

UNITED STATES BANKRUPTCY COURT  
Eastern District of California  
Honorable René Lastreto II  
Hearing Date: Thursday, January 17, 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. [17-13797](#)-B-9      **IN RE: TULARE LOCAL HEALTHCARE DISTRICT**  
[AML-1](#)

CONTINUED MOTION FOR RELIEF FROM AUTOMATIC STAY AND/OR  
MOTION FOR ADEQUATE PROTECTION , MOTION TO DETERMINE THE  
AUTOMATIC STAY IS INAPPLICABLE TO PROCEEDINGS CONCERNING  
SEIZED FUNDS  
12-6-2018    [\[919\]](#)

MB FINANCIAL BANK, N.A./MV  
RILEY WALTER  
MICHAEL GREGER/ATTY. FOR MV.

NO RULING.

2. [17-13797](#)-B-9      **IN RE: TULARE LOCAL HEALTHCARE DISTRICT**  
[LPP-1](#)

MOTION FOR ADMINISTRATIVE EXPENSES  
12-17-2018    [\[941\]](#)

OWENS AND MINOR, INC./MV  
RILEY WALTER  
MATTHEW LESNICK/ATTY. FOR MV.  
RESPONSIVE PLEADING

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

DISPOSITION:                    Continued to March 21, 2019 at 9:30 a.m.

NO ORDER REQUIRED:            The court already issued an order. Doc. #991.

3. [17-13797](#)-B-9      **IN RE: TULARE LOCAL HEALTHCARE DISTRICT**  
[WW-68](#)

MOTION TO REJECT LEASE OR EXECUTORY CONTRACT  
12-28-2018    [\[965\]](#)

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-in-possession's decision to reject is consistent with the business judgment rule and Ninth Circuit precedent.

The debtor-in-possession is authorized to reject the list of designated contracts contained in exhibit A, doc. #968. The contracts largely consists of physician service agreements and other service agreements.

4. [17-13797](#)-B-9      **IN RE: TULARE LOCAL HEALTHCARE DISTRICT**  
[WW-69](#)

MOTION TO REJECT LEASE OR EXECUTORY CONTRACT  
12-28-2018    [[960](#)]

TULARE LOCAL HEALTHCARE  
DISTRICT/MV  
RILEY WALTER

NO RULING.

5. [17-13797](#)-B-9      **IN RE: TULARE LOCAL HEALTHCARE DISTRICT**  
[WW-70](#)

MOTION TO COMPROMISE CONTROVERSY/APPROVE SETTLEMENT  
AGREEMENT  
1-4-2019    [[981](#)]

TULARE LOCAL HEALTHCARE  
DISTRICT/MV  
RILEY WALTER  
OST 1/4/19

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)(3) and an order shortening time (doc. #987) and will proceed as scheduled. Unless opposition is presented at the hearing, the court intends to enter the respondents' defaults and grant the motion. If opposition is presented at the hearing, the court will consider the opposition and whether further hearing is proper pursuant to LBR 9014-1(f)(2). The court will issue an order if a further hearing is necessary.

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

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

Accordingly, it appears that the compromise pursuant to Federal Rule of Bankruptcy Procedure 9019 is a reasonable exercise of the

Debtor's business judgment. The order should be limited to the claims compromised as described in the motion.

The debtor requests approval of a settlement agreement with Celtic Commercial Finance, a division of MB Equipment Finance, LLC and MB Financial Bank, N.A. ("Celtic").

Under the terms of the compromise, a payment of \$500,000.00 to Celtic on or before February 15, 2019; there will be a mutual release between Debtor and Celtic; the adversary proceeding shall be dismissed; Celtic will be allowed a general unsecured claim in the amount of \$2,500,000.00; the transfer of right, title, and interest of Celtic to the Debtor in all assets subject to dispute; granting relief from stay to Celtic to permit it to pursue claims to certain funds seized by the District attorney for Tulare County with a credit of \$2.50 against the allowed unsecured claim for each \$1.00 recovered by Celtic, and; treatment of allowed unsecured claim may not be modified by the Debtor's Plan of Adjustment. The agreement is attached to the motion as Exhibit A.

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

The court concludes that the Woodson factors balance in favor of approving the compromise. That is: the probability of success is far from assured as the merits of the dispute and believes that it raises questions of law and fact, with no favorable ruling. Therefore settlement is in the best interest of the creditors and the Debtor; it is not likely that difficulties will be encountered with Celtic in connection with collection on the underlying claims, but there is likely to be difficulties collecting from the District; the litigation would be complex and moving forward would decrease the resources of Debtor due to the legal fees; and the creditors will greatly benefit from the net to the debtor, that would otherwise not exist; the settlement is equitable and fair.

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

This ruling is not authorizing the payment of any fees or costs associated with the litigation.

6. [17-12998](#)-B-12     **IN RE: LJB FARMS, LLC**  
[MHM-1](#)

CONTINUED MOTION TO DISMISS CASE  
10-25-2018    [[163](#)]

MICHAEL MEYER/MV  
JACOB EATON  
RESPONSIVE PLEADING, DISMISSED 12/18/18

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. #209.

1:30 PM

1. [18-14902](#)-B-13     **IN RE: FRANCISCO/MELISSA RAMIREZ**  
[SAH-1](#)

MOTION TO VALUE COLLATERAL OF ALLY FINANCIAL, INC.  
12-13-2018    [9]

FRANCISCO RAMIREZ/MV  
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.

The debtor is competent to testify as to the value of the 2014 Toyota Prius. 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 \$7,250.00. 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. [18-14902](#)-B-13      **IN RE: FRANCISCO/MELISSA RAMIREZ**  
[SAH-2](#)

MOTION TO VALUE COLLATERAL OF UNITED LOCAL CREDIT UNION  
12-13-2018 [14]

FRANCISCO RAMIREZ/MV  
SUSAN HEMB

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

DISPOSITION:                   Dropped from calendar.

NO ORDER REQUIRED: Resolved by stipulation of the parties.  
Doc. #24.

3. 18-12004-B-13      **IN RE: HERBERT KELLEY**  
SJS-4

MOTION TO CONFIRM PLAN  
12-13-2018 [70]

HERBERT KELLEY/MV  
SUSAN SALEHI  
RESPONSIVE PLEADING

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

DISPOSITION: Continued to February 14, 2019 at 1:30 p.m.

ORDER:           The court will issue an order.

The trustee has filed a detailed objection to the debtor's fully noticed motion to confirm a chapter 13 plan. The grounds of the opposition are that plan feasibility cannot be determined unless amended Schedules I and J are filed. Unless this case is voluntarily converted to chapter 7, dismissed, or the trustee's opposition to confirmation is withdrawn, the debtor shall file and serve amended Schedules I and J not later than January 31, 2019. If the debtor does not timely file the amended schedules, the motion to confirm the plan will be denied on the grounds stated in the opposition without a further hearing.



4. [18-14605](#)-B-13     **IN RE: GUADALUPE SANCHEZ**  
[MHM-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY TRUSTEE MICHAEL H.  
MEYER  
12-21-2018    [\[19\]](#)

THOMAS GILLIS  
RESPONSIVE PLEADING

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

DISPOSITION:     Overruled as moot.

ORDER:             The court will issue an order.

This objection is OVERRULED AS MOOT. The debtor filed an amended plan. Doc. #26.

5. [18-14310](#)-B-13     **IN RE: ALFONSO HUERTA**  
[MHM-2](#)

MOTION TO DISMISS CASE  
12-20-2018    [\[27\]](#)

MICHAEL MEYER/MV  
DISMISSED 12/21/18

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

DISPOSITION:     Denied as moot.

ORDER:             The court will issue an order.

The case was dismissed on December 21, 2018. Doc. #33.

6. [18-11614](#)-B-13     **IN RE: AUDREY LEWIS**  
[SJS-2](#)

MOTION FOR COMPENSATION FOR SUSAN J SALEHI, DEBTORS  
ATTORNEY(S)  
12-15-2018    [\[26\]](#)

SUSAN SALEHI

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.

LBR 2016-1(a) requires an application served and noticed under the Federal Rule of Bankruptcy Procedure 2002 in this case. Here, the plan was served on creditors and is confirmed, so the court finds notice adequate in this case. Future applications shall conform to the rules or be denied.

This motion is GRANTED. Movant is awarded \$2,000.00 in fees.

7. [16-12421](#)-B-13     **IN RE: INEZ SEARS**  
[TCS-6](#)

MOTION TO MODIFY PLAN  
12-4-2018    [\[97\]](#)

INEZ SEARS/MV  
TIMOTHY SPRINGER  
RESPONSIVE PLEADING

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

DISPOSITION:     Continued to February 14, 2019 at 1:30 p.m.

ORDER:             The court will issue an order.

The trustee has filed a detailed objection to the debtor's fully noticed motion to confirm a chapter 13 plan. Unless this case is voluntarily converted to chapter 7, dismissed, or the trustee's opposition to confirmation is withdrawn, the debtor shall file and serve a written response not later than January 31, 2019. The response shall specifically address each issue raised in the opposition to confirmation, state whether the issue is disputed or undisputed, and include admissible evidence to support the debtor's position. If the debtor elects to withdraw this plan and file a modified plan in lieu of filing a response, then a confirmable modified plan shall be filed, served, and set for hearing, not later than February 7, 2019. If the debtor does not timely file a modified plan or a written response, the motion to confirm the plan will be denied on the grounds stated in the opposition without a further hearing.

8. [18-14324](#)-B-13     **IN RE: BILLIE CARVER**  
[MHM-1](#)

MOTION TO DISMISS CASE  
12-18-2018    [\[20\]](#)

MICHAEL MEYER/MV  
SCOTT LYONS

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

DISPOSITION:     Granted.

ORDER:             The court will issue an order.

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

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

The record shows that there has been unreasonable delay by the debtor that is prejudicial to creditors. The debtor failed to file a complete Schedule I. 11 U.S.C. § 521 and/or F.R.B.P. 1007. The Debtor failed to file a statement of the amount of monthly net income. 11 U.S.C. § 521(i)(1). Accordingly, the case will be dismissed.

9. [18-13541](#)-B-13     **IN RE: MORGAN BROWN**  
[RDJ-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY  
12-14-2018    [\[27\]](#)

JEAN WRIGHT/MV  
GABRIEL WADDELL  
ROBERT JARCHI/ATTY. FOR MV.  
RESPONSIVE PLEADING

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

DISPOSITION:     Granted.

ORDER:             The Moving Party shall submit a proposed order in conformance with the ruling below. Debtor's counsel to sign the order consenting as to form.

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 court first notes the procedural deficiencies. The motion is not in compliance with LBR 9004-2(c)(1). This rule requires that motions, notices, *inter alia*, to be filed as separate documents. Additionally, LBR 9014-1(d)(1) requires every application or other request for an order to include a motion, *inter alia*. Here, there was no motion, but a memorandum of points and authorities. That and the notice were combined into one document and not filed separately.

Also, even if movant elected to combine the motion with points and authorities under LBR 9014-1, the motion is still improper. First, the notice must be separate anyway. Second, the documents exceeds six (6) pages.

The court notes debtor's conditional non-opposition. Doc. #37.

When a movant prays for relief from the automatic stay to initiate or continue non-bankruptcy court proceedings, a bankruptcy court must consider the "Curtis factors" in making its decision. In re

Kronemyer, 405 B.R. 915, 921 (9th Cir. B.A.P. 2009). The relevant factors in this case include:

- (1) whether the relief will result in a partial or complete resolution of the issues;
- (2) the lack of any connection with or interference with the bankruptcy case;
- (3) whether the foreign proceeding involves the debtor as a fiduciary;
- (4) whether a specialized tribunal has been established to hear the particular cause of action and whether that tribunal has the expertise to hear such cases;
- (5) whether the debtor's insurance carrier has assumed full financial responsibility for defending the litigation;
- (6) whether the action essentially involves third parties, and the debtor functions only as a bailee or conduit for the goods or proceeds in question;
- (7) whether the litigation in another forum would prejudice the interests of other creditors, the creditors' committee and other interested parties;
- (8) whether the judgment claim arising from the foreign action is subject to equitable subordination under section 510(c);
- (9) whether movant's success in the foreign proceeding would result in a judicial lien avoidable by the debtor under section 522(f);
- (10) the interests of judicial economy and the expeditious and economical determination of litigation for the parties;
- (11) whether the foreign proceedings have progressed to the point where the parties are prepared for trial; and
- (12) the impact of the stay on the parties and the "balance of hurt"

Relief from the stay may result in complete resolution of the issues and the matter in the state courts is unrelated to this bankruptcy. The state court action is a wrongful death action and not a matter the bankruptcy court can hear. The litigation in the state court would not prejudice the interests of other creditors or interested parties, and the state court action has progressed to the point where a trial was scheduled.

This motion will be granted only for the limited purpose of continuing with the state court action to determine the amount of plaintiffs' claim against debtor, only. No further relief is granted. Debtor's counsel to sign the order consenting as to form.

10. [17-14051](#)-B-13     **IN RE: KELLY HUFFMAN AND ELIA RODRIGUEZ**  
[FW-8](#)

MOTION FOR COMPENSATION BY THE LAW OFFICE OF FEAR WADDELL,  
P.C. FOR GABRIEL J. WADDELL, DEBTORS ATTORNEY(S)  
12-5-2018    [\[91\]](#)

PETER FEAR

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.

Based on the plan, counsel anticipated this case requiring motions to value and litigation with the IRS and FTB regarding their claims. After the debtors' initial motions to value were denied for procedural reasons, the debtors again filed motions to value the collateral interests of the taxing agencies. Then, the taxing agencies amended their claims to unsecured. Counsel does not explain the necessity of filing two motions to value.

The application also does not set forth reasons why three meetings of creditors appearances were necessary. Review of the exhibits leads to the conclusion that documents requested by the trustee were not provided to the trustee at the first continued meeting or why the documents were not produced at the original meeting. But, no opposition was filed in this matter.

This motion is GRANTED. Movant is awarded \$9,621.50 in fees and \$585.23 in expenses.

11. [16-14058](#)-B-13     **IN RE: SHANNON CASTONGUAY**  
[TCS-1](#)

MOTION TO MODIFY PLAN  
12-3-2018    [\[42\]](#)

SHANNON CASTONGUAY/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.

12. [18-12260](#)-B-13     **IN RE: ALVINA FISCHER**  
[JFL-1](#)

CONTINUED OBJECTION TO CONFIRMATION OF PLAN BY DITECH  
FINANCIAL LLC  
6-14-2018    [\[8\]](#)

DITECH FINANCIAL LLC/MV  
RABIN POURNAZARIAN  
JAMES LEWIN/ATTY. FOR MV.

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

DISPOSITION:        Continued to January 29, 2019 at 1:30 p.m.

ORDER:                The court will issue an order.

This matter will be continued to January 29, 2019 at 1:30 p.m. to be  
heard in conjunction with the objection to claim that will be  
continued to that date.

13. [18-12260](#)-B-13     **IN RE: ALVINA FISCHER**  
[PLG-1](#)

CONTINUED OBJECTION TO CLAIM OF DITECH FINANCIAL LLC, CLAIM  
NUMBER 1  
9-11-2018    [\[38\]](#)

ALVINA FISCHER/MV  
RABIN POURNAZARIAN  
RESPONSIVE PLEADING, ECF ORDER #69 RESCHEDULING TO 1/29/19

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

DISPOSITION:        Continued to January 29, 2019 at 1:30 p.m.

NO ORDER REQUIRED:    The court previously issued an order.

This matter was continued to January 29, 2019 at 1:30 p.m. Doc. #69.



14. [14-11361](#)-B-13     **IN RE: DAVID/GLORIA RIVERA**  
[FW-5](#)

MOTION FOR COMPENSATION FOR GABRIEL J. WADDELL, DEBTORS  
ATTORNEY(S)  
12-17-2018    [[97](#)]

DAVID RIVERA/MV  
PETER FEAR

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 is awarded \$2,746.00 in fees and \$158.65 in costs.

15. [18-14561](#)-B-13     **IN RE: KRISTI GARCIA**  
[BDB-1](#)

MOTION TO CONFIRM PLAN  
12-12-2018    [\[17\]](#)

KRISTI GARCIA/MV  
BENNY BARCO

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

DISPOSITION:        Granted.

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

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

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

16. [18-10575](#)-B-13     **IN RE: NORMA FERNANDEZ**  
[MHM-4](#)

CONTINUED MOTION TO DISMISS CASE  
10-1-2018    [\[56\]](#)

MICHAEL MEYER/MV  
ROBERT WILLIAMS  
RESPONSIVE PLEADING

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

DISPOSITION:        Dropped from calendar.

NO ORDER REQUIRED:    Movant withdrew the motion. Doc. #87.

17. [18-10575](#)-B-13     **IN RE: NORMA FERNANDEZ**  
[RSW-2](#)

CONTINUED MOTION TO CONFIRM PLAN  
10-23-2018    [[60](#)]

NORMA FERNANDEZ/MV  
ROBERT WILLIAMS  
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. The debtor filed an amended plan.  
Doc. #85.

18. [18-14178](#)-B-13     **IN RE: GENE FEUERSINGER AND DENISE CAMPOS**  
[MHM-2](#)

MOTION TO DISMISS CASE  
12-19-2018    [[18](#)]

MICHAEL MEYER/MV  
PETER BUNTING  
RESPONSIVE PLEADING

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

DISPOSITION:        Dropped from calendar.

NO ORDER REQUIRED:    Movant withdrew the motion. Doc. #28.

19. [17-10379](#)-B-13     **IN RE: NICOLE SCOTT**  
[SJS-3](#)

MOTION FOR COMPENSATION FOR SUSAN J. SALEHI, DEBTORS  
ATTORNEY(S)  
12-15-2018    [\[39\]](#)

SUSAN SALEHI

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.

LBR 2016-1(a) requires an application served and noticed under the Federal Rule of Bankruptcy Procedure 2002 in this case. Since, in this case, the plan was served on creditors and is confirmed, the court finds notice adequate in this case. Future applications shall conform to the rules or be denied.

This motion is GRANTED. Movant is awarded \$2,000.00 in fees.

20. [18-13481](#)-B-13     **IN RE: JAVIER VELIZ**  
[MHM-3](#)

CONTINUED OBJECTION TO CONFIRMATION OF PLAN BY MICHAEL H.  
MEYER  
11-14-2018     [\[45\]](#)

MICHAEL MEYER/MV  
PETER BUNTING  
RESPONSIVE PLEADING

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

DISPOSITION:        Continued to January 29, 2019 at 1:30 p.m.

ORDER:                The court will issue an order.

Debtor timely responded to the trustee's objection in conformance with the court's previous ruling. Doc. #74. This objection will be continued to be heard in conjunction with debtor's objection to claim set for hearing on January 29, 2019 at 1:30 p.m. PBB-2.

21. [18-13887](#)-B-13     **IN RE: GREG/MARY JENNINGS**  
[SAH-1](#)

AMENDED MOTION TO CONFIRM PLAN  
12-5-2018     [\[30\]](#)

GREG JENNINGS/MV  
SUSAN HEMB

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

DISPOSITION:        Dropped from calendar.

NO ORDER REQUIRED:    An order denying the motion without prejudice  
has already been entered. Doc. #36.

22. [15-12993](#)-B-13     **IN RE: ROBERT/KARLA RODRIGUEZ**  
[MHM-3](#)

MOTION TO DISMISS CASE  
12-19-2018     [\[132\]](#)

MICHAEL MEYER/MV  
GLEN GATES

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

DISPOSITION:        Continued to February 14, 2019 at 1:30 p.m.

ORDER:                The court will issue an order.

The trustee asks the court to dismiss the case due to a material

default in debtor's plan. At debtor's current payment, the plan will not fund in 60 months, as required by law and the plan. Doc. #132.

The court notes debtors' late-filed opposition, and the lack of a motion to allow a delayed filing. However, debtor's opposition shows the willingness of the debtors to increase their plan payment in order to fund the entirety of the plan by reducing certain expenses. Debtor's counsel stated that with their opposition, they simultaneously filed an ex-parte application to increase the plan payment to \$987.06, which will make the plan feasible.

This case was filed August 26, 2015. The plan was confirmed March, 30, 2016. Doc. #94. After confirmation, the chapter 13 trustee filed two motions to dismiss apart from this motion. One for being delinquent in making plan payments (MHM-1) and the other for failure to provide paystubs bi-annually under the order confirming plan (MHM-2). MHM-1 was conditionally denied (doc. #109) and MHM-2 was withdrawn (doc. #122). Due to the length of time debtors have been in chapter 13, and their relative diligence in making plan payments, the court finds good cause to continue this motion to allow debtors an opportunity to modify their plan.

23. [18-13694](#)-B-13     **IN RE: ADRIAN/MARISELA PALAFOX**  
[ALG-3](#)

OBJECTION TO CLAIM OF ONEMAIN, CLAIM NUMBER 1  
11-28-2018    [30]

ADRIAN PALAFOX/MV  
JANINE ESQUIVEL  
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: whether creditor has listed its security interest in one piece of personal property in two separate proofs of claim.

24. [18-13895](#)-B-13     **IN RE: CAROL SHIELDS**  
[DRJ-3](#)

MOTION TO VALUE COLLATERAL OF VALLEY FIRST CREDIT UNION  
12-13-2018    [\[36\]](#)

CAROL SHIELDS/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 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 2013 Honda Accord. 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 \$11,900.00. 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.

25. [18-13895](#)-B-13     **IN RE: CAROL SHIELDS**  
[DRJ-4](#)

MOTION TO VALUE COLLATERAL OF MEDALLION BANK  
12-13-2018    [\[40\]](#)

CAROL SHIELDS/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 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 2014 Catalina Travel Trailer. 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 \$12,000.00. 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.



26. [18-10898](#)-B-13     **IN RE: ISIDRO/CANDY HOLGUIN**  
[TCS-2](#)

MOTION TO MODIFY PLAN  
12-3-2018    [\[21\]](#)

ISIDRO HOLGUIN/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.

27. [18-14199](#)-B-13     **IN RE: ELIZ NOYES**  
[MHM-2](#)

MOTION TO DISMISS CASE  
12-19-2018    [[22](#)]

MICHAEL MEYER/MV  
PETER BUNTING

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

DISPOSITION:        Granted.

ORDER:                The court will issue an order.

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

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

The record shows that there has been unreasonable delay by the debtor that is prejudicial to creditors. The debtor failed to provide the trustee with all of the documentation required by 11 U.S.C. § 521(a)(3) and (4). Accordingly, the case will be dismissed.

28. [18-12366](#)-B-13     **IN RE: LAURENCE/TUESDAY SHANNON**  
[TLS-1](#)

MOTION FOR TEMPORARY RESTRAINING ORDER  
1-14-2019    [[81](#)]

LAURENCE SHANNON/MV  
TIMOTHY SPRINGER  
OST 1/14/19

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).

The relief requested requires an adversary proceeding. See Federal Rule of Bankruptcy Procedure 7001(7). The chapter 13 plan was confirmed, but no provision of the plan provides for the requested relief.