

UNITED STATES BANKRUPTCY COURT  
Eastern District of California  
Honorable René Lastreto II  
Hearing Date: Thursday, November 15, 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.

**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. [18-13678](#)-B-11    **IN RE: VERSA MARKETING, INC.**  
[WW-3](#)

CONTINUED STATUS CONFERENCE RE: MOTION TO EMPLOY TERENCE J.  
LONG AS CONSULTANT(S)  
9-21-2018    [[14](#)]

VERSA MARKETING, INC./MV  
RILEY WALTER  
RESPONSIVE PLEADING

NO RULING.

2. [17-13797](#)-B-9    **IN RE: TULARE LOCAL HEALTHCARE DISTRICT**  
[WW-34](#)

MOTION TO APPROVE AGREEMENT RELATING TO RELIEF FROM THE  
AUTOMATIC STAY  
10-24-2018    [[817](#)]

TULARE LOCAL HEALTHCARE  
DISTRICT/MV  
RILEY WALTER

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. The court approves the stipulation. The stipulation will lift the automatic stay to allow the Tulare County Superior Court to enter a final stipulated judgment between the plaintiffs in the state court action at issue and the District.

3. [17-13797](#)-B-9 **IN RE: TULARE LOCAL HEALTHCARE DISTRICT**  
[WW-41](#)

CONTINUED MOTION FOR AUTHORITY TO ENTER INTO TRANSACTION INCLUDING BORROWING FUNDS, SALES OF PERSONAL PROPERTY AND PROVIDING SECURITY, ASSUMPTION AND ASSIGNMENT OF CONTRACTS AND LEASES AND FOR AUTHORITY TO LEASE REAL PROPERTY  
7-20-2018 [[603](#)]

TULARE LOCAL HEALTHCARE  
DISTRICT/MV  
RILEY WALTER  
ECF ORDER #711 CONTINUING TO 11/29/18

FINAL RULING: There will be no hearing on this matter.  
DISPOSITION: Continued to November 29, 2018 at 9:30 a.m.  
NO ORDER REQUIRED: The court already issued an order. Doc. #711.

4. [17-13797](#)-B-9 **IN RE: TULARE LOCAL HEALTHCARE DISTRICT**  
[WW-46](#)

MOTION TO ASSUME LEASE OR EXECUTORY CONTRACT  
9-11-2018 [[733](#)]

TULARE LOCAL HEALTHCARE  
DISTRICT/MV  
RILEY WALTER

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.

11 U.S.C. § 365(a) states that "subject to the court's approval, [the debtor in possession] may assume...any...unexpired lease of the debtor."

In evaluating a decision to reject an executory contract or unexpired lease in the Ninth Circuit, "the bankruptcy court should presume that the debtor-in-possession acted prudently, on an informed basis, in good faith, and in the honest belief that the action taken was in the best interests of the bankruptcy estate." Agarwal v. Pomona Valley Med. Group, Inc. (In re Pomona Valley Med. Group, Inc.), 476 F.3d 665, 670 (9th Cir. 2007) (citations omitted).

Even though this motion is a motion to assume, not reject, the analysis is identical. "...[C]ourts are no more equipped to make subjective business decisions for...businesses..." *Id.* The presumption has not been rebutted, and therefore the court finds that the debtor's decision to assume is consistent with the business judgment rule and Ninth Circuit precedent.

The court GRANTS this motion and approves the stipulation between the debtor and Heiskell Ranches L.P. The debtor is authorized to assume the unexpired nonresidential real property leases for 880 E. Merritt, Suites 105-106 ("Family X-Ray Center Lease") and Suites 107-109 ("Mineral Kings Toxicology Lease").

5. [17-13797](#)-B-9     **IN RE: TULARE LOCAL HEALTHCARE DISTRICT**  
[WW-49](#)

MOTION TO REJECT LEASE OR EXECUTORY CONTRACT  
10-26-2018    [\[834\]](#)

TULARE LOCAL HEALTHCARE  
DISTRICT/MV  
RILEY WALTER

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.

11 U.S.C. § 365(a) states that "subject to the court's approval, [the debtor in possession] may assume...any...unexpired lease of the debtor."

In evaluating a decision to reject an executory contract or unexpired lease in the Ninth Circuit, "the bankruptcy court should presume that the debtor-in-possession acted prudently, on an informed basis, in good faith, and in the honest belief that the action taken was in the best interests of the bankruptcy estate." Agarwal v. Pomona Valley Med. Group, Inc. (In re Pomona Valley Med. Group, Inc.), 476 F.3d 665, 670 (9th Cir. 2007) (citations omitted).

Unless opposition is presented at the hearing, the court finds that the presumption has not been rebutted, and therefore the debtor's decision to reject is consistent with the business judgment rule and Ninth Circuit precedent.

The debtor is authorized to reject the office equipment lease agreement with Leaf Capital Funding LLC for a copier system.

6. [17-13797](#)-B-9     **IN RE: TULARE LOCAL HEALTHCARE DISTRICT**  
[WW-50](#)

MOTION TO REJECT LEASE OR EXECUTORY CONTRACT  
10-31-2018    [\[856\]](#)

TULARE LOCAL HEALTHCARE  
DISTRICT/MV  
RILEY WALTER

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.

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Unless opposition is presented at the hearing, the court finds that the presumption has not been rebutted, and therefore the debtor's decision to reject is consistent with the business judgment rule and Ninth Circuit precedent.

The debtor is authorized to reject the equipment leases with Wells Fargo Vendor Financial Services, LLC.

7. [17-13797](#)-B-9     **IN RE: TULARE LOCAL HEALTHCARE DISTRICT**  
[WW-59](#)

MOTION TO REJECT LEASE OR EXECUTORY CONTRACT  
10-26-2018    [[844](#)]

TULARE LOCAL HEALTHCARE  
DISTRICT/MV  
RILEY WALTER

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.

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Unless opposition is presented at the hearing, the court finds that the presumption has not been rebutted, and therefore the debtor's decision to reject is consistent with the business judgment rule and Ninth Circuit precedent.

The debtor is authorized to reject the various service contracts and supply agreements listed in movant's Exhibit A.

8. [17-13797](#)-B-9     **IN RE: TULARE LOCAL HEALTHCARE DISTRICT**  
[WW-61](#)

MOTION TO REJECT LEASE OR EXECUTORY CONTRACT  
10-26-2018    [[839](#)]

TULARE LOCAL HEALTHCARE  
DISTRICT/MV  
RILEY WALTER

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.

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Unless opposition is presented at the hearing, the court finds that the presumption has not been rebutted, and therefore the debtor's decision to reject is consistent with the business judgment rule and Ninth Circuit precedent.

The debtor is authorized to reject the various service contracts and supply agreements listed in movant's Exhibit A.

1:30 PM

1. [18-13602](#)-B-13    **IN RE: RAMIRO/ENEDELIA SANCHEZ**  
[AP-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY FEDERAL HOME LOAN  
MORTGAGE CORPORATION  
10-22-2018    [[18](#)]

FEDERAL HOME LOAN MORTGAGE  
CORPORATION/MV  
THOMAS GILLIS  
WENDY LOCKE/ATTY. FOR MV.

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. 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).

Creditor Federal Home Loan Mortgage Corporation's, as trustee for Freddie Mac Seasoned Credit Risk Transfer Trust, Series 2017-2, as owner of the Related Mortgage Loan, ("Creditor") objection is on the grounds that the plan does not account for the entire amount of the pre-petition arrearages that debtors owe to creditor and that the plan does not promptly cure Creditor's pre-petition arrears as required by 11 U.S.C. § 1322(b)(5). Doc. #18, claim #7.

Section 3.02 of the plan provides that it is the proof of claim, not the plan itself, that determines the amount that will be repaid under the plan. Doc. #2. Creditor's proof of claim, filed October 1, 2018, states a claimed arrearage of \$2,005.47. This claim is classified in class 4 - paid directly by debtors. If confirmed, the plan terminates the automatic stay for Class 4 creditors. Plan section 3.11. The debtors may need to modify the plan to account for the arrearage. If they do not and the plan is confirmed, Creditor will have stay relief. If the plan is modified, then this objection may be moot.

Therefore, this objection is OVERRULED.



2. [18-13602](#)-B-13     **IN RE: RAMIRO/ENEDELIA SANCHEZ**  
[RWR-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY NOBLE FEDERAL CREDIT  
UNION  
10-23-2018    [\[22\]](#)

NOBLE FEDERAL CREDIT UNION/MV  
THOMAS GILLIS  
RUSSELL REYNOLDS/ATTY. FOR MV.

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 Moving Party  
will submit a proposed order after hearing.

This objection 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 sustain the objection. 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.

Noble Federal Credit Union ("Creditor") objects to confirmation of the plan on the grounds that the plan has not been proposed in good faith under 11 U.S.C. § 1325(a)(3).

Creditor states several discrepancies were discovered at the § 341 meeting.

First, the debtors confirmed that the dependents listed in their schedules were not accurate, and that their 2017 tax return was inaccurate.

Second, when Creditor asked debtors regarding the monthly food and housekeeping expense on Schedule J, Mrs. Sanchez stated that they spend \$700.00 per month, but debtors' counsel "suggested that Mrs. Sanchez refresh her recollection and provided her with a copy of their Schedule J," at which point Mrs. Sanchez changed her answer to \$1,750.00 per month. Doc. #22. Creditors have asked to do a "small amount of discovery" in order to determine if the Schedule J expenses are accurate.

Creditor may utilize discovery devices available in contested matters.

3. [17-14609](#)-B-13     **IN RE: MARK NOACK**

STATUS CONFERENCE RE: CHAPTER 13 VOLUNTARY PETITION  
12-2-2017    [[1](#)]

TIMOTHY SPRINGER

NO RULING.

4. [14-11111](#)-B-13     **IN RE: PHILLIP/MARNIE HAMILTON**  
[TCS-7](#)

MOTION TO MODIFY PLAN  
10-3-2018    [[142](#)]

PHILLIP HAMILTON/MV  
TIMOTHY SPRINGER

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.

5. [14-11518](#)-B-13     **IN RE: ROBERTO ROBLES**  
[SAH-5](#)

MOTION FOR COMPENSATION BY THE LAW OFFICE OF HEMB LAW GROUP  
FOR SUSAN A. HEMB, DEBTORS ATTORNEY(S)  
10-10-2018    [[87](#)]

SUSAN HEMB

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. Counsel is awarded fees of \$2,637.50.

6. [16-12421](#)-B-13     **IN RE: INEZ SEARS**  
[TCS-5](#)

MOTION TO MODIFY PLAN  
10-22-2018    [[86](#)]

INEZ SEARS/MV  
TIMOTHY SPRINGER

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").

First, LBR 9014-1(e) (2) requires a proof of service, in the form of a certificate of service, to be filed with the Clerk of the court concurrently with the pleadings or documents served, or not more than three days after the papers are filed.

In this case, no proof of service was filed.

Second, LBR 9014-1(g) states that continuances must be approved by the Court, and movants may request for a continuance at the scheduled hearing or in advance in writing.

Movant filed two notices of hearing for this motion. The first notice set the hearing for November 15, 2018 at 1:30 p.m. Doc. #87. Shortly thereafter, an amended notice of hearing was filed, setting the hearing for November 29, 2018 at 1:30 p.m. This continuance was not requested in writing, and because of the above-mentioned service issue, even if a hearing were held, a requested continuance would require the same amount of time as the filing of a new motion.

Therefore this motion is DENIED WITHOUT PREJUDICE.

7. [17-11523](#)-B-13     **IN RE: TRINIDAD LOPEZ**  
[DRJ-4](#)

MOTION TO MODIFY PLAN  
10-8-2018    [\[43\]](#)

TRINIDAD LOPEZ/MV  
DAVID JENKINS

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.

8. [18-13832](#)-B-13     **IN RE: ANDREA SOUSA**  
[JRL-1](#)

CONTINUED MOTION TO EXTEND AUTOMATIC STAY  
10-2-2018    [[10](#)]

ANDREA SOUSA/MV  
JERRY LOWE

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

DISPOSITION:         Granted.

ORDER:                The court will issue the order.

This motion was continued to allow debtor to re-file an amended notice of hearing with the language required in Local Rule of Practice ("LBR") 9014-1(d)(3)(B)(iii) and for the court to consider further extension of the stay.

This motion is GRANTED.

The court notes than an amended notice of hearing with the correct LBR 9014-1(d)(3)(B)(iii) language was filed and served on October 18, 2018. Doc. #26. By prior order of the court, because no respondent made an appearance at the hearing on July 19, 2018, their defaults were entered. The court has not received any other opposition to this motion. Therefore, the automatic stay shall be extended for all purposes as to all parties who received notice subject to further court order.

9. [18-13435](#)-B-13     **IN RE: ESTHER SERRANO**  
[MHM-1](#)

MOTION TO DISMISS CASE  
10-4-2018    [[12](#)]

MICHAEL MEYER/MV  
THOMAS GILLIS  
RESPONSIVE PLEADING

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

DISPOSITION:         Dropped from calendar.

NO ORDER REQUIRED:    Movant withdrew the motion. Doc. #29.

10. [17-10236](#)-B-13     **IN RE: PAUL/KATHLEEN LANGSTON**  
[FW-8](#)

MOTION TO MODIFY PLAN  
9-28-2018    [[159](#)]

PAUL LANGSTON/MV  
PETER FEAR  
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.

This is debtor's fifth modified plan, and the fifth time that  
creditor Victoria Geesman has objected to plan confirmation. Debtor  
timely responded. Doc. #171.

The legal issues appear to include: the treatment of creditor's  
claim in the modified plan.

11. [18-13436](#)-B-13     **IN RE: GILBERTO GARCIA AND OLIVIA ROMERO**  
[MHM-2](#)

MOTION TO DISMISS CASE  
10-5-2018    [[16](#)]

MICHAEL MEYER/MV  
THOMAS GILLIS  
RESPONSIVE PLEADING

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

DISPOSITION:                Dropped from calendar.

NO ORDER REQUIRED:         Movant withdrew the motion. Doc. #29.

12. [18-12437](#)-B-13     **IN RE: ANDREA AFFRONTI**  
[MHM-1](#)

CONTINUED MOTION TO DISMISS CASE  
9-11-2018    [[18](#)]

MICHAEL MEYER/MV  
MARK ZIMMERMAN  
RESPONSIVE PLEADING

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

DISPOSITION:                 Dropped from calendar.

NO ORDER REQUIRED:         Movant withdrew the motion. Doc. #42.

13. [18-12542](#)-B-13     **IN RE: ISABEL SANCHEZ**  
[MHM-4](#)

MOTION TO DISMISS CASE  
10-3-2018    [[42](#)]

MICHAEL MEYER/MV  
TIMOTHY SPRINGER  
RESPONSIVE PLEADING

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

DISPOSITION:                 Dropped from calendar.

NO ORDER REQUIRED:         Movant withdrew the motion. Doc. #55.

14. [18-13345](#)-B-13     **IN RE: DAVID/DONNA MCCALLUM**  
[MHM-1](#)

MOTION TO DISMISS CASE  
10-3-2018    [[13](#)]

MICHAEL MEYER/MV  
SUSAN HEMB  
RESPONSIVE PLEADING

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

DISPOSITION:                 Granted.

ORDER:                        The court will issue the order.

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. Under 11 U.S.C. § 1307(c), the court may convert or dismiss a case, whichever is in the best interests of creditors and the estate, for cause.

Here, the trustee has requested dismissal for being delinquent in the amount of \$1,404.83. Doc. #13. Debtor filed a non-opposition. Doc. #26.

The court finds that dismissal would be in the best interests of creditors and the estate.

For the above reasons, this motion is GRANTED.

15. [18-13345](#)-B-13     **IN RE: DAVID/DONNA MCCALLUM**  
[MHM-3](#)

MOTION TO DISMISS CASE  
10-4-2018    [\[20\]](#)

MICHAEL MEYER/MV  
SUSAN HEMB  
RESPONSIVE PLEADING

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

DISPOSITION:     Denied as moot.

ORDER:             The court will issue an order.

This motion is DENIED AS MOOT because the trustee's MHM-1 is granted.



16. [18-14352](#)-B-13     **IN RE: STEVEN CHAVEZ**  
[SFR-1](#)

MOTION TO EXTEND AUTOMATIC STAY  
10-29-2018    [8]

STEVEN CHAVEZ/MV  
SHARLENE ROBERTS-CAUDLE

TENTATIVE RULING:        This matter will proceed as scheduled.

DISPOSITION:                Granted.

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

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

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

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

Debtor had one case pending within the preceding one-year period, case no. 18-13064. That case was filed on July 27, 2018 and was dismissed on October 25, 2018 for failure to provide necessary documents to the chapter 13 trustee's office. This case was filed on October 26, 2018 and the automatic stay will expire on November 25, 2018. 11 U.S.C. § 362(c) (3) (B) allows the court to extend the stay to any or all creditors, subject to any limitations the court may impose, after a notice and hearing where the debtor or a party in interest demonstrates that the filing of the later case is in good faith as to the creditors to be stayed.

Cases are presumptively filed in bad faith if any of the conditions contained in 11 U.S.C. § 362(c) (3) (C) exist. The presumption of bad faith may be rebutted by clear and convincing evidence. *Id.* Under the clear and convincing standard, the evidence presented by the movant must "place in the ultimate factfinder an abiding conviction

that the truth of its factual contentions are highly probable. Factual contentions are highly probable if the evidence offered in support of them 'instantly tilt[s] the evidentiary scales in the affirmative when weighed against the evidence [the non-moving party] offered in opposition." Emmert v. Taggart (In re Taggart), 548 B.R. 275, 288, n.11 (9th Cir. BAP 2016) (citations omitted).

In this case the presumption of bad faith arises. The subsequently filed case is presumed to be filed in bad faith because the prior case was dismissed on the grounds that debtor failed to file documents as required by the bankruptcy code and the court without substantial excuse. 11 U.S.C. § 362(c)(3)(C)(i)(II)(aa).

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

Debtor filed bankruptcy to prevent the sale of his residence, to pay debts secured by personal property, and to pay priority and non-priority unsecured debt. The prior case was dismissed for failure to timely provide necessary and requested documents to the trustee's office, primarily the 2016 and 2017 tax returns.

Debtor has now filed the necessary tax returns and has more demonstrable income to make plan payments. Doc. #10.

The motion will be granted and the automatic stay extended for all purposes as to all parties who received notice, unless terminated by further order of this court. If opposition is presented at the hearing, the court will consider the opposition and whether further hearing is proper pursuant to LBR 9014-1(f)(2). The court will issue an order.

17. [18-13053](#)-B-13     **IN RE: BUCK/TIFFANNIE RATCHFORD**  
[JCW-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY  
10-11-2018    [\[35\]](#)

WELLS FARGO BANK, N.A./MV  
STEPHEN LABIAK  
JENNIFER WONG/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, Wells Fargo Bank, N.A., ("Creditor") seeks relief from the automatic stay under 11 U.S.C. § 362(d)(1) and (d)(2) with respect to a piece of real property commonly known as 41435 Acorn Road in Auberry, CA 93602.

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) allows 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 debtor is delinquent in making their payments to Creditor and there is no equity in the property. The movant has produced evidence that the property has a value of \$150,000.00 and debtor owes \$152,588.39. Claim 6.

The court also notes that the chapter 13 plan shows that debtor intends to surrender the property. Doc. #2. The Plan classifies movant's claim in class 3 and the automatic stay would terminate upon confirmation of the plan. The plan is not yet confirmed.

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 order shall provide that the bankruptcy proceeding has been finalized for purposes of California Civil Code § 2923.5.

The 14-day stay of Fed. R. Bankr. P. 4001(a) (3) will be not ordered waived because Creditor has not shown any exigency

18. [18-13153](#)-B-13     **IN RE: LUIS BRAVO**  
[MHM-1](#)

MOTION TO DISMISS CASE  
10-5-2018    [[71](#)]

MICHAEL MEYER/MV  
ERIC ESCAMILLA

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

DISPOSITION:                 Dropped from calendar.

NO ORDER REQUIRED:         Movant withdrew the motion. Doc. #82.

19. [18-13654](#)-B-13     **IN RE: STEPHANIE WITHROW**  
[AP-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY QUICKEN LOANS INC.  
10-3-2018    [[14](#)]

QUICKEN LOANS INC./MV  
PETER BUNTING  
WENDY LOCKE/ATTY. FOR MV.

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 moving party shall submit a proposed order in conformance with the ruling below after hearing.

This objection is SUSTAINED. 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).

Creditor Quicken Loans Inc.'s ("Creditor") objection is on the grounds that the plan does not account for the entire amount of the pre-petition arrearages that debtor owes to creditor and that the plan does not promptly cure Creditor's pre-petition arrears as required by 11 U.S.C. § 1322(b) (5). Doc. #14, claim #1.

Section 3.02 of the plan provides that it is the proof of claim, not the plan itself, that determines the amount that will be repaid

under the plan. Doc. #4. Creditor's proof of claim, filed September 24, 2018, states a claimed arrearage of \$3,992.35. But the proof of claim states that this is an arrearage owed, meaning the plan will need to be modified. This claim is classified in class 4 - paid directly by debtor.

Therefore, this objection is SUSTAINED.

20. [18-12057](#)-B-13     **IN RE: ALEXANDRO/LUCY HOLLIE**  
[SL-1](#)

CONTINUED MOTION TO MODIFY PLAN  
9-7-2018    [[15](#)]

ALEXANDRO HOLLIE/MV  
SCOTT LYONS  
RESPONSIVE PLEADING

TENTATIVE RULING:            This matter will proceed as scheduled.

DISPOSITION:                    Granted.

ORDER:                            The minutes of the hearing will be the court's findings and conclusions. The moving party shall submit a proposed order in conformance with the ruling below after hearing.

By prior order of the court, this matter was continued to allow debtor to respond to the trustee's objection.

The trustee's objection in this case was on the grounds that amended Schedules I and J have not been filed, so trustee cannot verify feasibility.

Debtor timely responded, stating that they filed the schedules. They did. Doc. #23.

The court reviewed the amended Schedules I and J and finds that the debtors' monthly net income is sufficient to make the plan payment.

This matter will be called to allow trustee to advise if there are any remaining issues before the plan can be confirmed.

21. [18-13064](#)-B-13     **IN RE: STEVEN CHAVEZ**  
[SFR-2](#)

MOTION TO CONFIRM PLAN  
10-8-2018    [[37](#)]

STEVEN CHAVEZ/MV  
SHARLENE ROBERTS-CAUDLE  
DISMISSED 10/25/18

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

DISPOSITION:                 Dropped from calendar.

NO ORDER REQUIRED:         An order dismissing the case has already been entered. Doc. #61.

22. [17-11565](#)-B-13     **IN RE: PETER/MICHELLE GUTIERREZ**  
[PBB-1](#)

MOTION TO MODIFY PLAN  
10-4-2018    [[21](#)]

PETER GUTIERREZ/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 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.

23. [18-10181](#)-B-13     **IN RE: MIGUEL HERNANDEZ**

ORDER TO SHOW CAUSE - FAILURE TO TENDER FEE FOR FILING  
TRANSFER OF CLAIM  
10-29-2018    [[56](#)]

NIMA VOKSHORI  
\$25.00 FILING FEE PAID 10/29/18

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

DISPOSITION:                    The OSC will be vacated.

NO ORDER REQUIRED.            The OSC will be vacated.

The fee was paid on October 29, 2018 in its entirety.

24. [18-13381](#)-B-13     **IN RE: GABRIEL AGTARAP**  
[MHM-2](#)

MOTION TO DISMISS CASE  
10-4-2018    [[27](#)]

MICHAEL MEYER/MV

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

DISPOSITION:                    Dropped from calendar.

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

25. [18-13481](#)-B-13     **IN RE: JAVIER VELIZ**  
[MHM-2](#)

MOTION TO DISMISS CASE  
10-4-2018    [[27](#)]

MICHAEL MEYER/MV  
PETER BUNTING

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

DISPOSITION:                    Dropped from calendar.

NO ORDER REQUIRED:            Movant withdrew the motion. Doc. #43.

26. [18-13191](#)-B-13     **IN RE: NICOLE LEFORE**  
[MHM-2](#)

MOTION TO DISMISS CASE  
10-3-2018    [23]

MICHAEL MEYER/MV  
JERRY LOWE

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

DISPOSITION:     Granted.

ORDER:            The court will issue the order.

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. Under 11 U.S.C. § 1307(c), the court may convert or dismiss a case, whichever is in the best interests of creditors and the estate, for cause.

Here, the trustee has requested dismissal because debtor is delinquent in the amount of \$2,549.70. Doc. #25. Debtor did not oppose.

The court finds that dismissal would be in the best interests of creditors and the estate.



27. [18-13391](#)-B-13     **IN RE: ENOCH GREEN**  
[MHM-1](#)

MOTION TO DISMISS CASE  
10-3-2018   [\[19\]](#)

MICHAEL MEYER/MV  
TIMOTHY SPRINGER  
RESPONSIVE PLEADING

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

DISPOSITION:       Denied as moot.

ORDER:             The court will issue an order.

This motion is DENIED AS MOOT. Trustee's other motion to dismiss, MHM-3, matter #28 below, is granted.

28. [18-13391](#)-B-13     **IN RE: ENOCH GREEN**  
[MHM-3](#)

MOTION TO DISMISS CASE  
10-4-2018   [\[26\]](#)

MICHAEL MEYER/MV  
TIMOTHY SPRINGER  
RESPONSIVE PLEADING

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

DISPOSITION:       Granted.

ORDER:             The court will issue the order.

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

Chapter 13 trustee Michael H. Meyer ("Meyer") moves to dismiss this case under 11 U.S.C. §§ 1307(c)(1) and 521(a)(3), (4). Meyer contends that he has not received all of the documents to which he is entitled and which are necessary for performance of his duties. Debtor, opposes the motion, contending that the necessary and requested documents have been supplied. Doc. ##40, 43.

11 U.S.C. § 1307(c) provides that the court may dismiss a chapter 13 case for cause. Failure to provide documents required by the chapter 13 trustee is cause. See In re Robertson, 2010 WL 5462500 (Bankr. S.C. 2010); In re Nichols, 2009 WL 2406172 (Bankr. E.D.N.C. 2009).

The list of documents that a chapter 13 debtor must surrender to the trustee is long. At a minimum it includes (1) pay advices for the 60 days prior to the petition, 11 U.S.C. § 521(a)(1)(B)(iv), Federal Rule of Bankruptcy Procedure 1007(b)(1)(E); (2) a copy of the debtor's most recent federal income tax return (or a transcript

thereof), 11 U.S.C. § 521(e)(2)(A); Fed. R. Bankr. P. 4002(b)(3); (3) a photographic identification and proof of social security number, Fed. R. Bankr. P. 4002(b)(1); (4) evidence of "current monthly income," such as a post-petition pay stub, Fed. R. Bankr. P. 4002(b)(2)(A); (5) documentation of monthly expenses claimed under 11 U.S.C. §§ 707(b)(2)(A), (B), 1325(b)(3); and (6) bank and investment account statements that reflect the balance on the date of the petition, Fed. R. Bankr. 4002(b)(2)(B). Pay stubs and tax returns are due to the trustee at least seven days prior to the meeting of creditors. Fed. R. Bankr. P. 1007(b)(1)(E), 4002(b)(3). The remainder of these documents must be provided no later than the meeting of creditors. Fed. R. Bankr. 4002(b).

But the statutorily required documents do not define the outer limits of documentation to be provided in conformance with the debtor's duties. The chapter 13 trustee has discretion to ask for far more documentation. 11 U.S.C. § 521 requires that the debtor ". . . cooperate with the trustee as necessary to enable the trustee to perform the trustee's duties under this title." 11 U.S.C. § 521(a)(3) (emphasis added). As one commentator noted, "Cooperate" is a broad term, indeed, and must be construed that whenever the trustee calls upon the debtor for assistance in the performance of his duties, the debtor is required to respond, at least if the request is not unreasonable." 4 *Collier on Bankruptcy* ¶ 521.15 (Alan N. Resnick & Henry J. Sommer eds., 16th ed. rev. 2018). Paramount among the chapter 13 trustee's duties is to "appear and be heard" regarding plan confirmation. 11 U.S.C. §§ 1302(b)(2)(B), 1322 (mandatory and optional plan contents), 1325 (elements for plan confirmation). Neither the code, nor the rules, prescribe a deadline for that cooperation, and this court finds that the debtor is entitled to a reasonable time to respond to the trustee's inquiries and requests for documentation.

The trustee has requested the following additional documentation from the debtor: the 2016 and 2017 state and federal tax returns; Infinity sales contract, and a deed of trust. Doc. #26. Debtor timely responded, stating that "Debtor believes that all requested documents have been uploaded to the Chapter 13 Trustee." Doc. #34. However, debtors did not provide any evidence with their opposition. *Id.*

Nearly a month has passed since that demand and the debtor has not provided any evidence that the trustee has those documents. These documents are necessary for the chapter 13 trustee to rise and be heard with respect to plan confirmation. The court finds that the debtor has had a reasonable time to cooperate, and has not done so.

For each of these reasons, unless the trustee withdraws the motion, the case is dismissed.

29. [15-12993](#)-B-13     **IN RE: ROBERT/KARLA RODRIGUEZ**  
[GEG-5](#)

MOTION FOR COMPENSATION BY THE LAW OFFICE OF GATES LAW  
GROUP, APC FOR GLEN E. GATES, DEBTORS ATTORNEY(S)  
10-12-2018    [\[125\]](#)

GLEN GATES

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, Glen Gates, requests fees of \$15,960.00 for services rendered from June 11, 2015 through July 27, 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) Pre-petition consultation and fact gathering, (2) Preparing for and attending the meeting of creditors, (3) Administering and objection to claims, (4) Prosecuting motions, and (5) General case administration. The court finds the services reasonable and necessary and the expenses requested actual and necessary.

Movant shall be awarded \$15,960.00 in fees.

30. [18-13694](#)-B-13     **IN RE: ADRIAN/MARISELA PALAFOX**  
[ALG-2](#)

MOTION TO VALUE COLLATERAL OF CHRYSLER CAPITAL  
10-3-2018    [\[18\]](#)

ADRIAN PALAFOX/MV  
JANINE ESQUIVEL

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 debtor is competent to testify as to the value of the 2015 Chrysler 200. 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 \$12,597.00. 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.