

UNITED STATES BANKRUPTCY COURT  
Eastern District of California  
Honorable René Lastreto II  
Hearing Date: Thursday, November 14, 2019  
Place: Department B - Courtroom #13  
Fresno, California

**INSTRUCTIONS FOR PRE-HEARING DISPOSITIONS**

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

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

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

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

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

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

9:30 AM

1. [16-13849](#)-B-12    **IN RE: DON FALLERT**  
[STH-1](#)

CONTINUED MOTION FOR RELIEF FROM AUTOMATIC STAY  
8-30-2019    [[220](#)]

KUBOTA CREDIT CORPORATION/MV  
D. GARDNER  
AUSTIN NAGEL/ATTY. FOR MV.  
RESPONSIVE PLEADING

NO RULING.

2. [18-11651](#)-B-11    **IN RE: GREGORY TE VELDE**

CONTINUED STATUS CONFERENCE RE: CHAPTER 11 VOLUNTARY PETITION  
4-26-2018    [[1](#)]

MICHAEL COLLINS  
RESPONSIVE PLEADING

NO RULING.

3. [18-11651](#)-B-11    **IN RE: GREGORY TE VELDE**  
[MB-45](#)

CONFIRMATION HEARING RE: AMENDED CHAPTER 11 PLAN  
8-4-2019    [[2409](#)]

MICHAEL COLLINS/ATTY. FOR DBT.  
JOHN MACCONAGHY/ATTY. FOR MV.  
SEE MODIFICATION TO PLAN, ECF NO. 2733

NO RULING.

1:30 PM

1. [19-10509](#)-B-13     **IN RE: ROBERT CLYBORNE**  
[SL-2](#)

MOTION TO MODIFY PLAN  
10-7-2019   [\[62\]](#)

ROBERT CLYBORNE/MV  
STEPHEN LABIAK  
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 confirmation order shall include the docket control number of the motion and it shall reference the plan by the date it was filed. The chapter 13 trustee withdrew his opposition on October 30, 2019. Doc. #72.

2. [19-12923](#)-B-13    **IN RE: JOHN HERNANDEZ**  
[MHM-1](#)

MOTION TO DISMISS CASE  
10-8-2019    [[24](#)]

MICHAEL MEYER/MV  
SCOTT LYONS  
RESPONSIVE PLEADING

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

DISPOSITION:                    Dropped from calendar.

NO ORDER REQUIRED:            Movant withdrew the motion. Doc. #31.

3. [19-12633](#)-B-13    **IN RE: PRISCILLA VELOZ**  
[MHM-3](#)

MOTION TO DISMISS CASE  
10-8-2019    [[46](#)]

MICHAEL MEYER/MV  
YELENA GUREVICH

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)). Accordingly, the case will be dismissed.

4. [19-14040](#)-B-13     **IN RE: EARL/JOSIE BOYD**  
[FW-1](#)

MOTION TO VALUE COLLATERAL OF TRAVIS CREDIT UNION  
10-16-2019    [[15](#)]

EARL BOYD/MV  
GABRIEL WADDELL

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

DISPOSITION:        Denied without prejudice.

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

The motion is DENIED WITHOUT PREJUDICE.

The declaration does not contain the debtor's opinion of the relevant value. 11 U.S.C. § 506(a)(2) requires the valuation to be "replacement value," not "fair market value," which is not specific enough. Doc. #17.

Therefore, this motion is DENIED WITHOUT PREJUDICE.

5. [19-14040](#)-B-13     **IN RE: EARL/JOSIE BOYD**  
[FW-2](#)

MOTION TO VALUE COLLATERAL OF TRAVIS CREDIT UNION  
10-16-2019    [[11](#)]

EARL BOYD/MV  
GABRIEL WADDELL

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

DISPOSITION:        Denied without prejudice.

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

The motion is DENIED WITHOUT PREJUDICE.

The declaration does not contain the debtor's opinion of the relevant value. 11 U.S.C. § 506(a)(2) requires the valuation to be "replacement value," not "fair market value," which is not specific enough. Doc. #13.

Therefore, this motion is DENIED WITHOUT PREJUDICE.

6. [19-13342](#)-B-13    **IN RE: LINDA GLOSSOP**  
[MHM-2](#)

MOTION TO DISMISS CASE  
10-8-2019    [\[24\]](#)

MICHAEL MEYER/MV  
PETER BUNTING  
RESPONSIVE PLEADING

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

DISPOSITION:                    Dropped from calendar.

NO ORDER REQUIRED:            Movant withdrew the motion. Doc. #46.

7. [19-13345](#)-B-13    **IN RE: ERIC STEPHNEY**  
[HDN-1](#)

MOTION TO CONFIRM PLAN  
9-17-2019    [\[19\]](#)

ERIC STEPHNEY/MV  
HENRY NUNEZ  
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 confirmation order shall include the docket control number of the motion and it shall reference the plan

by the date it was filed. The chapter 13 trustee withdrew his opposition. Doc. #34.

8. [19-13248](#)-B-13     **IN RE: GUILLERMINA OLIVA**  
[SW-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY  
10-31-2019   [\[15\]](#)

ALLY BANK/MV  
THOMAS GILLIS  
ADAM BARASCH/ATTY. FOR MV.

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

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 for failure to comply with the Local Rules of Practice ("LBR") with regard to special procedures for stay relief motions in chapter 13.

LBR 4001-1(b) is the rule regarding additional procedures for motions for relief from the automatic stay in chapter 12 and 13 cases. That rule was not complied with in this motion. The motion alleged that debtor failed to make post-petition payments (doc. #15, p.3, ¶¶7-8). However, the declaration and exhibits did not comply with LBR 4001-1(b) (1). Therefore, the motion is DENIED WITHOUT PREJUDICE.

9. [19-13650](#)-B-13     **IN RE: ANTHONY ESTACIO**  
[MHM-1](#)

MOTION TO DISMISS CASE  
10-10-2019   [\[39\]](#)

MICHAEL MEYER/MV

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

DISPOSITION:         Granted.

ORDER:                The court will issue an order.

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

This matter was fully noticed in compliance with the Local Rules of Practice and there is no opposition. Accordingly, the 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 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 and notice creditors. Accordingly, the case will be dismissed.

10. [19-12351](#)-B-13     **IN RE: ERICA GOMEZ**  
[MHM-4](#)

MOTION TO DISMISS CASE  
10-8-2019   [\[49\]](#)

MICHAEL MEYER/MV  
THOMAS GILLIS  
RESPONSIVE PLEADING

TENTATIVE RULING:       This matter will proceed as scheduled.

DISPOSITION:             Granted unless otherwise ordered at the hearing.

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 chapter 13 trustee ("Trustee") asks the court to dismiss this bankruptcy case for cause under 11 U.S.C. § 1307(c) for debtor's failure to make all payments under the plan. Doc. #49. Trustee states that as of October 8, 2019, "payments are delinquent in the amount of \$1,950.00" and prior to this hearing a payment of \$1,995.00 will come due on October 25, 2019. Doc. #51.

Debtor timely opposed, without evidence, stating that debtor "is working to get the funds together to cure the delinquency. Debtor plans to be current prior to the hearing." Doc. #60.

This matter will be called to verify the status of debtor's payments. If debtor is current, the motion will be denied. If debtor is not current, the court may grant the motion.



11. [19-12058](#)-B-13     **IN RE: RICHARD/DAWN MARTINES**  
[MHM-4](#)

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

MICHAEL MEYER/MV  
TIMOTHY SPRINGER  
RESPONSIVE PLEADING

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

DISPOSITION:         Continued to December 12, 2019 at 1:30 p.m.

ORDER:                The court will issue an order.

This matter is continued to be heard in conjunction with the continued motion to confirm plan, TCS-1.

12. [19-12058](#)-B-13     **IN RE: RICHARD/DAWN MARTINES**  
[TCS-1](#)

MOTION TO CONFIRM PLAN  
10-11-2019    [[48](#)]

RICHARD MARTINES/MV  
TIMOTHY SPRINGER  
RESPONSIVE PLEADING

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

DISPOSITION:         Continued to December 12, 2019 at 1:30 p.m. The court sets January 29, 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 November 27, 2019. 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 December 5, 2019.

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 December 5, 2019. 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 January 29, 2020 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 Trustee's declaration.

13. [18-10065](#)-B-13     **IN RE: STEVEN HARRIS**  
[JHW-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY AND/OR MOTION FOR  
RELIEF FROM CO-DEBTOR STAY  
10-11-2019    [22]

AMERICREDIT FINANCIAL SERVICES, INC./MV  
TIMOTHY SPRINGER  
JENNIFER WANG/ATTY. FOR MV.

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

DISPOSITION:        Denied as moot. Further orders set forth below.

ORDER:                The court will issue an order.

This motion is DENIED AS MOOT. Section 3.11 of debtor's confirmed chapter 13 plan (doc. #5) states that "[u]pon confirmation of the plan, the automatic stay of 11 U.S.C. § 362(a) and the co-debtor stay of 11 U.S.C. § 1301(a) are . . . modified to allow the holder of a Class 4 secured claim to exercise its rights against its collateral and any nondebtor in the event of a default under applicable law or contract." Movant's secured claim is in Class 4. Therefore movant does not need a court order to exercise its rights against its collateral.

The motion is DENIED AS MOOT. The court also orders any residual insurance proceeds after satisfaction of the allowed secured claim shall be paid to the Chapter 13 Trustee.

14. [19-10468](#)-B-13     **IN RE: RENEE FONTES**  
[JRL-3](#)

OBJECTION TO CLAIM OF STATE NATIONAL COMPANIES, CLAIM NUMBER 9  
9-27-2019    [\[38\]](#)

RENEE FONTES/MV  
JERRY LOWE

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

DISPOSITION:         Sustained.

ORDER:                Moving party shall prepare the order.

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). Therefore, the defaults of the above-mentioned parties in interest are entered provided service is effective. 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.

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).

Debtor objects to claim no. 9 filed by State National Companies ("Creditor") because the claim exceeds the amount owed by debtor. Doc. #38. At the time of filing, C.U. Recovery Inc. was attempting to collect a secured debt owed to Chartway Federal Credit Union ("CFCU") in the approximate amount of \$4,958.85. Creditor is an insurance provider and successor in interest to CFCU. Creditor purports to be a secured creditor because its' payment to CFCU for debtor's car loan. However, debtor never entered into a contract with Creditor, nor agreed to be liable for any claims paid by Creditor to CFCU. There has been no opposition to this motion. Therefore, the objection is SUSTAINED.

15. [19-11472](#)-B-13     **IN RE: IGNACIO DALUDDUNG**  
[AF-4](#)

MOTION TO CONFIRM PLAN  
9-17-2019    [[76](#)]

IGNACIO DALUDDUNG/MV  
ARASTO FARSAD

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.

16. [19-13074](#)-B-13     **IN RE: KEVIN/DORIS WILLIAMS**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES  
10-25-2019    [[23](#)]

MARK ZIMMERMAN

TENTATIVE RULING:        This matter will proceed as scheduled.

DISPOSITION:         The minutes of the hearing will be the court's findings and conclusions.

ORDER:                The court will issue an order.

This matter will proceed as scheduled. If the fees due at the time

of the hearing have not been paid prior to the hearing, the case will be dismissed on the grounds stated in the OSC.

If the installment fees due at the time of hearing are paid before the hearing, 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.

17. [19-14295](#)-B-13     **IN RE: RUBEN/MARIA QUINTANILLA**  
[SL-1](#)

CONTINUED MOTION TO EXTEND AUTOMATIC STAY  
10-17-2019    [[10](#)]

RUBEN QUINTANILLA/MV  
SCOTT LYONS/ATTY. FOR DBT.

NO RULING.