



**UNITED STATES BANKRUPTCY COURT
Eastern District of California
HONORABLE RENÉ LASTRETO II
Department B – Courtroom #13
Fresno, California**

Hearing Date: Wednesday, January 24, 2024

Unless otherwise ordered, all hearings before Judge Lastreto are simultaneously: (1) **IN PERSON** in Courtroom #13 (Fresno hearings only), (2) via **ZOOMGOV VIDEO**, (3) via **ZOOMGOV TELEPHONE**, and (4) via **COURTCALL**. You may choose any of these options unless otherwise ordered.

Parties in interest and members of the public may connect to ZoomGov, free of charge, using the information provided:

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Please join at least 10 minutes before the start of your hearing. You are required to give the court 24 hours advance notice on [Court Calendar](#).

To appear remotely for law and motion or status conference proceedings, you must comply with the following new guidelines and procedures:

1. Review the [Pre-Hearing Dispositions](#) prior to appearing at the hearing.
2. Review the court's [Zoom Procedures and Guidelines](#) for these and additional instructions.
3. Parties appearing through CourtCall are encouraged to review the [CourtCall Appearance Information](#).

Unauthorized Recording is Prohibited: Any recording of a court proceeding held by video or teleconference, including "screenshots" or other audio or visual copying of a hearing, is prohibited. Violation may result in sanctions, including removal of court-issued media credentials, denial of entry to future hearings, or any other sanctions deemed necessary by the court. For more information on photographing, recording, or broadcasting Judicial Proceedings, please refer to Local Rule 173(a) of the United States District Court for the Eastern District of 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, and all parties will need to appear at the hearing unless otherwise ordered. 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.

Post-Publication Changes: 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 any possible updates.

9:30 AM

1. [19-14103](#)-B-13 **IN RE: ADAM AGCAOLI**
[PK-2](#)

MOTION FOR COMPENSATION FOR PATRICK KAVANAGH, DEBTORS
ATTORNEY(S)
12-22-2023 [\[33\]](#)

PATRICK KAVANAGH/ATTY. FOR DBT.

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

DISPOSITION: Granted with modification.

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

Patrick Kavanagh ("Applicant"), attorney for Adam Agcaoli ("Debtor"), requests final compensation in the sum of \$5,700.00 under 11 U.S.C. § 330. Doc. #33. This amount consists solely of \$5,700.00 in fees and \$0.00 in expenses from November 17, 2019, through the close of the case. *Id.* The motion also contains a statement of consent signed by Debtor and dated December 22, 2023, indicating that Debtor has read the fee application and approves the same. *Id.* at 9.7.

No party in interest timely filed written opposition. This motion will be GRANTED.

This motion was set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1) and Fed. R. Bankr. P. ("Rule") 2002(a)(6). The failure of the creditors, the chapter 13 trustee, 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 amounts of damages). *Televideo Sys. 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.

Section 3.05 of the *Chapter 13 Plan* dated October 10, 2019 confirmed, May 11, 2020, indicates that Applicant was paid \$1,000.00 prior to filing the case and, subject to court approval, additional fees of \$5,000.00 were to be paid through the plan upon court approval by filing and serving a motion in accordance with 11 U.S.C. §§ 329 and 330, and Rules 2002, 2016-17. Docs. #11, 26

This is Applicant's first fee application. Doc. #33. Applicant's firm provided 19.0 billable hours at the following rate, totaling \$5,700.00 in fees:

Professional	Rate	Billed	Total
Patrick Kavanagh	\$300.00	19.0	\$5,700.00
Total Hours & Fees		19.0	\$5,700.00

Doc. #42. Applicant waives any expense reimbursement. 11 U.S.C. § 330(a)(1)(A) & (B) permits approval of "reasonable compensation for actual necessary services rendered by . . . [a] professional person" and "reimbursement for actual, necessary expenses." In determining the amount of reasonable compensation to be awarded to a professional person, the court shall consider the nature, extent, and value of such services, considering all relevant factors, including those enumerated in subsections (a)(3)(A) through (E). § 330(a)(3).

Applicant's services here included, without limitation: (1) prepetition consultation and fact-gathering; (2) preparation of the petition, schedules and Form 22C; (3) drafting of the plan and participation in hearings and objections regarding same; (4) preparation and attendance at the §341 meeting; (5) claim administration matters and objections, (6) motions to dismiss (7) fee applications; and (8) case administration matters, discharge, and closing. Docs. ##33,35. Applicant also notes some non-standard work performed in this case, including review of Debtor's girlfriend's credit report due to concerns that some of Debtor's debts might appear there. Doc. #35. The court finds these services and expenses reasonable, actual, and necessary. No party in interest timely filed written opposition and Debtor has consented to payment of the proposed fees.

This motion will be GRANTED, and Applicant will be awarded fees on a final basis in the amount of \$5,700.00. As Applicant received \$1,000.00 prior to filing, the balance of \$4,700.00 shall be paid by the Trustee through the plan.

2. [23-11512](#)-B-13 **IN RE: SEAN MARSH**
[SLH-2](#)

MOTION TO CONFIRM PLAN
12-13-2023 [\[23\]](#)

SEAN MARSH/MV
SETH HANSON/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.

Sean Marsh ("Debtor") seeks an order confirming the *Second Modified Chapter 13 Plan* dated November 24, 2023. Doc. #22. No plan has been confirmed so far. The 60-month plan proposes the following terms:

1. Debtor's aggregate payment will be \$600.00 per month.
2. Outstanding Attorney's fees in the amount of \$2,000.00 to be paid through the plan.
3. Secured creditors to be sorted into appropriate Classes and paid as follows: None.
4. A dividend of 100% to unsecured creditors.

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 chapter 13 trustee, 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 amounts of damages). *Televideo Sys., 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.

No party in interest has objected, and the defaults of all parties will be entered.

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

3. [23-11439](#)-B-13 **IN RE: FELIX/IRENE MONTIEL**
[RSW-1](#)

MOTION TO CONFIRM PLAN
12-20-2023 [\[37\]](#)

IRENE MONTIEL/MV
ROBERT WILLIAMS/ATTY. FOR DBT.
RESPONSIVE PLEADING

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

DISPOSITION: Continued to February 28, 2024, at 9:30 a.m.

ORDER: The court will issue an order.

Felix and Irene Montiel ("Debtors") move for an order confirming the *First Modified Chapter 13 Plan* dated December 20, 2023. Doc. #41.

Chapter 13 trustee Lilian G. Tsang ("Trustee") timely objected to confirmation of the plan on the following grounds:

1. The Debtors have not filed all tax returns as required by 11 U.S.C. § 1325(a)(9).

This motion to confirm plan will be CONTINUED to **February 28, 2024, at 9:30 a.m.** Unless this case is voluntarily converted to chapter 7, dismissed, or Trustee's and Creditor's objections to confirmation are withdrawn, the Debtor shall file and serve a written response to the objections no later than **fourteen (14) days** before the continued hearing date. The response shall specifically address each issue raised in the objection(s) to confirmation, state whether each issue is disputed or undisputed, and include admissible evidence to support the Debtor's position. Trustee shall file and serve a reply, if any, no later than **seven (7) days** prior to the hearing date.

If the Debtor elects to withdraw the 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 **seven (7) days** before the continued hearing date. If the Debtor does not timely file a modified plan or a written response, the objection will be sustained on the grounds stated, and the motion will be denied without further hearing.

4. [23-12347](#)-B-13 **IN RE: NANCY/STEVE WILLIAMS**
[MHM-4](#)

OBJECTION TO DEBTOR'S CLAIM OF EXEMPTIONS
12-22-2023 [\[40\]](#)

MICHAEL MEYER/MV
SUSAN SILVEIRA/ATTY. FOR DBT.
RESPONSIVE PLEADING

NO RULING.

On January 10, 2024, Nancy and Steve Williams ("Debtors") filed a *Reply* to the Trustee's *Objection to Debtors' Claimed Exemptions* which conceded the Trustee's objections and stated that Debtors would file an Amended Schedule C. As of this writing, however, no such amended schedule has been filed. This hearing will proceed as scheduled. Absent opposition at the hearing, the court is inclined to SUSTAIN the objection.

5. [23-12347](#)-B-13 **IN RE: NANCY/STEVE WILLIAMS**
[SDS-1](#)

MOTION TO CONFIRM PLAN
12-15-2023 [\[30\]](#)

STEVE WILLIAMS/MV
SUSAN SILVEIRA/ATTY. FOR DBT.
RESPONSIVE PLEADING

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

DISPOSITION: Withdrawn.

ORDER: The court will issue an order.

On January 17, 2024, Nancy and Steve Williams ("Debtors") withdrew this *Motion to Confirm Plan*. Doc. #51. Accordingly, this motion is WITHDRAWN. Furthermore, the Trustee's *Objection to Confirmation* (Doc. #47) is OVERRULED AS MOOT.

6. [23-12755](#)-B-13 **IN RE: MOHAMMAD KHAN**

NOTICE OF INCOMPLETE FILING AND NOTICE OF INTENT TO DISMISS
CASE IF DOCUMENTS ARE NOT TIMELY FILED
12-14-2023 [\[9\]](#)

NO RULING.

7. [22-11962](#)-B-13 **IN RE: JUAN FIGUEROA**
[CJC-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY AND/OR MOTION FOR
ADEQUATE PROTECTION
12-20-2023 [\[69\]](#)

FAY SERVICING, LLC/MV
ROBERT WILLIAMS/ATTY. FOR DBT.
CAREN CASTLE/ATTY. FOR MV.
RESPONSIVE PLEADING

**After posting the original pre-hearing dispositions, the court has
modified its intended ruling on this matter.**

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

DISPOSITION: Continued to February 14, 2024, at 9:30 a.m.

ORDER: The court will issue the order.

On January 22, 2024, the parties filed a Stipulation requesting a
continuance to finalize an Agreed Order resolving this matter.
Accordingly, this matter is CONTINUED to February 14, 2024, at 9:30
a.m.

8. [23-12489](#)-B-13 **IN RE: KENNETH WEAVER**
[RPK-1](#)

MOTION TO CONFIRM PLAN
12-15-2023 [\[21\]](#)

KENNETH WEAVER/MV
RYAN KEENAN/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.

Kenneth Ala Weaver ("Debtor") seeks an order confirming the *First
Modified Chapter 13 Plan* dated December 6, 2023. Doc. #21. No plan
has been confirmed so far. The 60-month plan proposes the following
terms:

1. Debtor's aggregate payment will be \$2,040.00 per month from
future earnings.
2. Outstanding Attorney's fees in the amount of \$7,000.00 to be
paid through the plan.
3. Secured creditors to be sorted into appropriate Classes and
paid as follows:
 - a. USAA FSB (Class 2(A)). PMSI loan secured by Chevy Camaro).
\$14,656.45 at 3.24%. \$885.00 per month.

4. A dividend of 100% to unsecured creditors.

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 chapter 13 trustee, 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 amounts of damages). *Televideo Sys., 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 will be GRANTED. The confirmation order shall include the docket control number of the motion and reference the plan by the date it was filed.

11:00 AM

1. [21-11001](#)-B-11 **IN RE: NAVDIP BADHESHA**
[RMB-16](#)

CONTINUED PRE-TRIAL CONFERENCE RE: OBJECTION TO CLAIM OF
CALIFORNIA DEPARTMENT OF TAX AND FEE ADMINISTRATION, CLAIM
NUMBER 8
4-11-2022 [[241](#)]

NAVDIP BADHESHA/MV
MATTHEW RESNIK/ATTY. FOR DBT.
RESPONSIVE PLEADING

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

DISPOSITION: Continued to June 26, 2024, at 11:00 a.m.

ORDER: The court will prepare the order.

On January 17, 2024, the parties in this matter submitted a *Joint Status Report* in which both the Debtor and the California Department of Tax and Fee Administration ("CTDFA") requested that the Status Conference be continued for an additional 120-180 days so that Debtor can submit an Offer in Compromise for CTDFA review. Doc. #350. Accordingly, it is hereby ordered that this matter is CONTINUED to June 26, 2024, at 11:00 a.m. The parties shall submit a joint status report no later than **seven (7) days** before the hearing date.

2. [23-10801](#)-B-7 **IN RE: GILBERT CABRERA**
[23-1032](#) [CAE-1](#)

CONTINUED STATUS CONFERENCE RE: COMPLAINT
7-21-2023 [[1](#)]

BUENROSTRO ET AL V. CABRERA
JOSEPH WEST/ATTY. FOR PL.

NO RULING.

3. [20-10809](#)-B-11 **IN RE: STEPHEN SLOAN**
[21-1039](#)

SCHEDULING CONFERENCE RE: FIRST AMENDED COMPLAINT
10-27-2022 [\[58\]](#)

SANDTON CREDIT SOLUTIONS
MASTER FUND IV, LP V. SLOAN ET
KURT VOTE/ATTY. FOR PL.
RESPONSIVE PLEADING

NO RULING.

4. [22-11127](#)-B-7 **IN RE: SCOTT FINSTEIN**
[22-1017](#) [KR-3](#)

MOTION FOR ENTRY OF DEFAULT JUDGMENT
6-2-2023 [\[64\]](#)

NATIONAL UNION FIRE INSURANCE
COMPANY OF PITTSBURG V.
KAREL ROCHA/ATTY. FOR MV.

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

DISPOSITION: Dropped.

ORDER: The court will issue an order.

An order granting default judgment against defendant Scott Finstein was entered on December 20, 2023. Doc. #99. This adversary proceeding was closed on January 8, 2024. The status hearing will be dropped.

5. [23-11332](#)-B-11 **IN RE: TWILIGHT HAVEN, A CALIFORNIA**
NON-PROFIT CORPORATION
[23-1037](#) [CAE-1](#)

CONTINUED NOTICE OF REMOVAL
9-18-2023 [\[1\]](#)

CASTELLANOS V. TWILIGHT HAVEN
RILEY WALTER/ATTY. FOR PL.

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

DISPOSITION: Continued to March 27, 2024, at 11:00 a.m.

ORDER: The court will prepare the order.

On January 17, 2024, Twilight Haven ("DIP") submitted a status report recommending that this matter be continued to March 27, 2024, at 11:00 a.m. for a further status report. Doc. #25. On that same day, Jorge Castellanos ("Plaintiff") submitted a status report

statement also requesting continuance to that same date and time.
Doc. #27.

Accordingly, this matter is hereby CONTINUED to March 27, 2024, at
11:00 a.m.

6. [23-10457](#)-B-11 **IN RE: MADERA COMMUNITY HOSPITAL**
[23-1052](#) [CAE-1](#)

STATUS CONFERENCE RE: COMPLAINT
11-22-2023 [[1](#)]

MADERA COMMUNITY HOSPITAL V.
ESMERALDA GARCIA, GUARDIAN AD
IAN QUINN/ATTY. FOR PL.

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

DISPOSITION: Status Conference closed and removed from calendar.

ORDER: The court will issue the order.

On January 16, 2024, the Plaintiff, Madera Community Hospital, filed a
notice of dismissal of this adversary proceeding under Civ. Rule 41
(a)(1)(A)(i). Doc. #10. Accordingly, the Status Conference will be closed
and removed from calendar and the adversary proceeding closed.

7. [23-11788](#)-B-7 **IN RE: MICHAEL RYAN**
[23-1049](#) [CAE-1](#)

STATUS CONFERENCE RE: COMPLAINT
11-16-2023 [[1](#)]

FIRST NATIONAL BANK OF OMAHA
V. RYAN
CORY ROONEY/ATTY. FOR PL.

NO RULING.

8. [23-10992](#)-B-13 **IN RE: ANGELITA MARQUEZ**
[23-1034](#) [CAE-1](#)

STATUS CONFERENCE RE: COMPLAINT
8-14-2023 [[1](#)]

MARQUEZ V. MARQUEZ
JUSTIN VECCHIARELLI/ATTY. FOR PL.
RESPONSIVE PLEADING

NO RULING.