

UNITED STATES BANKRUPTCY COURT
Eastern District of California
Honorable René Lastreto II
Hearing Date: Thursday, January 26, 2017
Place: Department B – Courtroom #13
Fresno, California

INSTRUCTIONS FOR PRE-HEARING DISPOSITIONS

1. The following rulings are tentative. The tentative ruling will not become the final ruling until the matter is called at the scheduled hearing. **Pre-disposed matters will generally be called, and the rulings placed on the record at the end of the calendar.** Any party who desires to be heard with regard to a pre-disposed matter may appear at the hearing. If the party wishes to contest the tentative ruling, he/she shall notify the opposing party/counsel of his/her intention to appear. **If no disposition is set forth below, the hearing will take place as scheduled.**

2. Submission of Orders:

Unless the tentative ruling expressly states that the court will prepare a civil minute order, then the tentative ruling will only appear in the minutes. If any party desires an order, then the appropriate form of order, which conforms to the tentative ruling, must be submitted to the court. When the debtor(s) discharge has been entered, proposed orders for relief from stay must reflect that the motion is denied as to the debtor(s) and granted only as to the trustee. Entry of discharge normally is indicated on the calendar.

3. Matters Resolved Without Opposition:

If the tentative ruling states that no opposition was filed, and the moving party is aware of any reason, such as a settlement, why a response may not have been filed, the moving party must advise Vicky McKinney, the Calendar Clerk, at (559) 499-5825 by 4:00 p.m. the day before the scheduled hearing.

4. Matters Resolved by Stipulation:

If the parties resolve a matter by stipulation after the tentative ruling has been posted, but **before the formal order is entered on the docket**, the **moving party** may appear at the hearing and advise the court of the settlement or withdraw the motion. Alternatively, the parties may submit a stipulation and order to modify the tentative ruling together with the proposed order resolving the matter.

5. Resubmittal of Denied Matters:

If the moving party decides to re-file a matter that is denied without prejudice for any reason set forth below, the moving party must file and serve a new set of pleadings with a new docket control number. It may not simply re-notice the original motion.

THE COURT ENDEAVORS TO PUBLISH ITS PREDISPOSITIONS AS SOON AS POSSIBLE, HOWEVER CALENDAR PREPARATION IS ONGOING AND THESE PREDISPOSITIONS 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 A.M.

1. [16-13849](#)-B-12 DON FALLERT CONTINUED STATUS CONFERENCE RE:
VOLUNTARY PETITION
10-24-16 [[1](#)]
D. GARDNER/Atty. for dbt.

This matter will be called as scheduled.

2. [16-13849](#)-B-12 DON FALLERT CONTINUED MOTION TO USE CASH
DMG-2 COLLATERAL
DON FALLERT/MV 12-19-16 [[31](#)]
D. GARDNER/Atty. for dbt.

This matter was superseded by DMG-3. Accordingly, this motion will be deemed withdrawn. The court will enter an order. No appearance on this motion will be necessary.

3. 16-13849-B-12 DON FALLERT MOTION TO USE CASH COLLATERAL
DMG-3 12-29-16 [44]
DON FALLERT/MV
D. GARDNER/Atty. for dbt.
RESPONSIVE PLEADING

This matter will be called as scheduled.

4. [15-13167](#)-B-12 DOUG KOPHAMER FARMS MOTION TO MODIFY CHAPTER 12
LKW-17 PLAN
DOUG KOPHAMER FARMS/MV 12-13-16 [[301](#)]
LEONARD WELSH/Atty. for dbt.
RESPONSIVE PLEADING

This matter will be called as scheduled.

5. [15-13167](#)-B-12 DOUG KOPHAMER FARMS CONTINUED MOTION TO DISMISS
MHM-1 CASE
MICHAEL MEYER/MV 8-19-16 [[269](#)]
LEONARD WELSH/Atty. for dbt.
RESPONSIVE PLEADING

This matter will be called as scheduled.

1:30 P.M.

1. [14-10001](#)-B-13 CHRISTY BEELER
TCS-3
CHRISTY BEELER/MV
TIMOTHY SPRINGER/Atty. for dbt.

MOTION TO INCUR DEBT
1-12-17 [[49](#)]

This matter 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 a civil minute order if a further hearing is necessary.

2. [16-13605](#)-B-13 VICTORIA PILKINGTON
RSW-1
VICTORIA PILKINGTON/MV

CONTINUED MOTION TO VALUE
COLLATERAL OF JPMORGAN CHASE
BANK
12-9-16 [[18](#)]

ROBERT WILLIAMS/Atty. for dbt.
RESPONSIVE PLEADING

This motion was continued to provide an opportunity for the chapter 13 trustee to sign-off on the stipulation between the parties that was filed January 3, 2017. An amended stipulation signed by the trustee having been filed, the motion will be granted without oral argument based upon well-pled facts. The debtor shall submit a proposed order, with the stipulation attached, that is consistent with this ruling as set forth below. No appearance is necessary.

This motion to value the collateral for a consensual lien against real property was fully noticed in compliance with the Local Rules of Practice. The respondent filed a notice of non-opposition and subsequently the stipulation was filed.

Based on the moving papers 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 under state law to obtain a reconveyance of respondent's trust deed upon completion of the chapter 13 plan and entry of the discharge. 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.

3. [16-12310](#)-B-13 ROBIN RANK
FJG-1
ROBIN RANK/MV
F. GIST/Atty. for dbt.

MOTION TO CONFIRM PLAN
12-14-16 [[25](#)]

The motion will be granted without oral argument based on well-pled facts. No appearance is necessary. The movant shall submit a proposed order as specified below.

This motion to confirm or modify a chapter 13 plan was fully noticed in compliance with the Local Rules of Practice; there is no opposition and the respondents' default will be entered. The confirmation order shall include the docket control number of the motion and it shall reference the plan by the date it was filed.

4. [16-12310](#)-B-13 ROBIN RANK
MHM-1
MICHAEL MEYER/MV
F. GIST/Atty. for dbt.
RESPONSIVE PLEADING

CONTINUED MOTION TO DISMISS
CASE
12-5-16 [[19](#)]

If the trustee's motion is not withdrawn prior to the hearing, it will be denied without prejudice. The motion is based on the debtor's failure to confirm a chapter 13 plan, and, in light of the court's intent to grant the order confirming the plan above at calendar number 3, DC# FJG-1, it appears to have been resolved.

5. [16-13912](#)-B-13 MATTHEW STRONG
MHM-1
MICHAEL MEYER/MV
JAMES MILLER/Atty. for dbt.
DISMISSED

MOTION TO DISMISS CASE
12-28-16 [[29](#)]

This matter will be denied as moot. The case has already been dismissed. No appearance is necessary.

6. [16-13815](#)-B-13 ABEL/SARA TOVAR
MHM-1
MICHAEL MEYER/MV
ROBERT WILLIAMS/Atty. for dbt.

MOTION TO DISMISS CASE
12-14-16 [[18](#)]

Unless the trustee's motion is withdrawn before the hearing, the motion will be granted without oral argument for cause shown. The court will issue an order. No appearance is necessary.

This matter was fully noticed in compliance with the Local Rules of Practice and there is no opposition. Accordingly, the respondents' 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 the debtors have failed to appear at the initial and continued §341 meeting of creditors and that there is a material default in plan payments.

7. [16-14015](#)-B-13 ROY DRESSEL
MHM-1
MICHAEL MEYER/MV
SCOTT LYONS/Atty. for dbt.

MOTION TO DISMISS CASE
12-28-16 [[18](#)]

Unless the trustee's motion is withdrawn before the hearing, the motion will be granted without oral argument for cause shown. The court will issue an order. No appearance is necessary.

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 the debtor has failed to provide the trustee with all of the documentation required by 11 U.S.C. §521(a)(3) & (4).

8. [16-13916](#)-B-13 ROSALINDA DELGADO
MHM-1
MICHAEL MEYER/MV
THOMAS GILLIS/Atty. for dbt.

MOTION TO DISMISS CASE
12-21-16 [[16](#)]

Unless the trustee's motion is withdrawn before the hearing, the motion will be granted without oral argument for cause shown. The court will issue an order. No appearance is necessary.

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 the debtor has failed to appear at the initial and continued \$341 meeting of creditors.

9. [16-13925](#)-B-13 CRISTIN FLORES

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
1-4-17 [[23](#)]

JERRY LOWE/Atty. for dbt.

This matter will be called as scheduled. If the installment payments now due have not been paid by the time of the hearing, the case will be dismissed. If the installment payments now due are fully paid by the time of the hearing, the OSC will be vacated.

If the OSC is vacated, the court will modify the order permitting the payment of filing fees in installments to provide that if future installments are not received by the due date, the case will be dismissed without further notice or hearing.

10. [15-11327](#)-B-13 NORMAN/LESLIE OGLETREE
CGF-3
NORMAN OGLETREE/MV
CHRISTOPHER FISHER/Atty. for dbt.

MOTION TO MODIFY PLAN
12-2-16 [[71](#)]

The motion will be granted without oral argument based on well-pled facts. No appearance is necessary. The movant shall submit a proposed order as specified below.

This motion to confirm or modify a chapter 13 plan was fully noticed in compliance with the Local Rules of Practice; there is no opposition and the respondents' default will be entered. The confirmation order shall include the docket control number of the motion and it shall reference the plan by the date it was filed.

11. [11-62628](#)-B-13 JAMES/PAMELA WIRTH
FJG-1
JAMES WIRTH/MV
F. GIST/Atty. for dbt.

MOTION TO AVOID LIEN OF MIDLAND
FUNDING LLC
12-14-16 [[35](#)]

The motion will be granted without oral argument based upon well-pled facts. The moving party shall submit a proposed order. No appearance is necessary.

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

12. [13-10830](#)-B-13 ANTONIO/BLANCA HOLGUIN
HDN-7
ANTONIO HOLGUIN/MV
HENRY NUNEZ/Atty. for dbt.
DISMISSED

CONTINUED MOTION TO VACATE
DISMISSAL OF CASE
12-21-16 [[152](#)]

This matter will proceed as scheduled.

13. [16-14032](#)-B-13 REBA JOYNER
MHM-1
MICHAEL MEYER/MV
PETER BUNTING/Atty. for dbt.

MOTION TO DISMISS CASE
12-21-16 [[20](#)]

Unless the trustee's motion is withdrawn before the hearing, the motion will be granted without oral argument for cause shown. The court will issue an order. No appearance is necessary.

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 the debtor has failed to provide the trustee with all of the documentation required by 11 U.S.C. §521(a)(3) & (4).

14. [16-14036](#)-B-13 MARIA OJEDA
MHM-1
MICHAEL MEYER/MV

MOTION TO DISMISS CASE
12-20-16 [[20](#)]

Unless the trustee's motion is withdrawn before the hearing, the motion will be granted without oral argument for cause shown. The court will issue an order. No appearance is necessary.

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 the debtor has failed to provide the trustee with all of the documentation required by 11 U.S.C. §521(a)(3) & (4); has failed to file complete and accurate schedules, and has failed to file and set a plan for hearing with notice to creditors.

15. [12-18848](#)-B-13 RYAN/MELODEE BROWN
PBB-2
RYAN BROWN/MV
PETER BUNTING/Atty. for dbt.

MOTION TO MODIFY PLAN
12-14-16 [[57](#)]

The motion will be granted without oral argument based on well-pled facts. No appearance is necessary. The movant shall submit a proposed order as specified below.

This motion to confirm or modify a chapter 13 plan was fully noticed in compliance with the Local Rules of Practice; there is no opposition and the respondents' default will be entered. 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. [16-12050](#)-B-13 BHARPUR/KAMALJIT RAIKA
JDM-1
BHARPUR RAIKA/MV
JAMES MILLER/Atty. for dbt.

OBJECTION TO CLAIM OF BANK OF
AMERICA, N.A., CLAIM NUMBER 9
12-5-16 [[19](#)]

The objection will be sustained without oral argument based on well-pled facts. The objecting party shall submit a proposed order. No appearance is necessary.

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 claim will be disallowed in full on the grounds stated in the objection. Based on the evidence submitted in support of the objection, the proof of claim was filed after the claims bar date.

17. [16-13950](#)-B-13 SUSAN COX
MHM-2
MICHAEL MEYER/MV

MOTION TO DISMISS CASE
12-21-16 [[31](#)]

Unless the trustee's motion is withdrawn before the hearing, the motion will be granted without oral argument for cause shown. The court will issue an order. No appearance is necessary.

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 is a material default in the chapter 13 plan payments that has not been cured.

18. [16-14350](#)-B-13 ADAM/CHRISTINA RAMIREZ

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
1-6-17 [[14](#)]

This matter will be called as scheduled. If the installment payments now due have not been paid by the time of the hearing, the case will be dismissed. If the installment payments now due are fully paid by the time of the hearing, the OSC will be vacated.

If the OSC is vacated, the court will modify the order permitting the payment of filing fees in installments to provide that if future installments are not received by the due date, the case will be dismissed without further notice or hearing.

19. [16-11853](#)-B-13 VICTOR VILLALVAZO
RS-2
VICTOR VILLALVAZO/MV
RICHARD STURDEVANT/Atty. for dbt.
RESPONSIVE PLEADING

CONTINUED MOTION TO CONFIRM
PLAN
12-15-16 [[69](#)]

This matter will proceed as scheduled.

20. [15-10257](#)-B-13 JUAN CALVILLO
MAZ-3
JUAN CALVILLO/MV
MARK ZIMMERMAN/Atty. for dbt.
RESPONSIVE PLEADING

MOTION TO MODIFY PLAN
[[1](#)]

This matter will proceed as scheduled. Pursuant to the trustee's opposition, the court intends to grant the motion only if the debtor is current at the time of the hearing, otherwise the court will deny the motion and enter a minute order to that effect.

21. [12-10458](#)-B-13 RICHARD/SHIRLEY CALK
JDR-3
RICHARD CALK/MV
JEFFREY ROWE/Atty. for dbt.

MOTION TO SELL
12-20-16 [[50](#)]

This matter was fully noticed and there is no opposition. The defaults of respondents will be entered. The hearing will proceed for higher and better bids only.

22. [13-12058](#)-B-13 KEITH/RUSPONIZA DAVIS
BCS-5

AMENDED MOTION FOR COMPENSATION
BY THE LAW OFFICE OF SHEIN LAW
GROUP, PC FOR BENJAMIN C.
SHEIN, DEBTORS ATTORNEY(S)
1-6-17 [[65](#)]

BENJAMIN SHEIN/Atty. for dbt.

The motion will be granted without oral argument based upon well-pled facts. The moving party shall submit a proposed order. No appearance is necessary.

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

23. [16-14058](#)-B-13 SHANNON CASTONGUAY
MHM-1
MICHAEL MEYER/MV
TIMOTHY SPRINGER/Atty. for dbt.

MOTION TO DISMISS CASE
12-28-16 [[17](#)]

Unless the trustee's motion is withdrawn before the hearing, the motion will be granted without oral argument for cause shown. The court will issue an order. No appearance is necessary.

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 the debtor has failed to provide the trustee with all of the documentation required by 11 U.S.C. §521(a)(3) & (4).

24. [16-11662](#)-B-13 JOSE/JAYNE VENEGAS
TCS-1
JOSE VENEGAS/MV
TIMOTHY SPRINGER/Atty. for dbt.

MOTION TO MODIFY PLAN
12-10-16 [[37](#)]

The motion will be granted without oral argument based on well-pled facts. No appearance is necessary. The movant shall submit a proposed order as specified below.

This motion to confirm or modify a chapter 13 plan was fully noticed in compliance with the Local Rules of Practice; there is no opposition and the respondents' default will be entered. The confirmation order shall include the docket control number of the motion and it shall reference the plan by the date it was filed.

25. [16-11868](#)-B-13 PAUL/AMANDAH GUILLEN
PBB-2
PAUL GUILLEN/MV
PETER BUNTING/Atty. for dbt.

OBJECTION TO CLAIM OF INTERNAL
REVENUE SERVICE, CLAIM NUMBER 4
12-1-16 [[31](#)]

The objection will be sustained without oral argument based on well-pled facts. The objecting party shall submit a proposed order. No appearance is necessary.

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 claim will be disallowed in full, or in part, on the grounds stated in the objection, without prejudice to the claimant's right to file an amended proof of claim. Any amendment to the claim shall be filed and served on the trustee within 30 days from service of the order. The objecting party shall prepare the proposed order, serve the signed order on the creditor at its address of record and file a proof of service within 14 days.

26. [16-10169](#)-B-13 FRANK/MARY ANNE DORES
AMM-6

MOTION FOR COMPENSATION BY THE
LAW OFFICE OF SCHNIFF HARDIN
LLP FOR MATTHEW F. PREWITT,
CREDITORS ATTORNEY(S)
12-22-16 [[290](#)]

PETER FEAR/Atty. for dbt.
RESPONSIVE PLEADING

This matter has been continued by order of the court. No appearance is necessary.

27. [16-13979](#)-B-13 JOSE NUNEZ
MHM-1
MICHAEL MEYER/MV
RICHARD STURDEVANT/Atty. for dbt.

MOTION TO DISMISS CASE
12-21-16 [[21](#)]

Unless the trustee's motion is withdrawn before the hearing, the motion will be granted without oral argument for cause shown. The court will issue an order. No appearance is necessary.

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 the debtor has failed to provide the trustee with all of the documentation required by 11 U.S.C. §521(a)(3) & (4).

28. [12-16782](#)-B-13 DWIGHT/MARISSA ROSENQUIST
MEV-5
DWIGHT ROSENQUIST/MV
MARC VOISENAT/Atty. for dbt.
RESPONSIVE PLEADING

CONTINUED MOTION TO MODIFY PLAN
11-4-16 [[97](#)]

This motion was continued to permit the debtors to respond, not later than January 12, 2017, to the trustee's opposition to confirmation of the modified plan, or, alternatively, by January 19, 2017 to file and serve a motion to confirm a different modified plan. The debtors have neither filed a response to the trustee's opposition nor filed and served a modified plan. Accordingly, the motion is denied. The court will enter an order. No appearance is necessary.

29. [12-16782](#)-B-13 DWIGHT/MARISSA ROSENQUIST MOTION TO DISMISS CASE
MHM-5 12-15-16 [[106](#)]
MICHAEL MEYER/MV
MARC VOISENAT/Atty. for dbt.

Unless the trustee's motion is withdrawn before the hearing, the motion will be granted without oral argument for cause shown. The court will issue an order. No appearance is necessary.

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 is a material default in plan payments that has not been cured.

30. [13-10487](#)-B-13 DON/MARLA BOLDEN MOTION TO MODIFY PLAN
JDM-1 11-29-16 [[48](#)]
DON BOLDEN/MV
JAMES MILLER/Atty. for dbt.
RESPONSIVE PLEADING

The motion will proceed as scheduled. This motion to confirm or modify a chapter 13 plan was fully noticed in compliance with the Local Rules of Practice and the defaults of the other respondents will be entered.

Pursuant to the trustee's opposition, the court will grant the motion only if the debtors are current in their chapter 13 plan payments at the time of the hearing. Otherwise, the court will deny the motion and enter an order. If the motion is granted the movant shall submit a proposed confirmation order that includes the docket control number of the motion and that references the plan by the date it was filed.

31. [13-17088](#)-B-13 JAMES/ALICE LOCKHART
CKS-1
JAMES LOCKHART/MV

MOTION FOR CONTINUED
ADMINISTRATION OF A CASE UNDER
CHAPTER 13 AND WAIVER OF THE
CERTIFICATION REQUIREMENTS FOR
ENTRY OF DISCHARGE FOR DEBTOR,
JAMES HAROLD LOCKHART
12-15-16 [[79](#)]

CRAIG STREED/Atty. for dbt.

The motion will be granted without oral argument based upon well-pled facts. The moving party shall submit a proposed order. No appearance is necessary.

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

32. [15-11788](#)-B-13 MARK/AMY AVILA
MAT-4
MARK AVILA/MV
MARCUS TORIGIAN/Atty. for dbt.
RESPONSIVE PLEADING

CONTINUED MOTION TO MODIFY PLAN
10-7-16 [[97](#)]

This motion was continued to permit the debtors to respond, not later than January 12, 2017, to the trustee's opposition to confirmation of the modified plan, or, alternatively, by January 19, 2017 to file and serve a motion to confirm a different modified plan. The debtors have neither filed a response to the trustee's opposition nor filed and served a modified plan. Accordingly, the motion is denied. The court will enter an order. No appearance is necessary.

33. [15-11788](#)-B-13 MARK/AMY AVILA
MHM-2
MICHAEL MEYER/MV
MARCUS TORIGIAN/Atty. for dbt.

CONTINUED MOTION TO DISMISS
CASE
9-7-16 [[89](#)]

This motion was continued to be heard with the debtors' motion to confirm a modified plan. In light of the disposition above, calendar number 32, DC# MAT-4, the motion will be granted without oral argument for cause shown. The court will issue an order. No appearance is necessary.

This matter was fully noticed in compliance with the Local Rules of Practice and there is no opposition. Accordingly, the respondents' defaults will be entered. Federal Rule of Civil Procedure 55, made applicable by Federal Rule of Bankruptcy Procedure 7055, governs default matters and is applicable to contested matters under Federal Rule of Bankruptcy Procedure 9014(c). Upon default, factual allegations will be taken as true (except those relating to amount of damages). *Televideo Systems, Inc. v. Heidenthal* (826 F.2d 915, 917 (9th Cir., 1987)). Constitutional due process requires that a plaintiff make a prima facie showing that they are entitled to the relief sought, which the movant has done here. The record shows that there is a material default in plan payments that has not been cured.

34. [16-12889](#)-B-13 DONALD GENOVESE
MHM-1
MICHAEL MEYER/MV
MARK ZIMMERMAN/Atty. for dbt.
RESPONSIVE PLEADING

MOTION TO DISMISS CASE
12-22-16 [[44](#)]

This matter will proceed as scheduled.

Tentative Ruling:

The chapter 13 trustee's Motion to Dismiss will be granted.

The chapter 13 trustee asks for dismissal because of: the debtor's failure to list a transfer of a patent in the debtor's SOFA; the debtor's failure to provide complete profit and loss statements as required by §521(a)(3)(4); and the fact that the debtor has not proposed a confirmable plan. The trustee also contends that these failures and the necessity of continuing the debtor's §341 meeting of creditors have resulted in delay prejudicial to creditors justifying dismissal under section 1307 (c)(1).

The debtor filed a response and attached certain documents allegedly responsive to the trustee's motion. The debtor has also amended the SOFA and his schedules to allegedly show he can make his plan payments with his disposable income.

First, while the debtor did submit documents, most are not admissible because there is no foundational declaration supporting the admission of the documents. Thus the evidence is largely irrelevant except, perhaps, the schedule amendments which are executed under penalty of perjury. There is, therefore, very little in the evidentiary record to support the opposition.

Second, the debtor has yet to satisfactorily explain the changes in his income with any competent evidence. There have been amendments to the income and expense schedules but no explanation with competent evidence as to why the income has changed. This is especially troubling since the profit and loss statements the debtor provided to the trustee do not reflect income to fund a plan. More fundamentally, is the debtor's income sufficiently "regular" to fund a plan?

Third, there is no explanation with competent evidence as to why three continuances of the meeting of creditors were needed for the debtor to provide the requested information when the debtor was sent the list of needed documents August 11, 2016, five and one half months ago.

35. [16-13491](#)-B-13 CURTIS ALLEN AND
EPE-5 CHARLOTTE JACKSON
CURTIS ALLEN/MV

ERIC ESCAMILLA/Atty. for dbt.
DEBTOR DISMISSED:
01/03/2017
JOINT DEBTOR DISMISSED:
01/03/2017

MOTION TO VACATE DISMISSAL OF
CASE AND/OR MOTION TO REINSTATE
CASE
1-12-17 [[68](#)]

This matter will proceed as scheduled.