

UNITED STATES BANKRUPTCY COURT
Eastern District of California
Honorable René Lastreto II
Hearing Date: Thursday, January 23, 2020
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. [19-10802](#)-B-13 **IN RE: STEVE/SHELLY BIERER**
[DMG-1](#)

MOTION FOR COMPENSATION FOR D. MAX GARDNER, DEBTORS ATTORNEY(S)
12-16-2019 [\[22\]](#)

D. GARDNER/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 is awarded \$3,594.00 in fees and \$336.41 in costs.

2. [19-13902](#)-B-13 **IN RE: HEZEKIAH SHERWOOD**
[JMM-6](#)

MOTION TO CONFIRM PLAN
12-19-2019 [\[68\]](#)

HEZEKIAH SHERWOOD/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.

3. [19-14712](#)-B-13 **IN RE: GEREY LATT**
[MHM-1](#)

MOTION TO DISMISS CASE
12-26-2019 [\[25\]](#)

MICHAEL MEYER/MV
WILLIAM OLCOTT/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)(1) and will proceed as scheduled.

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

Here, the trustee has requested dismissal for unreasonable delay by
the debtor that is prejudicial to creditors for failing to set a
plan for a confirmation hearing and noticing creditors and for
failing to provide necessary and requested documents to the
trustee's office. Doc. #25. Debtor timely opposed, stating that he
would provide the documents to the trustee's office. Doc. #30.
Debtor's opposition did not address the plan issue, but the court
notes that a motion to confirm plan (WDO-1) is set for hearing on
February 26, 2020. Doc. #34.

This matter will be called to verify whether Trustee has received
the necessary and requested documents. If Trustee has, this motion
may be continued to February 26, 2020 or denied. If Trustee has not,
this motion may be granted.

4. [19-14713](#)-B-13 **IN RE: DARWIN MAMARADLO**
[MHM-1](#)

MOTION TO DISMISS CASE
12-19-2019 [\[23\]](#)

MICHAEL MEYER/MV
WILLIAM OLCOTT/ATTY. FOR DBT.
RESPONSIVE PLEADING

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

DISPOSITION: Dropped from calendar.

NO ORDER REQUIRED: Movant withdrew the motion. Doc. #37.

5. [19-14713](#)-B-13 **IN RE: DARWIN MAMARADLO**
[WDO-1](#)

MOTION TO CONFIRM PLAN
1-9-2020 [\[29\]](#)

DARWIN MAMARADLO/MV
WILLIAM OLCOTT/ATTY. FOR DBT.

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

DISPOSITION: Denied without prejudice.

ORDER: The court will issue an order.

This motion is DENIED WITHOUT PREJUDICE for failure to comply with the Local Rules of Practice ("LBR").

LBR 3015-1(d)(1) requires motions to confirm a plan be served "at least thirty-five (35) days prior to the hearing."

This motion was served 14 days prior to the hearing. No Order Reducing the Notice Period was obtained. Therefore the motion is DENIED WITHOUT PREJUDICE.

6. [19-14914](#)-B-13 **IN RE: MARIA/VICTOR VILLAREAL**
[MHM-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY TRUSTEE MICHAEL H. MEYER
1-2-2020 [\[15\]](#)

LEROY AUSTIN/ATTY. FOR DBT.

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Sustained.

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

This objection was filed and served pursuant to Local Rule of Practice ("LBR") 3015-1(c)(4) and will proceed as scheduled. Unless opposition is presented at the hearing, the court intends to enter the respondents' defaults and sustain the objection. If opposition is presented at the hearing, the court will consider the opposition and whether further hearing is proper pursuant to LBR 9014-1(f)(2). The court will issue an order if a further hearing is necessary.

This objection is SUSTAINED. At the § 341 meeting of creditors, debtor Victor Saul Villareal failed to provide proof of his social security number. Doc. #15. The meeting was continued to January 21, 2020 for Mr. Villareal to provide proof. The case is otherwise confirmable.

This objection will be called to verify that Mr. Villareal provided proof of his social security number at the continued § 341 meeting. If he did, this objection will be overruled. If he did not, this objection may be sustained.

7. [19-14716](#)-B-13 **IN RE: JUAN/TAMMY RAMIREZ**
[EPE-1](#)

MOTION TO CONFIRM PLAN
12-17-2019 [\[22\]](#)

JUAN RAMIREZ/MV
ERIC ESCAMILLA/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.

8. [19-14425](#)-B-13 **IN RE: SILVIA JIMENEZ**
[TOG-1](#)

MOTION TO VALUE COLLATERAL OF ONEMAIN FINANCIAL
12-23-2019 [\[19\]](#)

SILVIA JIMENEZ/MV
THOMAS GILLIS/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 was a purchase money security interest 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 2006 Chevrolet Silverado ("Vehicle") at \$6,607.00. Doc. #19. Creditor Onemain Financial Group, LLC's ("Creditor") claim states the amount owed to be \$16,811.10. Claim #1. Debtor's declaration states that the replacement value (as defined in 11 U.S.C. § 506(a)(2)) is \$6,607.00. Doc. #21. The loan made was a title loan and therefore the creditor does not have a purchase money security interest in the vehicle, § 1325(a)(*) is not applicable, and 11 U.S.C. § 506 does apply.

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 \$6,607.00. 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.

9. [19-14425](#)-B-13 **IN RE: SILVIA JIMENEZ**
[TOG-2](#)

MOTION TO VALUE COLLATERAL OF REGIONAL ACCEPTANCE
12-23-2019 [\[24\]](#)

SILVIA JIMENEZ/MV
THOMAS GILLIS/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 was a purchase money security interest 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 2012 Jeep Cherokee ("Vehicle") at \$10,362.00. Doc. #24. Creditor Regional Acceptance Corporation's ("Creditor") claim states the amount owed to be \$10,380.16. Claim #2. Debtor's declaration states that the replacement value (as defined in 11 U.S.C. § 506(a)(2)) is \$10,362.00. Doc. #26. Debtor incurred the debt on February 5, 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 \$10,362.00. 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. [20-10029](#)-B-13 **IN RE: MARIA OJEDA**
[GB-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY AND/OR MOTION FOR RELIEF
FROM CO-DEBTOR STAY
1-8-2020 [\[15\]](#)

U.S. BANK TRUST NATIONAL ASSOCIATION/MV
L. JAQUEZ/ATTY. FOR MV.
OST 1/10/20

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) (doc. #27) 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 movant, U.S. Bank Trust National Association, seeks relief from the automatic stay under 11 U.S.C. § 362(d)(4) concerning real property located at 16555 Everton Street in Delhi, CA 95315 ("Property"). Doc. #15.

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.

Movant has provided evidence that at least 14 bankruptcy cases have been filed concerning the Property since 2017, four of which have been filed in the last year. Doc. #17, 18. Movant states that it has not been paid on the loan since 2012. Doc. #17. The cases were filed by debtor and one Rigoberto D. Ojeda. Id. Most of the cases were dismissed within one month of the filing of the case.

The court also notes that the automatic stay never arose in this case. See 11 U.S.C. § 362(c)(4). However, because movant is requesting an order under § 362(d)(4), the court will rule on the merits.

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.

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 real property located at 16555 Everton Street in Delhi, CA 95315; 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 because movant has not been paid on the loan since 2012.

11. [19-14132](#)-B-13 **IN RE: CLAYTON/KIMBERLY WHITE**
[GB-2](#)

OBJECTION TO CONFIRMATION OF PLAN BY BRIDGECREST CREDIT CO. LLC
12-12-2019 [\[26\]](#)

BRIDGECREST CREDIT CO. LLC/MV
PETER BUNTING/ATTY. FOR DBT.
L. JAQUEZ/ATTY. FOR MV.

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Sustained.

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

This objection was filed and served pursuant to Local Rule of Practice ("LBR") 3015-1(c)(4) and will proceed as scheduled. Unless opposition is presented at the hearing, the court intends to enter the respondents' defaults and sustain the objection. If opposition is presented at the hearing, the court will consider the opposition and whether further hearing is proper pursuant to LBR 9014-1(f)(2). The court will issue an order if a further hearing is necessary.

Creditor Bridgecrest Credit Co. LLC ("Creditor") objects to plan confirmation because the proposed plan fails to provide the proper "formula" discount rate in conformance with 11 U.S.C. § 1325(a)(5)(B)(ii) and Till v. SCS Credit Corp., 124 S. Ct. 1951 (2004), and the plan incorrectly lists Creditor's claim amount. Doc. #26. Creditor is secured by a 2015 Audi A4. Id. Creditor's claim states the amount owed is \$18,333.96, and the interest rate on the loan is 8.74%. Claim #4. The plan states the amount owed is \$18,199.00 at 5% interest. Doc. #2. Creditor argues that its' secured claim is not subject to cramdown since the vehicle collateral was purchased within 910 days of the filing of the petition.

In Till, the Supreme Court determined that the appropriate interest rate for a secured claim should be determined by the 'formula approach,' which requires the court to take the national prime interest rate and adjust it to compensate for an increased risk of default. Till, 124 S. Ct. at 1957. Such factors include (1) circumstances of the estate, (2) the nature of the security, and (3) duration and feasibility of the reorganization plan. Id. at 1960.

Unless opposition is presented at the hearing, the court intends to SUSTAIN the objection. The interest rate on the 2015 Audi A4 shall be 8.74% and the plan shall be amended to accurately reflect the amount of Creditor's claim. The court may also set the matter for evidentiary hearing.

The court notes the Trustee has filed a motion to dismiss this case for non-payment which is set for February 12, 2020. Doc. 38.

12. [19-14132](#)-B-13 **IN RE: CLAYTON/KIMBERLY WHITE**
[MHM-1](#)

CONTINUED OBJECTION TO CONFIRMATION OF PLAN BY TRUSTEE MICHAEL
H. MEYER
11-20-2019 [\[22\]](#)

PETER BUNTING/ATTY. FOR DBT.

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

DISPOSITION: Sustained.

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

This objection is SUSTAINED. By prior order of the court (doc. #32), debtor had either until January 9, 2020 to file and serve a written response to the chapter 13 trustee's objection to confirmation, or until January 16, 2020 to file, serve, and set for hearing a confirmable modified plan or the objection would be sustained on the grounds therein. Debtor has neither responded to the objection nor filed a modified plan. Therefore pursuant to the court's previous order, this objection is SUSTAINED.

13. [19-14232](#)-B-13 **IN RE: ISIDRO GARCIA AND BRENDA HERNANDEZ**
[TCS-1](#)

MOTION TO VALUE COLLATERAL OF AMERICREDIT FINANCIAL SERVICES,
INC.
12-23-2019 [\[23\]](#)

ISIDRO GARCIA/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 was a purchase money security interest 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 2016 Chevrolet Equinox LT ("Vehicle") at \$15,828.00. Doc. #23. Creditor Americredit Financial Services, Inc. dba GM Financial's ("Creditor") claim states the amount owed to be \$30,301.21. Claim #17. Debtor's declaration states that the replacement value (as defined in 11 U.S.C. § 506(a)(2)) is \$15,828.00. Doc. #26. Debtor incurred the debt on July 7, 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 \$15,828.00. 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.

14. [19-14232](#)-B-13 **IN RE: ISIDRO GARCIA AND BRENDA HERNANDEZ**
[TCS-1](#)

MOTION TO VALUE COLLATERAL OF AMERICREDIT FINANCIAL SERVICES,
INC.
1-2-2020 [\[28\]](#)

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

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

DISPOSITION: Denied without prejudice.

ORDER: No appearance is necessary. The court will issue the order.

This motion is DENIED WITHOUT PREJUDICE for failure to comply with the Local Bankruptcy Rules ("LBR").

LBR 9004-2(a)(6), (b)(5), (b)(6), (e) and LBR 9014-1(c), (e)(3) are the rules about Docket Control Numbers ("DCN"). These rules require

the DCN to be in the caption page on all documents filed in every matter with the court and each new motion requires a new DCN.

A Motion to Value Collateral of Americredit Financial Services, Inc. was previously filed on December 23, 2019 (doc. #23) and is granted on this date (see matter #13 above). The DCN for that motion was TCS-1. This motion also has a DCN of TCS-1 and therefore does not comply with the local rules. Each separate matter filed with the court must have a different DCN.

15. [19-14935](#)-B-13 **IN RE: MARIA SOTO**
[MHM-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY MICHAEL H. MEYER
1-3-2020 [\[20\]](#)

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

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

DISPOSITION: Continued to February 26, 2020 at 9:30 a.m.

ORDER: The court will issue an order.

The chapter 13 trustee ("Trustee") has filed an objection to the debtor's plan. Unless this case is voluntarily converted to chapter 7, dismissed, or Trustee's opposition to confirmation is withdrawn, the debtor shall file and serve a written response not later than February 12, 2020. 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. Trustee shall file and serve a reply, if any, by February 19, 2020.

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 19, 2020. If the debtor does not timely file a modified plan or a written response, this motion will be denied on the grounds stated in the opposition without a further hearing.

16. [19-14636](#)-B-13 **IN RE: REED/KIMBERLY BARBER**
[MHM-1](#)

MOTION TO DISMISS CASE
12-23-2019 [\[15\]](#)

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

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

DISPOSITION: Dropped from calendar.

NO ORDER REQUIRED: Movant withdrew the motion. Doc. #26.

17. [19-15037](#)-B-13 **IN RE: DENISE SOTO**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES
1-6-2020 [\[24\]](#)

ERIC ESCAMILLA/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 January 21, 2020. Therefore, the OSC will be vacated.

18. [19-14938](#)-B-13 **IN RE: ABEL ACEVEDO AND DENISE CASTILLO**
[TOG-2](#)

MOTION TO CONFIRM PLAN
12-18-2019 [\[24\]](#)

ABEL ACEVEDO/MV
THOMAS GILLIS/ATTY. FOR DBT.
RESPONSIVE PLEADING

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

DISPOSITION: Continued to February 26, 2020 at 9:30 a.m.

ORDER: The court will issue an order.

The chapter 13 trustee ("Trustee") has filed an objection to the debtors' fully noticed motion to confirm a chapter 13 plan. Unless this case is voluntarily converted to chapter 7, dismissed, or Trustee's opposition to confirmation is withdrawn, the debtors shall file and serve a written response not later than February 12, 2020.

The response shall specifically address each issue raised in the opposition to confirmation, state whether the issue is disputed or undisputed, and include admissible evidence to support the debtors' position. Trustee shall file and serve a reply, if any, by February 19, 2020.

If the debtors elect to withdraw this plan and file a modified plan in lieu of filing a response, then a confirmable modified plan shall be filed, served, and set for hearing, not later than February 19, 2020. If the debtors do not timely file a modified plan or a written response, this motion will be denied on the grounds stated in the opposition without a further hearing.

19. [19-14647](#)-B-13 **IN RE: JOHN WILLIAMS**
[MHM-2](#)

MOTION TO DISMISS CASE
12-23-2019 [\[18\]](#)

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. Preparation of the order will be determined at the hearing.

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

Here, the trustee has requested dismissal for unreasonable delay by the debtor that is prejudicial to creditors for failure to provide necessary and requested documents to the trustee's office and cooperate with the trustee. Doc. #18.

Debtor timely opposed, stating that his client was not a sophisticated business person and "it is still undetermined if he has provided everything, as it is in no particular order." Doc. #24. Debtor states that some of the requested documents do not exist or are not applicable, but believes that "everything can be provided and all necessary amendments will be finished by the hearing date." Id.

This matter will be called to allow Trustee to respond. Unless the documents have been provided to the trustee's office prior to or at the hearing or the Trustee withdraws this motion, the court intends

to grant the motion.

20. [19-14747](#)-B-13 **IN RE: TERRANCE TAYLOR**
[MHM-1](#)

MOTION TO DISMISS CASE
12-26-2019 [\[22\]](#)

MICHAEL MEYER/MV

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

DISPOSITION: Granted.

ORDER: The court will issue an order.

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

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

The record shows that there has been unreasonable delay by the debtors that is prejudicial to creditors (11 U.S.C. § 1307(c)(1)). The debtor failed to provide all the required documentation to the Chapter 13 Trustee. The debtor failed to confirm a Chapter 13 Plan. The debtor failed to file complete and accurate Schedules (11 U.S.C. § 521). Accordingly, the case will be dismissed.

21. [19-10752](#)-B-13 **IN RE: STEVEN CHAVEZ**
[SFR-5](#)

MOTION TO MODIFY PLAN
12-17-2019 [\[117\]](#)

STEVEN CHAVEZ/MV
SHARLENE ROBERTS-CAUDLE/ATTY. FOR DBT.
RESPONSIVE PLEADING

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

DISPOSITION: Continued to February 26, 2020 at 9:30 a.m.

ORDER: The court will issue an order.

The chapter 13 trustee ("Trustee") has filed an objection to the debtor's fully noticed motion to modify a chapter 13 plan. Unless this case is voluntarily converted to chapter 7, dismissed, or Trustee's opposition to confirmation is withdrawn, the debtor shall file and serve a written response not later than February 12, 2020. 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. Trustee shall file and serve a reply, if any, by February 19, 2020.

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 19, 2020. If the debtor does not timely file a modified plan or a written response, this motion will be denied on the grounds stated in the opposition without a further hearing.

22. [19-14955](#)-B-13 **IN RE: ALBERTO/NORA URZUA**
[TOG-2](#)

MOTION TO CONFIRM PLAN
12-18-2019 [\[26\]](#)

ALBERTO URZUA/MV
THOMAS GILLIS/ATTY. FOR DBT.
RESPONSIVE PLEADING

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

DISPOSITION: Continued to February 26, 2020 at 9:30 a.m.

ORDER: The court will issue an order.

The chapter 13 trustee ("Trustee") has filed an objection to the debtors' fully noticed motion to confirm a chapter 13 plan. Unless this case is voluntarily converted to chapter 7, dismissed, or Trustee's opposition to confirmation is withdrawn, the debtors shall file and serve a written response not later than February 12, 2020.

The response shall specifically address each issue raised in the opposition to confirmation, state whether the issue is disputed or undisputed, and include admissible evidence to support the debtors' position. Trustee shall file and serve a reply, if any, by February 19, 2020.

If the debtors elect to withdraw this plan and file a modified plan in lieu of filing a response, then a confirmable modified plan shall be filed, served, and set for hearing, not later than February 19, 2020. If the debtors do not timely file a modified plan or a written response, this motion will be denied on the grounds stated in the opposition without a further hearing.

23. [19-14967](#)-B-13 **IN RE: OCTAVIO JIMENEZ AND SUSANA GOMEZ**
[TOG-1](#)

MOTION TO VALUE COLLATERAL OF VERIPRO SOLUTIONS INC
12-23-2019 [\[18\]](#)

OCTAVIO JIMENEZ/MV
THOMAS GILLIS/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 objection 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. Based on the evidence offered in support of the motion, the respondent's junior priority mortgage claim is found to be wholly unsecured and may be treated as a general unsecured claim in the chapter 13 plan. The debtor may proceed to obtain relief from this lien upon completion of the necessary requirements under applicable law. If the chapter 13 plan has not been confirmed,

then the order shall specifically state that it is not effective until confirmation of the plan.

This ruling is only binding on the named respondent in the moving papers and any successor who takes an interest in the property after service of the motion.

24. [19-14470](#)-B-13 **IN RE: JOSE SANCHEZ AND CRISTINA TORREZ**
[TOG-2](#)

MOTION TO CONFIRM PLAN
12-12-2019 [\[27\]](#)

JOSE SANCHEZ/MV
THOMAS GILLIS/ATTY. FOR DBT.
RESPONSIVE PLEADING

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

DISPOSITION: Continued to February 26, 2020 at 9:30 a.m.

ORDER: The court will issue an order.

The chapter 13 trustee ("Trustee") and creditor MidFirst Bank ("Creditor") have filed objections to the debtors' fully noticed motion to confirm a chapter 13 plan. The defaults of all other non-responding parties shall be entered.

Unless this case is voluntarily converted to chapter 7, dismissed, or Trustee's opposition to confirmation is withdrawn, the debtors shall file and serve written responses not later than February 12, 2020. The responses shall specifically address each issue raised in the oppositions to confirmation, state whether the issues are disputed or undisputed, and include admissible evidence to support the debtors' positions. Trustee and Creditor shall file and serve replies, if any, by February 19, 2020.

If the debtors elect to withdraw this plan and file a modified plan in lieu of filing a response, then a confirmable modified plan shall be filed, served, and set for hearing, not later than February 19, 2020. If the debtors do not timely file a modified plan or a written response, this motion will be denied on the grounds stated in the oppositions without a further hearing.

25. [19-14470](#)-B-13 **IN RE: JOSE SANCHEZ AND CRISTINA TORREZ**
[TOG-3](#)

MOTION TO VALUE COLLATERAL OF BMW FINANCIAL SERVICES
12-23-2019 [\[36\]](#)

JOSE SANCHEZ/MV
THOMAS GILLIS/ATTY. FOR DBT.
RESPONSIVE PLEADING

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

DISPOSITION: Granted.

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

This motion was set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1). The 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 was a purchase money security interest 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 2013 BMW 550i ("Vehicle") at \$15,602.00. Doc. #36. Creditor BMW Bank's ("Creditor") claim states the amount owed to be \$25,248.65. Claim #2. Debtor's declaration states that the replacement value (as defined in 11 U.S.C. § 506(a)(2)) is \$15,602.00. Doc. #38. Debtor incurred the debt on April 4, 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 \$15,602.00. 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. [19-11472](#)-B-13 **IN RE: IGNACIO DALUDDUNG**
[AF-5](#)

MOTION FOR COMPENSATION BY THE LAW OFFICE OF FARSAD LAW OFFICE
P.C. FOR ARASTO FARSAD, DEBTORS ATTORNEY(S)
12-7-2019 [\[87\]](#)

ARASTO FARSAD/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 is awarded \$2,660.00 in fees.

27. [19-14373](#)-B-13 **IN RE: GEORGE/ROSA VILLEGAS**
[MHM-1](#)

CONTINUED OBJECTION TO CONFIRMATION OF PLAN BY TRUSTEE MICHAEL
H. MEYER
11-20-2019 [\[16\]](#)

THOMAS GILLIS/ATTY. FOR DBT.

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. Debtor withdrew their original
chapter 13 plan on December 17, 2019. Doc. #30.

28. [19-14373](#)-B-13 **IN RE: GEORGE/ROSA VILLEGAS**
[MHM-2](#)

MOTION TO DISMISS CASE
1-3-2020 [\[40\]](#)

MICHAEL MEYER/MV
THOMAS GILLIS/ATTY. FOR DBT.
CONTINUED TO 2/12/20 WITHOUT AN ORDER, RESPONSIVE PLEADING

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

DISPOSITION: Dropped from calendar.

NO ORDER REQUIRED: Movant withdrew the motion. Doc. #53.

29. [19-14373](#)-B-13 **IN RE: GEORGE/ROSA VILLEGAS**
[TOG-1](#)

MOTION TO CONFIRM PLAN
12-17-2019 [\[23\]](#)

GEORGE VILLEGAS/MV
THOMAS GILLIS/ATTY. FOR DBT.
RESPONSIVE PLEADING

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 chapter 13 trustee ("Trustee") opposes confirmation. Doc. #36. The Trustee objects to the "no look" fee.

Debtors timely responded, stating that they "filed the amended schedules" and the plan should be confirmed. Doc. #49.

Trustee's opposition states nothing about requiring amended schedules, and debtors' opposition does not address the fee situation in their response.

Unless Trustee withdraws his opposition, the court intends to deny the motion without prejudice.

30. [19-14176](#)-B-13 **IN RE: STEVEN WILSON**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES
1-6-2020 [\[48\]](#)

ERIC ESCAMILLA/ATTY. FOR DBT.
\$231.00 FINAL INSTALLMENT PAYMENT 1/9/20

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 January 9, 2020. Therefore, the OSC will be vacated.

31. [18-12879](#)-B-13 **IN RE: GERALD STULLER AND BARBARA WILKINSON-STULLER**
[EJS-1](#)

CONTINUED MOTION TO MODIFY PLAN
10-17-2019 [\[114\]](#)

GERALD STULLER/MV
ERIC SCHWAB/ATTY. FOR DBT.
RESPONSIVE PLEADING

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

DISPOSITION: Dropped from calendar.

NO ORDER REQUIRED: Movant withdrew the motion. Doc. #129.

32. [19-14783](#)-B-13 **IN RE: CLYDE ABLES AND RACHEL SERNA ABLES**
[KMM-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY THE BANK OF NEW YORK
MELLON
12-12-2019 [\[12\]](#)

THE BANK OF NEW YORK MELLON/MV
SCOTT LYONS/ATTY. FOR DBT.
KIRSTEN MARTINEZ/ATTY. FOR MV.
RESPONSIVE PLEADING

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Overruled without prejudice.

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

This objection was filed and served pursuant to Local Rule of Practice ("LBR") 3015-1(c)(4) and will proceed as scheduled. Debtors filed and served written opposition on January 9, 2020. Doc. #27. For the reasons stated below, the court intends to overrule the objection without prejudice. Unless the chapter 13 trustee and United States Trustee present opposition at the hearing, their defaults will be entered. 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.

Creditor the Bank of New York Mellon FKA The Bank of New York ("Creditor") objects to plan confirmation because the plan does not account for the entire amount of the pre-petition arrearages that debtor owes to creditor and that the plan does not promptly cure Creditor's pre-petition arrears as required by 11 U.S.C. § 1322(b)(5). Doc. #12. As of January 17, 2020 Creditor has not yet filed a claim and the evidence provided does not support the motion's claim that the arrears are greater than what is provided for in the plan. See doc. #14.

Section 3.02 of the plan provides that it is the proof of claim, not the plan itself, that determines the amount that will be repaid under the plan. Doc. #2. Creditor's claim is classified in class 1 - which claims are paid by the chapter 13 trustee. Plan section 3.07(b)(2) states that if a Class 1 creditor's proof of claim demands a higher or lower post-petition monthly payment, the plan payment shall be adjusted accordingly.

Because there is no evidence that Creditor's proof of claim demands a higher or lower post-petition monthly payment, the court cannot find such, and the objection is OVERRULED WITHOUT PREJUDICE.

33. [19-14783](#)-B-13 **IN RE: CLYDE ABLES AND RACHEL SERNA ABLES**
[MHM-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY TRUSTEE MICHAEL H. MEYER
1-3-2020 [\[20\]](#)

SCOTT LYONS/ATTY. FOR DBT.
WITHDRAWN

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

DISPOSITION: Dropped from calendar.

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

34. [19-14186](#)-B-13 **IN RE: HUMBERTO/NANCY VIDALES**
[TCS-4](#)

MOTION FOR COMPENSATION BY THE LAW OFFICE OF TIMOTHY C. SPRINGER
FOR NANCY D. KLEPAC, DEBTORS ATTORNEY(S)
12-24-2019 [\[75\]](#)

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.

This motion is GRANTED. Movant is awarded \$10,050.00 in fees and \$106.97 in costs.

35. [19-14593](#)-B-13 **IN RE: GUSTAVO/SANDRA RAMIREZ**
[MHM-2](#)

MOTION TO DISMISS CASE
12-23-2019 [[18](#)]

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 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)(1) and will proceed as scheduled.

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

Here, the trustee has requested dismissal for unreasonable delay by
the debtor that is prejudicial to creditors for failing to provide
necessary and requested documents to the trustee's office. Doc. #18.
Debtor timely opposed, without evidence, stating that some of the
documents have been provided, some will be provided, and others do
not exist. Doc. #24.

This matter will be called to verify whether Trustee has received
the necessary and requested documents. If Trustee has, this motion
may be denied. If Trustee has not, this motion may be granted.

36. [19-15360](#)-B-13 **IN RE: ERIC CALDERON**
[RSW-1](#)

MOTION TO EXTEND AUTOMATIC STAY
1-9-2020 [\[10\]](#)

ERIC CALDERON/MV
ROBERT WILLIAMS/ATTY. FOR DBT.
OST 1/14/20

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Granted.

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

This Motion to Extend the Automatic Stay was properly set for hearing on the notice required by Local Rule of Practice ("LBR") 9014-1(f) (3) and an order shortening time. Doc. #22. Consequently, the creditors, the trustee, the U.S. Trustee, and any other parties in interest were not required to file a written response or opposition to the motion. If any of these potential respondents appear at the hearing and offer opposition to the motion, the court will set a briefing schedule and a final hearing unless there is no need to develop the record further. If no opposition is offered at the hearing, the court will take up the merits of the motion.

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

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

Debtor had one case pending within the preceding one-year period that was dismissed, case no. 19-13339. That case was filed on August 4, 2019 and was dismissed on November 9, 2019 for failure to make plan payments. This case was filed on December 30, 2019 and the automatic stay will expire on January 29, 2020.

11 U.S.C. § 362(c) (3) (B) allows the court to extend the stay to any or all creditors, subject to any limitations the court may impose, after a notice and hearing where the debtor or a party in interest demonstrates that the filing of the later case is in good faith as to the creditors to be stayed.

Cases are presumptively filed in bad faith if any of the conditions contained in 11 U.S.C. § 362(c) (3) (C) exist. The presumption of bad

faith may be rebutted by clear and convincing evidence. *Id.* Under the clear and convincing standard, the evidence presented by the movant must "place in the ultimate factfinder an abiding conviction that the truth of its factual contentions are highly probable. Factual contentions are highly probable if the evidence offered in support of them 'instantly tilt[s] the evidentiary scales in the affirmative when weighed against the evidence [the non-moving party] offered in opposition." Emmert v. Taggart (In re Taggart), 548 B.R. 275, 288, n.11 (9th Cir. BAP 2016) (citations omitted) (overruled on other grounds by Taggart v. Lorenzen, No. 18-489, 2019 U.S. LEXIS 3890 (June 3, 2019)).

In this case the presumption of bad faith arises. The subsequently filed case is presumed to be filed in bad faith because the prior case was dismissed because debtor failed to perform the terms of a plan confirmed by the court. 11 U.S.C. § 362(c)(3)(C)(i)(II)(cc).

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

Debtor filed bankruptcy to stop a pending foreclosure sale. Doc. #12. Debtor failed to make plan payments because of a series of unfortunate life events that required attention instead of making plan payments, including major vehicle repairs to two vehicles and repair to a water main. *Id.* Debtor also is in school, is married, has three children, but the school work load is lighter, which means debtor will be able to work full time. *Id.*

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

37. [19-14716](#)-B-13 **IN RE: JUAN/TAMMY RAMIREZ**
[EAT-1](#)

CONTINUED OBJECTION TO CONFIRMATION OF PLAN BY LAKEVIEW LOAN
SERVICING, LLC
12-17-2019 [\[17\]](#)

LAKEVIEW LOAN SERVICING, LLC/MV
ERIC ESCAMILLA/ATTY. FOR DBT.
CASSANDRA RICHEY/ATTY. FOR MV.

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

DISPOSITION: Dropped from calendar.

NO ORDER REQUIRED: Movant withdrew the objection. Doc. #34

11:00 AM

1. [11-63503](#)-B-7 **IN RE: FRANK/ALICIA ITALIANE**
[12-1053](#)

CONTINUED STATUS CONFERENCE RE: AMENDED COMPLAINT
10-18-2012 [[21](#)]

JEFFREY CATANZARITE FAMILY LIMITED PARTNERSHIP ET V. LANE
HAMID RAFATJOO/ATTY. FOR PL.

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

DISPOSITION: Continued to February 26, 2020 at 11:00 a.m. Parties
to submit a stipulation and an order.

ORDER: The parties shall submit an order with a date and
time the court regularly hears adversary
proceedings.

The parties have stipulated to continue the status conference to
February 25, 2020 at 2:00 p.m. However, the court does not hold
hearings for adversary proceedings on that date or time. The closest
date the court is hearing matters in adversary proceedings is
February 26, 2020 at 11:00 a.m. The parties shall submit an order
with to the court continuing the status conference to a date and
time the court regularly holds hearings for adversary proceedings.

2. [19-10297](#)-B-7 **IN RE: RICHARD/ANGELA MARINO**
[19-1054](#)

CONTINUED STATUS CONFERENCE RE: COMPLAINT
6-3-2019 [[1](#)]

STRATEGIC FUNDING SOURCE, INC. V. MARINO
JARRETT OSBORNE-REVIS/ATTY. FOR PL.
RESPONSIVE PLEADING

NO RULING.

3. [17-13797](#)-B-9 **IN RE: TULARE LOCAL HEALTHCARE DISTRICT**
[19-1105](#)

CONTINUED STATUS CONFERENCE RE: AMENDED COMPLAINT
10-4-2019 [\[7\]](#)

TULARE LOCAL HEALTHCARE DISTRICT V. PEREZ
MICHAEL WILHELM/ATTY. FOR PL.
RESPONSIVE PLEADING

NO RULING.

4. [17-13797](#)-B-9 **IN RE: TULARE LOCAL HEALTHCARE DISTRICT**
[19-1121](#)

CONTINUED STATUS CONFERENCE RE: COMPLAINT
10-30-2019 [\[1\]](#)

TULARE LOCAL HEALTHCARE DISTRICT V. SMITH, MD
MICHAEL WILHELM/ATTY. FOR PL.

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

DISPOSITION: Dropped from calendar.

NO ORDER REQUIRED: The motion for entry of default judgment is
granted on plaintiff's motion, matter #5
below. See WJH-1.

5. [17-13797](#)-B-9 **IN RE: TULARE LOCAL HEALTHCARE DISTRICT**
[19-1121](#) [WJH-1](#)

MOTION FOR ENTRY OF DEFAULT JUDGMENT
12-20-2019 [\[11\]](#)

TULARE LOCAL HEALTHCARE DISTRICT V. SMITH, MD
MICHAEL WILHELM/ATTY. FOR MV.

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

DISPOSITION: Granted.

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

This motion was set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of the creditors, the debtor, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d

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

This motion is GRANTED. Defendant's default was entered on December 17, 2019. Doc. #8. Judgment is entered against defendant for \$234,000.00 plus interest at the federal judgment rate under 28 U.S.C. § 1961.

6. [17-13797](#)-B-9 **IN RE: TULARE LOCAL HEALTHCARE DISTRICT**
[19-1122](#)

CONTINUED STATUS CONFERENCE RE: COMPLAINT
10-31-2019 [\[1\]](#)

TULARE LOCAL HEALTHCARE DISTRICT V. INCARE MD, INC.
MICHAEL WILHELM/ATTY. FOR PL.

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

DISPOSITION: Dropped from calendar.

NO ORDER REQUIRED: The motion for entry of default judgment is granted on plaintiff's motion, matter #7 below. See WJH-1.

7. [17-13797](#)-B-9 **IN RE: TULARE LOCAL HEALTHCARE DISTRICT**
[19-1122](#) [WJH-1](#)

MOTION FOR ENTRY OF DEFAULT JUDGMENT
12-20-2019 [\[11\]](#)

TULARE LOCAL HEALTHCARE DISTRICT V. INCARE MD, INC.
MICHAEL WILHELM/ATTY. FOR MV.

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

DISPOSITION: Granted.

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

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

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

This motion is GRANTED. Defendant's default was entered on December 17, 2019. Doc. #8. Judgment is entered against defendant for \$44,000.00 plus interest at the federal judgment rate under 28 U.S.C. § 1961.

8. [17-13797](#)-B-9 **IN RE: TULARE LOCAL HEALTHCARE DISTRICT**
[19-1123](#) [MRH-1](#)

MOTION TO DISMISS ADVERSARY PROCEEDING/NOTICE OF REMOVAL
12-4-2019 [[7](#)]

TULARE LOCAL HEALTHCARE DISTRICT V. MEDLINE
UNKNOWN TIME OF FILING/ATTY. FOR MV.

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 plaintiff has filed an amended complaint. See doc. #11.