, 2018.

11 U.S.C. § 330(a)(1)(A) & (B) permits approval of "reasonable compensation for actual necessary services rendered by . . .[a] professional person" and "reimbursement for actual, necessary

expenses.” Movant’s services included, without limitation: (1) Advising debtor about the administration of its chapter 11 case and its duties as debtor-in-possession, (2) Resolving issues regarding two motions for relief from the automatic stay, (3) Preparing fee applications, (4) Advising debtor and its accountants about tax issues, and (5) Preparing and filing a plan of reorganization that was eventually confirmed. The court finds the services reasonable and necessary and the expenses requested actual and necessary.

Movant shall be awarded $11,775.00 in fees and $92.18 in costs.