

UNITED STATES BANKRUPTCY COURT  
Eastern District of California  
Honorable René Lastreto II  
Hearing Date: Thursday, December 19, 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. [19-14508](#)-B-11 **IN RE: J.A.M. 041966 FAMILY TRUST**

STATUS CONFERENCE RE: CHAPTER 11 VOLUNTARY PETITION  
10-28-2019 [[1](#)]

JUSTIN HARRIS/ATTY. FOR DBT.  
DISMISSED 12/2/19

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. #31.

2. [19-14508](#)-B-11 **IN RE: J.A.M. 041966 FAMILY TRUST**  
[DRJ-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY  
11-21-2019 [[20](#)]

LINDA MILLER/MV  
JUSTIN HARRIS/ATTY. FOR DBT.  
DAVID JENKINS/ATTY. FOR MV.  
DISMISSED 12/2/19

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 movants, John and Linda Miller ("Movants"), seek relief from the automatic stay under 11 U.S.C. § 362(d)(4) concerning real property located at 40798 Griffin Drive in Oakhurst, CA 93644 ("Property").

Under § 362(d)(4), if the court finds that the debtor's filing of the petition was part of a scheme to delay, hinder, or defraud creditors that involved either transfer of all or part ownership of, or other interest in, such real property without the consent of the secured creditor or court approval OR multiple bankruptcy filings affecting such real property, then an order entered under paragraph (4) is binding in any other bankruptcy case purporting to affect such real property filed not later than two years after the date of entry of the order.

After review of the included evidence, the court finds that the debtor's filing of the petition was part of a scheme to delay, hinder, or defraud creditors that involved the transfer of all or part ownership of the subject real property without the consent of the secured creditor or court approval.

On or about March 1, 2018 Movants transferred the Property to the Debtor by way of a Grant Deed recorded in Madera County. See doc. #25. Debtor simultaneously executed the Miller Note promising to pay Movants \$244,000.00 in monthly payments of \$10,000 interest-free until paid in full. Id.

The Debtor has defaulted under the note, failing to make any payments in the approximately 20 months that have elapsed since the execution of the Miller Note. As per the terms of the Miller Note, upon default, the principal amount became due and payable in full and began accruing interest at the maximum rate allowed by California law. Movants have been forced to advance various sums to cover expenses related to the Property, including but not limited to attorney's fees and foreclosure costs, which also accrue interest at the maximum rate allowed by California law.

Movants commenced foreclosure proceedings and the first foreclosure sale was set for March 26, 2019. Movants postponed to allow the Trustee of the Debtor more time to make good on promises to pay. The foreclosure sale date set for June 6, 2019, was stayed due to a previous Chapter 13 case filed by Kathryn McCoon, aka J.A.M. 041966 Family Trust case number 19-12391-A, filed on June 5, 2019. A second Chapter 13 case Kathryn McCoon, aka J.A.M. 041966 Family Trust case number 19-14025-A filed on September 24, 2019 stayed the foreclosure set for September 25, 2019. That case was presumed to have been filed in bad faith pursuant to 11 U.S.C. § 362(c)(3). Debtor filed a motion seeking an order declaring that the second

Chapter 13 case was not filed in bad faith and extending the automatic stay beyond 30 days after commencement of the case. Movants opposed that motion and the motion was denied by the court. Ergo the second Chapter 13 was filed in bad faith. A further foreclosure sale date was set for October 28, 2019. As a result of this Chapter 11 filing foreclosure sales scheduled have been postponed to December 24, 2019.

Movant's best estimate of the amount currently owed to them is at least \$256,876.79 as of November 21, 2019 excluding any interest. Id. According to the Comparative Market Analysis, the current value of the Subject Property is \$245,000.00. Id. The motion has not been opposed.

The Court having rendered findings of fact and conclusions of law pursuant to Federal Rule of Civil Procedure 52, as incorporated by Federal Rule of Bankruptcy Procedure 7052:

IT IS ORDERED that the automatic stay of 11 U.S.C. § 362(a) did not arise affecting the/is vacated concerning real property located at 40798 Griffin Drive in Oakhurst, CA 93644; and

IT IS FURTHER ORDERED, pursuant to 11 U.S.C. § 362(d)(4), that the filing of the petition was part of a scheme to delay, hinder, or defraud creditors that involved either transfer of all or part ownership of, or other interest in, the aforesaid real property without the consent of the secured creditor or court approval; or multiple bankruptcy filing affecting such real property. The order shall be binding in any other case under Title 11 of the United States Code purporting to affect the real property described in the motion not later than two years after the date of entry of the order.

The 14-day stay of Fed. R. Bankr. P. 4001(a)(3) will be ordered waived due to the fact that a sale date is scheduled in the next 14 days.

3. [18-11651](#)-B-11     **IN RE: GREGORY TE VELDE**  
[MB-80](#)

MOTION FOR APPROVAL OF STIPULATION FOR ADEQUATE PROTECTION  
PAYMENT AND DISBURSEMENT OF FUNDS FROM BLOCKED ACCOUNT  
11-30-2019    [[2987](#)]

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

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 and the stipulation is approved.

4. [17-13797](#)-B-9     **IN RE: TULARE LOCAL HEALTHCARE DISTRICT**  
[WJH-10](#)

CONTINUED OBJECTION TO CLAIM OF LEVINSON ARSHONSKY & KURTZ, LLP,  
CLAIM NUMBER 174  
9-25-2019    [[1657](#)]

TULARE LOCAL HEALTHCARE DISTRICT/MV  
RILEY WALTER/ATTY. FOR DBT.  
STIPULATION TO CONTINUE

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

DISPOSITION:                    Continued to January 22, 2020 at 9:30 a.m.

NO ORDER REQUIRED:            The court already issued an order. Doc. #1740.

5. [17-13797](#)-B-9     **IN RE: TULARE LOCAL HEALTHCARE DISTRICT**  
[WJH-11](#)

MOTION TO CONTINUE DEADLINE TO FILE AND SERVE OBJECTION TO PROOF  
OF CLAIM  
11-15-2019    [[1711](#)]

TULARE LOCAL HEALTHCARE DISTRICT/MV  
RILEY WALTER/ATTY. FOR DBT.

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

DISPOSITION:         Granted.

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

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

This motion is GRANTED. Movant Tulare Local Healthcare District ("District") asks the court for an order continuing the deadline for the District to file and serve an objection to claim no. 225 filed by Baker & Hostetler LLP. Doc. #1711. Movant states there is good cause to continue the deadline pursuant to Article V of the confirmed plan and 11 U.S.C. § 105(a). Id. No party has filed opposition to this motion.

Pursuant to Article V § 5.5.4 of the plan, the plan provides for court-ordered extensions of objection to claim deadlines. The deadline for the District to file and serve an objection to the Baker & Hostetler claim is extended to July 15, 2020, without prejudice to the District's right to seek further extension.

1:30 PM

1. [19-13902](#)-B-13     **IN RE: HEZEKIAH SHERWOOD**  
[JMM-5](#)

MOTION TO VALUE COLLATERAL OF WESTLAKE FINANCIAL SERVICES  
11-29-2019   [\[52\]](#)

HEZEKIAH SHERWOOD/MV  
JEFFREY MEISNER/ATTY. FOR DBT.

TENTATIVE RULING:       This matter will proceed as scheduled.

DISPOSITION:             Granted.

ORDER:                    The minutes of the hearing will be the court's findings and conclusions. The Moving Party will submit a proposed order after hearing.

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

The motion is GRANTED. 11 U.S.C. § 1325(a)(\*) (the hanging paragraph) gives a debtor the ability to value a motor vehicle acquired for the personal use of the debtor at its current amount, as opposed to the amount due on the loan, when the loan is secured by the vehicle and the debt was not incurred within the 910-day period preceding the date of the filing.

Debtor asks the court for an order valuing a 2015 Honda Civic ("Vehicle") at \$10,500.00. Doc. #52. Creditor Westlake Financial Services' ("Creditor") claim states the amount owed to be \$20,118.77. Claim #6. Debtor's declaration states that the replacement value (as defined in 11 U.S.C. § 506(a)(2)) is \$10,500.00. Doc. #54. Debtor incurred the debt on November 19, 2015. Id. That date is more than 910 days before debtor filed this case.

The debtor is competent to testify as to the value of the Vehicle. Given the absence of contrary evidence, the debtor's opinion of value may be conclusive. Enewally v. Washington Mutual Bank (In re Enewally), 368 F.3d 1165, 1173 (9th Cir. 2004). Creditor's secured claim will be fixed at \$10,500.00. 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. [18-13708](#)-B-13    **IN RE: LEONARDO CHAVEZ**  
[NSV-3](#)

MOTION TO MODIFY PLAN  
11-7-2019    [[42](#)]

LEONARDO CHAVEZ/MV  
NIMA VOKSHORI/ATTY. FOR DBT.

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.

The original (doc. #45) and amended (doc. #46) certificates of service do not include the names and addresses of the persons served. Therefore the court cannot verify that the moving papers were properly served in accordance with the Federal Rules of Bankruptcy Procedure and the Local Rules of Practice.

3. [19-13411](#)-B-13    **IN RE: ADAM CHAVEZ**  
[MHM-2](#)

MOTION TO DISMISS CASE  
11-14-2019    [[19](#)]

MICHAEL MEYER/MV  
NEIL SCHWARTZ/ATTY. FOR DBT.  
RESPONSIVE PLEADING

TENTATIVE RULING:        This matter will proceed as scheduled.

DISPOSITION:        Denied.

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 set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1) and will proceed as scheduled.

This motion is Denied. 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.

The chapter 13 trustee ("Trustee") asks the court to dismiss this case because debtor failed to file a complete and accurate Schedule A/B. Doc. #19. Debtor timely opposed, stating they amended Schedule



A/B. Doc. #29. The court notes that an amended Schedule A/B was filed on December 5, 2019. Doc. #27.

This matter will be called to allow Trustee to respond to debtor's opposition and verify the accuracy of the amended Schedule A/B.

4. [19-11512](#)-B-13     **IN RE: TEOFILO/CHRISTY RODRIGUEZ**  
[SLL-4](#)

MOTION TO MODIFY PLAN  
11-14-2019    [\[88\]](#)

TEOFILO RODRIGUEZ/MV  
STEPHEN LABIAK/ATTY. FOR DBT.

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

DISPOSITION:     Granted.

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

This motion was set for hearing on 35 days' notice as required by Local Rule of Practice ("LBR") 3015-1(d)(1). The failure of the creditors, the debtor, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument. Upon default, factual allegations will be taken as true (except those relating to amount of damages). Televideo Systems, Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires that a plaintiff make a prima facie showing that they are entitled to the relief sought, which the movant has done here.

This motion is GRANTED. The confirmation order shall include the docket control number of the motion and it shall reference the plan by the date it was filed.

5. [17-12213](#)-B-13     **IN RE: RENE ELLER**  
[TCS-4](#)

MOTION TO MODIFY PLAN  
11-1-2019    [79]

RENE ELLER/MV  
TIMOTHY SPRINGER/ATTY. FOR DBT.

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

DISPOSITION:     Granted.

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

This motion was set for hearing on 35 days' notice as required by Local Rule of Practice ("LBR") 3015-1(d)(1). The failure of the creditors, the debtor, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument. Upon default, factual allegations will be taken as true (except those relating to amount of damages). Televideo Systems, Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires that a plaintiff make a prima facie showing that they are entitled to the relief sought, which the movant has done here.

This motion is GRANTED. The confirmation order shall include the docket control number of the motion and it shall reference the plan by the date it was filed.

6. [19-13316](#)-B-13     **IN RE: CURTIS ROSS**  
[MHM-1](#)

CONTINUED OBJECTION TO CONFIRMATION OF PLAN BY TRUSTEE MICHAEL H. MEYER  
9-26-2019    [16]

ROBERT WILLIAMS/ATTY. FOR DBT.

NO RULING.

7. [19-13316](#)-B-13    **IN RE: CURTIS ROSS**  
[MHM-3](#)

MOTION TO DISMISS CASE  
11-13-2019    [\[38\]](#)

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

TENTATIVE RULING:        This matter will proceed as scheduled.

DISPOSITION:                Granted.

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

This motion 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 chapter 13 trustee ("Trustee") asks the court to dismiss this case under 11 U.S.C. § 1301(c) for debtor's repeated failure to attend the § 341 meeting of creditors. Doc. #38. Debtor missed the first § 341 meeting on September 24, 2019 and the continued meeting on November 7, 2019. The next meeting is scheduled for December 17, 2019 at 11:00 a.m. in Bakersfield, CA.

Debtor's counsel timely opposed, stating that the debtor would be present at the December 17, 2019 meeting. Doc. #43.

If debtor ways not present at the next § 341 meeting, this motion will be granted. If debtor is present, this motion will be denied.

8. [19-12719](#)-B-13    **IN RE: ROBERTO CHAVEZ AND SOLEDAD DE CHAVEZ**  
[MHM-3](#)

MOTION TO DISMISS CASE  
11-7-2019    [\[42\]](#)

MICHAEL MEYER/MV  
THOMAS GILLIS/ATTY. FOR DBT.

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

DISPOSITION:                Granted.

ORDER:                        The court will issue an order.

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

This matter was fully noticed in compliance with the Local Rules of Practice and there is no opposition. Accordingly, the respondents' defaults 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 debtors that is prejudicial to creditors (11 U.S.C. § 1307(c)(1)). The debtors have failed to confirm a Chapter 13 Plan (11 U.S.C. § 1307(c)). Accordingly, the case will be dismissed.

9. [19-13422](#)-B-13     **IN RE: LINNEY WADE**  
[MAZ-1](#)

MOTION TO VALUE COLLATERAL OF HARLEY DAVIDSON CREDIT CORP.  
11-15-2019     [28]

LINNEY WADE/MV  
MARK ZIMMERMAN/ATTY. FOR DBT.

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

DISPOSITION:     Granted.

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

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

The motion is GRANTED. 11 U.S.C. § 1325(a)(\*) (the hanging paragraph) gives a debtor the ability to value a motor vehicle acquired for the personal use of the debtor at its current amount, as opposed to the amount due on the loan, when the loan is secured by the vehicle and the debt was not incurred within the 910-day period preceding the date of the filing.

Debtor asks the court for an order valuing a 2015 Harley Davidson FLTRXS ("Vehicle") at \$18,095.00. Doc. #28. Creditor Harley Davidson Credit Corp.'s ("Creditor") claim states the amount owed to be \$28,382.88. Claim #10. Debtor's declaration states that the replacement value (as defined in 11 U.S.C. § 506(a)(2)) is \$18,095.00. Doc. #30. Debtor incurred the debt in September 2015. Id. That date is more than 910 days before debtor filed this case.

The debtor is competent to testify as to the value of the Vehicle. Given the absence of contrary evidence, the debtor's opinion of value may be conclusive. Enewally v. Washington Mutual Bank (In re Enewally), 368 F.3d 1165, 1173 (9th Cir. 2004). Creditor's secured claim will be fixed at \$18,095.00. 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.

10. [19-13422](#)-B-13      **IN RE: LINNEY WADE**  
[MAZ-2](#)

MOTION TO VALUE COLLATERAL OF CAPITAL ONE AUTO FINANCE  
11-15-2019    [\[33\]](#)

LINNEY WADE/MV  
MARK ZIMMERMAN/ATTY. FOR DBT.

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

DISPOSITION:      Granted.

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

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

The motion is GRANTED. 11 U.S.C. § 1325(a)(\*) (the hanging paragraph) gives a debtor the ability to value a motor vehicle acquired for the personal use of the debtor at its current amount, as opposed to the amount due on the loan, when the loan is secured

by the vehicle and the debt was not incurred within the 910-day period preceding the date of the filing.

Debtor asks the court for an order valuing a 2015 Ford Fusion ("Vehicle") at \$14,900.00. Doc. #33. Creditor Capital One Auto Finance's ("Creditor") claim states the amount owed to be \$16,515.80. Claim #5. Debtor's declaration states that the replacement value (as defined in 11 U.S.C. § 506(a)(2)) is \$14,900.00. Doc. #35. Debtor incurred the debt on March 13, 2016. Id. That date is more than 910 days before debtor filed this case.

The debtor is competent to testify as to the value of the Vehicle. Given the absence of contrary evidence, the debtor's opinion of value may be conclusive. Enewally v. Washington Mutual Bank (In re Enewally), 368 F.3d 1165, 1173 (9th Cir. 2004). Creditor's secured claim will be fixed at \$14,900.00. 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.

11. [19-13422](#)-B-13      **IN RE: LINNEY WADE**  
[MHM-1](#)

MOTION TO DISMISS CASE  
11-18-2019    [\[38\]](#)

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

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

DISPOSITION:      Continued to January 10, 2020 at 9:30 a.m.

ORDER:              The court will issue an order.

The chapter 13 trustee ("Trustee") asks the court to dismiss this case for debtor's failure to confirm a chapter 13 plan. Doc. #38. The reason Trustee has not been able to submit the order confirming the plan is because the court has not yet entered orders valuing the collateral of two claims in the chapter 13 plan. The court has not yet entered those orders because those motions were not granted prior to this motion.

Debtor has properly filed, served, and set for hearing two motions to value collateral. See matters 9 and 10 above, MAZ-1, MAZ-2. Those motions are granted. That appears to resolve Trustee's issue. This matter is continued to January 10, 2020 at 9:30 a.m. to allow debtor to submit orders to chambers to sign. Once those orders are entered, Trustee should be able to submit the order confirming plan. If the plan is confirmed before the continued hearing, this matter will be dropped from calendar. If the plan is not confirmed before the continued hearing, then this matter will be called.

12. [19-10227](#)-B-13     **IN RE: MA GUADALUPE SERRANO**  
[MHM-2](#)

MOTION TO DISMISS CASE  
11-8-2019   [\[89\]](#)

MICHAEL MEYER/MV  
THOMAS GILLIS/ATTY. FOR DBT.  
RESPONSIVE PLEADING

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

DISPOSITION:       Continued to January 10, 2020 at 9:30 a.m.

ORDER:             The court will issue an order.

The chapter 13 trustee ("Trustee") asks the court to dismiss this case for debtor's failure to confirm a chapter 13 plan. Doc. #89. Debtor timely opposed, stating that a motion to confirm a second amended plan is set for hearing on January 10, 2020. Doc. #103. The court notes that a motion to confirm a second modified plan has been set for hearing on January 10, 2020 at 9:30 a.m. See TOG-3, doc. #93.

This matter is continued to January 10, 2020 at 9:30 a.m. to be heard in conjunction with the motion to confirm plan. If the plan is confirmed, this motion will be denied. The case will be nearly a year old at the time of the continued hearing, and no plan has yet been confirmed.

13. [19-13329](#)-B-13     **IN RE: SALLY REYES**  
[MHM-2](#)

MOTION TO DISMISS CASE  
11-13-2019   [\[42\]](#)

MICHAEL MEYER/MV  
TIMOTHY SPRINGER/ATTY. FOR DBT.  
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 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. 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.

The chapter 13 trustee ("Trustee") asks the court to dismiss this case because debtor is delinquent in the amount of \$2,169.00. Doc. #42. Before this hearing, another payment in that same amount will also come due.

Debtor timely responded, stating that they would be current by the time of the hearing. Doc. #46.

This matter will be called to confirm whether debtor is current. If debtor is current on plan payments, the motion will be denied. If debtor is not current, the motion will be granted.

14. [19-13230](#)-B-13     **IN RE: RUSSELL/MARICELA STANFORD**  
[TCS-2](#)

MOTION TO CONFIRM PLAN  
10-24-2019    [42]

RUSSELL STANFORD/MV  
TIMOTHY SPRINGER/ATTY. FOR DBT.

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. Debtors have filed an amended plan. See [TCS-3](#), doc. #53.

15. [19-13230](#)-B-13     **IN RE: RUSSELL/MARICELA STANFORD**  
[TCS-3](#)

MOTION TO CONFIRM PLAN  
11-15-2019    [53]

RUSSELL STANFORD/MV  
TIMOTHY SPRINGER/ATTY. FOR DBT.  
OST 12/2/19

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).

There is no evidence that the motion, amended plan, and evidence have been served on the required parties. A certificate of service with the same docket control number as this motion was filed on December 2, 2019. Doc. #60. That certificate shows that an "Amended Notice of Motion to Confirm Second Modified Chapter 13 Plan" was served on December 2, 2019, the same day the court granted debtor's ex-parte motion for an order shortening time. See doc. #61. The ex-parte motion states that "the Plan and supporting documents were served November 8, 2019, [but] they were not filed until November 15, 2019." Doc. #59. The court does not see a certificate of service on the docket anywhere close to November 8, 2019 that supports that statement.

Unless the debtors can show that the papers were served on November 8, 2019, this motion will be DENIED WITHOUT PREJUDICE.

16. [18-14739](#)-B-13     **IN RE: LARRY/GEORGINA RACKLEY**  
[DRJ-2](#)

MOTION TO MODIFY PLAN  
11-4-2019    [\[33\]](#)

LARRY RACKLEY/MV  
DAVID JENKINS/ATTY. FOR DBT.

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

DISPOSITION:     Granted.

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

This motion was set for hearing on 35 days' notice as required by Local Rule of Practice ("LBR") 3015-1(d)(1). The failure of the creditors, the debtor, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument. Upon default, factual allegations will be taken as true (except those relating to amount of damages). Televideo Systems, Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires that a plaintiff make a

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

This motion is GRANTED. The confirmation order shall include the docket control number of the motion and it shall reference the plan by the date it was filed.

17. [19-14040](#)-B-13     **IN RE: EARL/JOSIE BOYD**  
[FW-3](#)

MOTION TO VALUE COLLATERAL OF TRAVIS CREDIT UNION  
11-20-2019    [28]

EARL BOYD/MV  
GABRIEL WADDELL/ATTY. FOR DBT.

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

DISPOSITION:     Granted.

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

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

The motion is GRANTED. 11 U.S.C. § 1325(a) (\*) (the hanging paragraph) gives a debtor the ability to value a motor vehicle acquired for the personal use of the debtor at its current amount, as opposed to the amount due on the loan, when the loan is secured by the vehicle and the debt was not incurred within the 910-day period preceding the date of the filing.

Debtor asks the court for an order valuing a 2003 Nissan Xterra SE ("Vehicle") at \$2,042.00. Doc. #28. Creditor Travis Credit Union's ("Creditor") claim states the amount owed to be \$3,574.00. Claim #6. Debtor's declaration states that the replacement value (as defined in 11 U.S.C. § 506(a)(2)) is \$5,520.00. Doc. #20. Debtor incurred the debt on October 30, 2016. Id. That date is more than 910 days before debtor filed this case.

The debtor is competent to testify as to the value of the Vehicle. Given the absence of contrary evidence, the debtor's opinion of value may be conclusive. Enewally v. Washington Mutual Bank (In re Enewally), 368 F.3d 1165, 1173 (9th Cir. 2004). Creditor's secured claim will be fixed at \$2,042.00. 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.

18. [19-14040](#)-B-13     **IN RE: EARL/JOSIE BOYD**  
[FW-4](#)

MOTION TO VALUE COLLATERAL OF TRAVIS CREDIT UNION  
11-20-2019    [\[32\]](#)

EARL BOYD/MV  
GABRIEL WADDELL/ATTY. FOR DBT.

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

DISPOSITION:         Granted.

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

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

The motion is GRANTED. 11 U.S.C. § 1325(a)(\*) (the hanging paragraph) gives a debtor the ability to value a motor vehicle acquired for the personal use of the debtor at its current amount, as opposed to the amount due on the loan, when the loan is secured by the vehicle and the debt was not incurred within the 910-day period preceding the date of the filing.

Debtor asks the court for an order valuing a 2007 Honda CRV EX-L ("Vehicle") at \$5,555.00. Doc. #32. Creditor Travis Credit Union's ("Creditor") claim states the amount owed to be \$7,920.00. Claim #7. Debtor's declaration states that the replacement value (as defined

in 11 U.S.C. § 506(a)(2)) is \$5,555.00. Doc. #34. Debtor incurred the debt on February 20, 2017. Id. That date is more than 910 days before debtor filed this case.

The debtor is competent to testify as to the value of the Vehicle. Given the absence of contrary evidence, the debtor's opinion of value may be conclusive. Enewally v. Washington Mutual Bank (In re Enewally), 368 F.3d 1165, 1173 (9th Cir. 2004). Creditor's secured claim will be fixed at \$2,042.00. 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.

19. [19-13541](#)-B-13     **IN RE: LETICIA JASSO DE NUNEZ**  
[MHM-2](#)

MOTION TO DISMISS CASE  
11-7-2019    [[21](#)]

MICHAEL MEYER/MV  
VINCENT GORSKI/ATTY. FOR DBT.

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

DISPOSITION:        Granted.

ORDER:               The court will issue an order.

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

This matter was fully noticed in compliance with the Local Rules of Practice and there is no opposition. Accordingly, the respondent's default will be entered. Federal Rule of Civil Procedure 55, made applicable by Federal Rule of Bankruptcy Procedure 7055, governs default matters and is applicable to contested matters under Federal Rule of Bankruptcy Procedure 9014(c). Upon default, factual allegations will be taken as true (except those relating to amount of damages). *Televideo Systems, Inc. v. Heidenthal* (826 F.2d 915, 917 (9th Cir. 1987)). Constitutional due process requires that a plaintiff make a prima facie showing that they are entitled to the relief sought, which the movant has done here.

The record shows that there has been unreasonable delay by the debtor that is prejudicial to creditors (11 U.S.C. § 1307(c)(1)). The debtor failed to provide the trustee with all of the documentation required (LBR 3015-1(b)(6)). Accordingly, the case will be dismissed.

20. [19-10245](#)-B-13     **IN RE: RAUL VALDEZ**  
[MHM-2](#)

OBJECTION TO CLAIM OF CAVALRY SPV I LLC, CLAIM NUMBER 1  
11-4-2019    [\[31\]](#)

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

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

DISPOSITION:         Sustained.

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

This objection was set for hearing on 44 days' notice as required by Local Rule of Practice ("LBR") 3007-1(b)(1). The failure of the creditors, the debtor, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument. Upon default, factual allegations will be taken as true (except those relating to amount of damages). Televideo Systems, Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires that a plaintiff make a prima facie showing that they are entitled to the relief sought, which the movant has done here.

This objection is SUSTAINED.

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

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

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

to the evidence was in October 12, 2011, which is well past the two and four year mark in the statutes of limitations.

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

21. [19-10245](#)-B-13     **IN RE: RAUL VALDEZ**  
[MHM-3](#)

OBJECTION TO CLAIM OF CAVALRY SPV I LLC, CLAIM NUMBER 2  
11-4-2019    [\[35\]](#)

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

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

DISPOSITION:         Sustained.

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

This objection was set for hearing on 44 days' notice as required by Local Rule of Practice ("LBR") 3007-1(b)(1). The failure of the creditors, the debtor, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument. Upon default, factual allegations will be taken as true (except those relating to amount of damages). Televideo Systems, Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires that a plaintiff make a prima facie showing that they are entitled to the relief sought, which the movant has done here.

This objection is SUSTAINED.

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

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

Here, the movant has established that the statute of limitations in California bars a creditor's action to recover on a contract,

obligation, or liability founded on an oral contract after two years and one founded on a written instrument after four years. See California Code of Civil Procedure §§ 312, 337(1), and 339. A claim that is unenforceable under state law is also not allowed under 11 U.S.C. § 502(b)(1) once objected to. In re GI Indust., Inc., 204 F.3d 1276, 1281 (9th Cir. 2000). Regardless of whether the contract was written or oral, the last transaction on the account according to the evidence was in November 4, 2011, which is well past the two and four year mark in the statutes of limitations.

Therefore, claim no. 2 filed by Cavalry SPV I, LLC is disallowed in its entirety.

22. [19-14248](#)-B-13     **IN RE: DIANA RUELAS**  
[LLE-2](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY  
12-2-2019    [[23](#)]

BANK OF THE SIERRA/MV  
SCOTT LYONS/ATTY. FOR DBT.  
LORI ENRICO/ATTY. FOR MV.  
DISMISSED 12/02/2019

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

DISPOSITION:         Denied as moot.

ORDER:                The court will issue an order.

This motion is DENIED AS MOOT. The case was dismissed on December 2, 2019. Doc. #21.

23. [19-14351](#)-B-13     **IN RE: RUBY GARCIA**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES  
11-19-2019    [[23](#)]

DISMISSED 11/21/19

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

DISPOSITION:         Dropped as moot.

NO ORDER REQUIRED.

The case was dismissed on November 21, 2019. Doc. #24. No appearance is necessary.

24. [18-12454](#)-B-13     **IN RE: LOREN/STACIE AFFONSO**  
[PLG-1](#)

MOTION TO MODIFY PLAN  
11-14-2019    [[37](#)]

LOREN AFFONSO/MV  
RABIN POURNAZARIAN/ATTY. FOR DBT.

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

DISPOSITION:       Granted.

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

This motion was set for hearing on 35 days' notice as required by Local Rule of Practice ("LBR") 3015-1(d)(1). The failure of the creditors, the debtor, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument. Upon default, factual allegations will be taken as true (except those relating to amount of damages). Televideo Systems, Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires that a plaintiff make a prima facie showing that they are entitled to the relief sought, which the movant has done here.

This motion is GRANTED. The confirmation order shall include the docket control number of the motion and it shall reference the plan by the date it was filed.



25. [17-10857](#)-B-13     **IN RE: ELI/CARYN GARCIA**  
[TCS-1](#)

MOTION TO APPROVE LOAN MODIFICATION  
11-27-2019    [[25](#)]

ELI GARCIA/MV  
TIMOTHY SPRINGER/ATTY. FOR DBT.

TENTATIVE RULING:        This matter will proceed as scheduled.

DISPOSITION:                Granted.

ORDER:                        The minutes of the hearing will be the court's findings and conclusions. The Moving Party will submit a proposed order after hearing.

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

This motion is GRANTED. Debtors may enter into the loan modification with Wells Fargo. Debtor shall continue to make the necessary plan payments to the chapter 13 trustee until the plan is modified, if modification is necessary.

26. [17-11657](#)-B-13     **IN RE: DAVID/LINDA FALKE**  
[KMM-1](#)

MOTION TO CONFIRM TERMINATION OR ABSENCE OF STAY AND/OR MOTION FOR RELIEF FROM AUTOMATIC STAY  
11-29-2019    [[51](#)]

GS MORTGAGE-BACKED SECURITIES TRUST 2019-SL1, U.S. BANK  
JERRY LOWE/ATTY. FOR DBT.  
KIRSTEN MARTINEZ/ATTY. FOR MV.

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 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. Therefore, the motion is DENIED WITHOUT PREJUDICE.

27. [19-14263](#)-B-13     **IN RE: PLACIDO RODRIGUEZ HERNANDEZ**  
[DBJ-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY  
11-5-2019   [\[33\]](#)

SC MORTGAGE, LLC/MV  
JANINE ESQUIVEL OJI/ATTY. FOR DBT.  
DOUGLAS JACOBS/ATTY. FOR MV.  
CASE DISMISSED 12/5/19

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

DISPOSITION:         Denied as moot.

ORDER:                The court will issue an order.

This motion is DENIED AS MOOT. The case was dismissed on December 5, 2019. Doc. #82.

28. [19-14477](#)-B-13     **IN RE: AUDREY KING**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES  
12-2-2019   [\[16\]](#)

MARK ZIMMERMAN/ATTY. FOR DBT.

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

DISPOSITION:         The OSC will be vacated.

ORDER:                The court will issue an order.

The record shows that the installment fees now due were paid in full on December 20, 2019. Accordingly, the Order to Show Cause will be vacated.

29. [19-13082](#)-B-13     **IN RE: DAVID GROVES**  
[JMM-2](#)

MOTION TO CONFIRM PLAN  
11-13-2019    [[40](#)]

DAVID GROVES/MV  
JEFFREY MEISNER/ATTY. FOR DBT.

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

DISPOSITION:         Granted.

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

This motion was set for hearing on 35 days' notice as required by Local Rule of Practice ("LBR") 3015-1(d)(1). The failure of the creditors, the debtor, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument. Upon default, factual allegations will be taken as true (except those relating to amount of damages). Televideo Systems, Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires that a plaintiff make a prima facie showing that they are entitled to the relief sought, which the movant has done here.

This motion is GRANTED. The confirmation order shall include the docket control number of the motion and it shall reference the plan by the date it was filed.

30. [19-14186](#)-B-13     **IN RE: HUMBERTO/NANCY VIDALES**  
[TCS-1](#)

MOTION TO VALUE COLLATERAL OF MEDALLION BANK  
11-15-2019    [[22](#)]

HUMBERTO VIDALES/MV  
TIMOTHY SPRINGER/ATTY. FOR DBT.  
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 2018 Big Tex 25' Gooseneck trailer

31. [19-14186](#)-B-13     **IN RE: HUMBERTO/NANCY VIDALES**  
[TCS-2](#)

MOTION TO VALUE COLLATERAL OF WESTAMERICA BANK  
11-15-2019    [[27](#)]

HUMBERTO VIDALES/MV  
TIMOTHY SPRINGER/ATTY. FOR DBT.

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

DISPOSITION:                Granted.

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

This motion was set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of the creditors, the debtor, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014- 1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo),

468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument. Upon default, factual allegations will be taken as true (except those relating to amount of damages). Televideo Systems, Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires that a plaintiff make a prima facie showing that they are entitled to the relief sought, which the movant has done here.

The motion is GRANTED. 11 U.S.C. § 1325(a) (\*) (the hanging paragraph) gives a debtor the ability to value a motor vehicle acquired for the personal use of the debtor at its current amount, as opposed to the amount due on the loan, when the loan is secured by the vehicle and the debt was not incurred within the 910-day period preceding the date of the filing.

Debtor asks the court for an order valuing a 2017 Ford Explorer ("Vehicle") at \$34,800.00. Doc. #27. Creditor Westamerica Bank's ("Creditor") claim states the amount owed to be \$36,501.32. Claim #6. Debtor's declaration states that the replacement value (as defined in 11 U.S.C. § 506(a)(2)) is \$34,800.00. Doc. #29. Debtor incurred the debt on October 11, 2016. Id. That date is more than 910 days before debtor filed this case.

The debtor is competent to testify as to the value of the Vehicle. Given the absence of contrary evidence, the debtor's opinion of value may be conclusive. Enewally v. Washington Mutual Bank (In re Enewally), 368 F.3d 1165, 1173 (9th Cir. 2004). Creditor's secured claim will be fixed at \$34,800.00. 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.

32. [19-12288](#)-B-13     **IN RE: EDWARD/NIKKI TREADWAY**  
[MHM-2](#)

MOTION TO DISMISS CASE  
11-18-2019    [\[70\]](#)

MICHAEL MEYER/MV  
SUSAN HEMB/ATTY. FOR DBT.

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

DISPOSITION:     Granted.

ORDER:             The court will issue an order.

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

This matter was fully noticed in compliance with the Local Rules of Practice and there is no opposition. Accordingly, the respondents' defaults 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 debtors have failed to confirm a Chapter 13 Plan (11 U.S.C. § 1307(c)). Accordingly, the case will be dismissed.

33. [18-10489](#)-B-13     **IN RE: JAVIER/GABRIELA DIAZ**  
[JDR-2](#)

MOTION TO MODIFY PLAN  
10-31-2019    [\[75\]](#)

JAVIER DIAZ/MV  
JEFFREY ROWE/ATTY. FOR DBT.  
OPPOSITION WITHDRAWN

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

DISPOSITION:     Granted.

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

This motion was set for hearing on 35 days' notice as required by Local Rule of Practice ("LBR") 3015-1(d)(1). The failure of the creditors, the debtor, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. Cf. *Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See *Boone v. Burk* (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument. Upon default, factual allegations will be taken as true (except those relating to amount of damages). *Televideo Systems, Inc. v. Heidenthal*, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires that a plaintiff make a prima facie showing that they are entitled to the relief sought, which the movant has done here.

This motion is GRANTED. The chapter 13 trustee withdrew his opposition on December 3, 2019. Doc. #87. The confirmation order shall include the docket control number of the motion and it shall reference the plan by the date it was filed.

34. [19-14186](#)-B-13    **IN RE: HUMBERTO/NANCY VIDALES**  
[APN-1](#)

CONTINUED OBJECTION TO CONFIRMATION OF PLAN BY MEDALLION BANK  
10-31-2019    [[17](#)]

MEDALLION BANK/MV  
TIMOTHY SPRINGER/ATTY. FOR DBT.  
AUSTIN NAGEL/ATTY. FOR MV.

NO RULING.