**UNITED STATES BANKRUPTCY COURT**
**Eastern District of California**
**Honorable Jennifer E. Niemann**
**Hearing Date: Thursday, January 29, 2026**
**Department A – Courtroom #11**
**Fresno, California**

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Unless otherwise ordered, all matters before the Honorable Jennifer E. Niemann shall be simultaneously: (1) **In Person** at, Courtroom #11, (2) via **ZoomGov Video**, (3) via **ZoomGov Telephone**, and (4) via **CourtCall**. You may choose any of these options unless otherwise ordered or stated below.

All parties who wish to appear at a hearing remotely must sign up by 4:00 p.m. **one business day** prior to the hearing. Information regarding how to sign up can be found on the **Remote Appearances** page of our website at https://www.caeb.uscourts.gov/Calendar/CourtAppearances. Each party who has signed up will receive a Zoom link or phone number, meeting I.D., and password via e-mail.

If the deadline to sign up has passed, parties who wish to appear remotely must contact the Courtroom Deputy for the Department holding the hearing.

Please also note the following:

- Parties in interest may connect to the video or audio feed free of charge and should select which method they will use to appear when signing up.
- Members of the public and the press appearing by ZoomGov may only listen in to the hearing using the zoom telephone number. Video appearances are not permitted.
- Members of the public and the press may not listen in to trials or evidentiary hearings, though they may appear in person in most instances.

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

1. Review the Pre-Hearing Dispositions prior to appearing at the hearing.
2. Parties appearing via CourtCall are encouraged to review the CourtCall Appearance Information.

If you are appearing by ZoomGov phone or video, please join at least 10 minutes prior to the start of the calendar and wait with your microphone muted until the matter is called.

**Unauthorized Recording is Prohibited:** Any recording of a court proceeding held by video or teleconference, including "screen shots" 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.

**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. 25-13604-A-13 **IN RE: OLGA WRIGHT**
LGT-1

CONTINUED OBJECTION TO CONFIRMATION OF PLAN BY LILIAN G. TSANG
12-8-2025 [12]

LILIAN TSANG/MV
JERRY LOWE/ATTY. FOR DBT.
RESPONSIVE PLEADING

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Continued to March 5, 2026 at 9:30 a.m.

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

Olga Wright ("Debtor") filed a voluntary petition under chapter 13 along with a chapter 13 plan ("Plan") on October 27, 2025. Doc. ##1, 3. The chapter 13 trustee ("Trustee") objects to confirmation of the Plan because, among other things, the meeting of creditors has not yet concluded. Doc. #12. Debtor's 341 meeting of creditors has been continued to February 24, 2026 at 2:00 p.m. See court docket entry entered on January 12, 2026. The debtor filed a response to Trustee's objection to confirmation on January 2, 2026. Doc. #15.

Because Debtor's 341 meeting of creditors needs to be concluded to resolve this objection to confirmation, and that meeting has been continued to February 24, 2026, the court is inclined to continue the hearing on this objection to confirmation to March 5, 2026 at 9:30 a.m.

2. 25-13917-A-13 **IN RE: THOMAS/JENNIFER ANAYA**
LGT-1

OBJECTION TO CONFIRMATION OF PLAN BY LILIAN G. TSANG
12-31-2025 [15]

LILIAN TSANG/MV
JERRY LOWE/ATTY. FOR DBT.

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

DISPOSITION: Dropped as moot.

ORDER: The court will issue an order.

This objection to confirmation is DROPPED AS MOOT. The debtors withdrew their plan on January 27, 2026. Doc. #25.

3. 25-13917-A-13 **IN RE: THOMAS/JENNIFER ANAYA**
WJH-1

OBJECTION TO CONFIRMATION OF PLAN BY ZINC FINANCIAL, INC.
1-6-2026 [18]

ZINC FINANCIAL, INC./MV
JERRY LOWE/ATTY. FOR DBT.
STEVEN VOTE/ATTY. FOR MV.
WITHDRAWN

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

DISPOSITION: Dropped from calendar.

NO ORDER REQUIRED.

Zinc Financial, Inc. withdrew the objection to confirmation of the plan on January 20, 2026. Doc. #23.

4. 25-13419-A-13 **IN RE: GURLAL BARA**
JRL-1

MOTION TO VALUE COLLATERAL OF SOLAR MOSAIC, LLC
1-1-2026 [31]

GURLAL BARA/MV
JERRY LOWE/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 at least 28 days' notice prior to the hearing date pursuant to Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of creditors, 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 Sys., Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires a moving party make a *prima facie* showing that they are entitled to the relief sought, which the movants have done here.

Gurlal Singh Bara ("Debtor"), the debtor in this chapter 13 case, moves the court for an order valuing Debtor's solar panels ("Property") at $1,000.00, which is the collateral of Solar Mosaic, LLC ("Creditor"). Doc. #31; Decl. of Gurlal Bara, Doc. #34.

11 U.S.C. § 1325(a)(*) (the hanging paragraph) permits the debtor to value personal property other than a motor vehicle acquired for the personal use of the debtor at its current value, as opposed to the amount due on the loan, if the loan was a purchase money security interest secured by the property and the debt was not incurred within the 1-year period preceding the date of filing. 11 U.S.C. § 506(a)(1) limits a secured creditor's claim "to the extent of the value of such creditor's interest in the estate's interest in such property . . . and is an unsecured claim to the extent that the value of such creditor's interest . . . is less than the amount of such allowed claim." 11 U.S.C. § 506(a)(2) states that the value of personal property securing an allowed claim shall be determined based on the replacement value of such property as of the petition filing date. "Replacement value" where the personal property is "acquired for personal, family, or household purposes" means "the price a retail merchant would charge for property of that kind considering the age and condition of the property at the time value is determined." 11 U.S.C. § 506(a)(2).

Debtor asserts the Property is about three years old, and, as a result, was purchased more than one year before the filing of this case. Bara Decl., Doc. #34. The loan is a purchase money security interest. Ex. A, Doc. #33; Bara Decl., Doc. #34. Debtor asserts a replacement value of the Property of $1,000.00 and asks the court for an order valuing the Property at $1,000.00. Doc. #31; Bara Decl., Doc. #34. Debtor is competent to testify as to the value of the Property. Given the absence of contrary evidence, Debtor's opinion of value may be conclusive. Enewally v. Wash. Mut. Bank (In re Enewally), 368 F.3d 1165, 1173 (9th Cir. 2004).

The motion is GRANTED. Creditor's secured claim will be fixed at $1,000.00. The proposed order shall specifically identify the collateral, and if applicable, the proof of claim to which it relates. The order will be effective upon confirmation of the chapter 13 plan.

5. 25-13419-A-13 **IN RE: GURLAL BARA**
JRL-2

MOTION TO VALUE COLLATERAL OF HOME INSPIRATION, LLC
1-1-2026 [27]

GURLAL BARA/MV
JERRY LOWE/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 at least 28 days' notice prior to the hearing date pursuant to Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of creditors, 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 Sys., Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires a moving party make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

Gurlal Singh Bara ("Debtor"), the debtor in this chapter 13 case, moves the court for an order valuing a sofa ("Property") at $500.00, which is the collateral of Home Inspiration, LLC ("Creditor"). Doc. #27; Decl. of Gurlal Bara, Doc. #29.

11 U.S.C. § 1325(a)(*) (the hanging paragraph) permits the debtor to value personal property other than a motor vehicle acquired for the personal use of the debtor at its current value, as opposed to the amount due on the loan, if the loan was a purchase money security interest secured by the property and the debt was not incurred within the 1-year period preceding the date of filing. 11 U.S.C. § 506(a)(1) limits a secured creditor's claim "to the extent of the value of such creditor's interest in the estate's interest in such property . . . and is an unsecured claim to the extent that the value of such creditor's interest . . . is less than the amount of such allowed claim." 11 U.S.C. § 506(a)(2) states that the value of personal property securing an allowed claim shall be determined based on the replacement value of such property as of the petition filing date. "Replacement value" where the personal property is "acquired for personal, family, or household purposes" means "the price a retail merchant would charge for property of that kind considering the age and condition of the property at the time value is determined." 11 U.S.C. § 506(a)(2).

Debtor asserts the Property is about three years old, and, as a result, was purchased more than one year before the filing of this case. Bara Decl., Doc. #29. The loan is a purchase money security interest. Id. Debtor asserts a replacement value of the Property of $500.00 and asks the court for an order valuing the Property at $500.00. Doc. #27; Bara Decl., Doc. #29. Debtor is competent to testify as to the value of the Property. Given the absence of contrary evidence, Debtor's opinion of value may be conclusive. Enewally v. Wash. Mut. Bank (In re Enewally), 368 F.3d 1165, 1173 (9th Cir. 2004).

The motion is GRANTED. Creditor's secured claim will be fixed at $500.00. The proposed order shall specifically identify the collateral, and if applicable, the proof of claim to which it relates. The order will be effective upon confirmation of the chapter 13 plan.

6. 25-10922-A-13 **IN RE: MANUEL MENDOZA**
LGT-2

CONTINUED MOTION TO DISMISS CASE
7-8-2025 [38]

LILIAN TSANG/MV
YASHA RAHIMZADEH/ATTY. FOR DBT.
RESPONSIVE PLEADING

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Granted in part; the case will be converted.

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

This motion was filed on July 8, 2025 and set for hearing on at least 28 days' notice prior to the hearing date pursuant to Local Rule of Practice 9014-1(f)(1). By this motion, the chapter 13 trustee ("Trustee") asks the court to dismiss this case under 11 U.S.C. § 1307(c)(1) and (c)(4) for unreasonable delay by the debtor that is prejudicial to creditors. Doc. #38. Specifically, Trustee asks the court to dismiss this case because the debtor has failed to set a modified plan for hearing and debtor has failed to commence making plan payments. Id. As of July 8, 2025, the debtor was delinquent in the amount of $300.00 with a monthly payment of $100.00 due the 25th of the following months. Id. Further, the debtor's modified plan states "$100.00 per month for 9 months, $410,538.57 per month for 1 month". Plan, Doc. #71. The lump sum payment in the amount of $410,538.57 was due on January 25, 2026, as this case was filed on March 26, 2025. Doc. #1.

The debtor Manuel Mendoza ("Debtor") filed late opposition to the motion. Doc. #46. In his opposition, Debtor stated that he intended to list and sell real property located at 2409 Summerside Lane, McKinney, Texas ("Property") that Debtor believed would provide sufficient net proceeds to pay the secured claim against the Property as well as all priority and non-priority unsecured claims. Id. On August 21, 2025, the court entered an order authorizing the employment of a real estate broker to list the Property. Order, Doc. #60. To date, no motion to approve a sale of the Property has been filed in this case. On January 5, 2026, the court granted relief from stay to the secured creditor on the Property. Order, Doc. #93. The motion to dismiss was originally heard on August 6, 2025, and continued to August 14, 2025, then October 2, 2025, then October 30, 2025, then December 11, 2025, and finally to January 29, 2026. Doc. ##39, 50, 57, 63, 67, 86.

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. "A debtor's unjustified failure to expeditiously accomplish any task required either to propose or to confirm a chapter 13 plan may constitute cause for dismissal under § 1307(c)(1)." Ellsworth v. Lifescape Med. Assocs., P.C. (In re Ellsworth), 455 B.R. 904, 915 (B.A.P. 9th Cir. 2011). There is "cause" for dismissal under 11 U.S.C. § 1307(c)(1) for unreasonable delay by Debtor that is prejudicial to creditors because Debtor has failed to confirm a plan, has not filed a motion to sell the Property, and is delinquent in his plan payments.

A review of Debtor's Schedules A/B, C and D shows there is a liquidation amount of $955,666.49 after accounting for trustee fees that would be available to creditors should Debtor's bankruptcy case be converted to chapter 7. Doc. #1.

This non-exempt equity is comprised mostly of equity in various parcels of real property owned by Debtor. Thus, there appears to be sufficient non-exempt equity in Debtor's assets to be realized for the benefit of the estate if Debtor's bankruptcy case is converted to chapter 7 instead of being dismissed. Thus, the court finds that conversion, rather than dismissal, is in the best interests of creditors and the estate.

Accordingly, the motion will be GRANTED IN PART, and the case will be converted.

7. 22-11927-A-13 **IN RE: LAVONNA GRIMES**
RSW-1

MOTION TO INCUR DEBT
1-7-2026 [92]

LAVONNA GRIMES/MV
ROBERT WILLIAMS/ATTY. FOR DBT.

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Granted.

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

This motion was filed and served on at least 14 days' notice prior to the hearing date pursuant to Local Rule of Practice ("LBR") 9014-1(f)(2) and will proceed as scheduled. Unless opposition is presented at the hearing, the court intends to enter the respondents' defaults and grant the motion. If opposition is presented at the hearing, the court will consider the opposition and whether further hearing is proper pursuant to LBR 9014-1(f)(2). The court will issue an order if a further hearing is necessary.

Lavonna Nicole Grimes ("Debtor"), the chapter 13 debtor in this case, moves the court for an order authorizing Debtor to incur new debt. Doc. #92. Debtor states that she needs to purchase a vehicle because her current vehicle is breaking down and she needs a vehicle to get to and from work. Decl. of Lavonna Grimes, Doc. #94. Debtor is looking to purchase a 2024 VW Jetta for $34,419.44 with $1,000.00 for downpayment. Id. Debtor expects the monthly payments on the new vehicle to be around $450.00 per month for 72 months. Id. If that vehicle is no longer available, Debtor will purchase another vehicle with approximately the same monthly payment. Id.

LBR 3015-1(h)(1)(E) provides that "if the debtor wishes to incur new debt . . . on terms and conditions not authorized by [LBR 3015-1(h)(1)(A) through (D)], the debtor shall file the appropriate motion, serve it on the trustee, those creditors who are entitled to notice, and all persons requesting notice, and set the hearing on the Court's calendar with the notice required by Fed. R. Bankr. P. 2002 and LBR 9014-1."

The court is inclined to GRANT this motion. This motion was properly served and noticed, and opposition may be presented at the hearing. There is no indication that Debtor is not current on her chapter 13 plan payments or that the chapter 13 plan is in default. Debtor filed amended Schedules I and J that demonstrate an ability to pay future plan payments, projected living and business expenses, and the new debt. The new debt is a single loan incurred to

purchase a motor vehicle that is reasonably necessary for the maintenance or support of Debtor. The only security for the new debt will be the motor vehicle to be purchased by Debtor.

Accordingly, subject to opposition raised at the hearing, this motion is GRANTED. Debtor is authorized, but not required, to purchase a vehicle in a manner consistent with the motion.

8. 25-13930-A-13 **IN RE: MINERVA MARTINEZ**
LGT-1

OBJECTION TO CONFIRMATION OF PLAN BY LILIAN G. TSANG
1-2-2026 [12]

LILIAN TSANG/MV
ROBERT WILLIAMS/ATTY. FOR DBT.

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

DISPOSITION: Continued to March 5, 2026 at 9:30 a.m.

ORDER: The court will issue an order.

Minerva Martinez ("Debtor") filed a voluntary petition under chapter 13 along with a chapter 13 plan ("Plan") on November 22, 2025. Doc. ##1, 3. The chapter 13 trustee ("Trustee") objects to confirmation of the Plan because: (1) Debtor has not commenced making plan payments and is therefore delinquent in the amount of $2,025.00, with another plan payment coming due on January 25, 2026; (2) a motion to value the collateral of OneMain Financial Group LLC ("Creditor") needs to be filed in order for Trustee to determine whether Debtor's Plan is feasible; (3) Debtor has not filed all required tax returns for all taxable periods; (4) the meeting of creditors has not yet concluded; and (5) Debtor has failed to provide any of the required documents including, but not limited to (a) proof of social security number and (b) 2024 tax returns. Doc. #12. Debtor's 341 meeting of creditors was continued to February 10, 2026 at 3:00 p.m. See court docket entry entered on January 12, 2026.

This objection will be continued to March 5, 2026. Unless this case is voluntarily converted to chapter 7, dismissed, or Trustee's objection to confirmation is withdrawn, Debtor shall file and serve a written response no later than February 19, 2026. The response shall specifically address each issue raised in the objection to confirmation, state whether the issue is disputed or undisputed, and include admissible evidence to support Debtor's position. Trustee shall file and serve a reply, if any, by February 26, 2026.

If 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 26, 2026. If Debtor does not timely file a modified plan or a written response, this objection to confirmation will be sustained on the grounds stated in Trustee's objection without a further hearing.

9. 25-13837-A-13 **IN RE: HENRY CALDERON**
LGT-1

OBJECTION TO CONFIRMATION OF PLAN BY LILIAN G. TSANG
1-6-2026 [22]

LILIAN TSANG/MV
RAJ WADHWANI/ATTY. FOR DBT.

NO RULING.

10. 25-13838-A-13 **IN RE: LILLIANA AVALOS**
LGT-1

OBJECTION TO CONFIRMATION OF PLAN BY LILIAN G. TSANG
12-31-2025 [16]

LILIAN TSANG/MV
STEVEN ALPERT/ATTY. FOR DBT.

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

DISPOSITION: Continued to March 5, 2026 at 9:30 a.m.

ORDER: The court will issue an order.

Lilliana Del Socorro Avalos ("Debtor") filed a voluntary petition under chapter 13 along with a chapter 13 plan ("Plan") on November 14, 2025. Doc. ##1, 3. The chapter 13 trustee ("Trustee") objects to confirmation of the Plan because: (1) a motion to value the collateral of OneMain Financial Group LLC ("Creditor") needs to be filed in order for Trustee to determine whether Debtor's Plan is feasible; and (2) Debtor needs to provide Trustee with Debtor's retirement account statement for Trustee to determine if Debtor is providing all projected discretionary income into the Plan for the benefit of unsecured claim holders. Doc. #16.

This objection will be continued to March 5, 2026. Unless this case is voluntarily converted to chapter 7, dismissed, or Trustee's objection to confirmation is withdrawn, Debtor shall file and serve a written response no later than February 19, 2026. The response shall specifically address each issue raised in the objection to confirmation, state whether the issue is disputed or undisputed, and include admissible evidence to support Debtor's position. Trustee shall file and serve a reply, if any, by February 26, 2026.

If 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 26, 2026. If Debtor does not timely file a modified plan or a written response, this objection to confirmation will be sustained on the grounds stated in Trustee's objection without a further hearing.

11. 25-13550-A-13 **IN RE: THEONNA HILL**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES
1-6-2026 [23]

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: The minutes of the hearing will be the court's findings and conclusions.

ORDER: The court will issue an order.

This matter will proceed as scheduled. An amended creditor matrix (Doc. #18) was filed by the debtor on December 23, 2025, which added a creditor who was not listed on the previously filed creditor matrix. A fee of $34.00 was required at the time of filing because the amended creditor matrix added a creditor. The fee was not paid. A notice of payment due was served on the debtor on December 31, 2025. Doc. #21.

If the filing fee of $34.00 is not paid prior to the hearing, the amended creditor matrix (Doc. #18) will be stricken, and additional sanctions may be imposed on the debtor on the grounds stated in the order to show cause.

12. 25-13550-A-13 **IN RE: THEONNA HILL**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES
12-30-2025 [20]

$78.00 INSTALLMENT PAYMENT 1/14/26

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

DISPOSITION: The order to show cause will be vacated.

ORDER: The court will issue an order.

The record shows that the installment fees now due have been paid.

The order permitting the payment of filing fees in installments will be modified to provide that if future installments are not received by the due date, the case will be dismissed without further notice or hearing.

13. 25-13059-A-13 **IN RE: DINORAH CORDOVA**
ALG-1

MOTION FOR RELIEF FROM AUTOMATIC STAY
1-8-2026 [53]

ASHLEY OLIVER/MV
ROBERT WILLIAMS/ATTY. FOR DBT.
ARNOLD GRAFF/ATTY. FOR MV.

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Granted.

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

This motion was filed and served on at least 14 days' notice prior to the hearing date pursuant to Local Rule of Practice ("LBR") 9014-1(f)(2) and will proceed as scheduled. Unless opposition is presented at the hearing, the court intends to enter the respondents' defaults and grant the motion. If opposition is presented at the hearing, the court will consider the opposition and whether further hearing is proper pursuant to LBR 9014-1(f)(2). The court will issue an order if a further hearing is necessary.

Creditor Jesse Oliver and Ashley Oliver (together, "Movants") move the court for an order confirming the termination of the automatic stay in this case pursuant to 11 U.S.C. § 362 to allow Movants to proceed with their state law remedies regarding real property referred to as 444 Border Court, Frazier Park, California 93225 ("Property"). Doc. #53.

Debtor Dinorah Lizbeth Cordova ("Debtor") and borrower Nathan T. Schultz ("Borrower" and together with Debtor, "Borrowers") borrowed a loan from Movants that secured repayment of the loan through a deed of trust recorded against the Property. Doc. #53; Ex. 2, Doc. #55. Borrowers defaulted on the terms of the loan, which caused Movants to commence foreclosure proceedings. Doc. #59.

Debtor filed this case on September 10, 2025. Petition, Doc. #1. Debtor claims to possess no legal title interest in Property and did not list the Property or disclose any interest in the Property on any of Debtor's schedules. Doc. #59. Further, through communication between Movants and Debtor's counsel, Debtor claims that she only signed the loan document so Borrower, as the only owner of the Property, could get the loan. Decl. of Arnold Graff, Doc. #57. At Debtor's 341 meeting, Debtor testified under oath that she is not on record title to the Property, does not believe the Property to be her estate property, and had no issue with Movants bringing the instant motion. Graff Decl., Doc. #57.

Because the Property is not owned by Debtor and Debtor merely signed the loan documents with Borrower who owns the Property for qualification purposes, Debtor has no legal or equitable ownership interest in the Property, and the Property itself is not part of Debtor's bankruptcy estate. The court finds that the automatic stay did not go into effect as to the Property when Debtor filed this case.

Even if the stay were in place, the court finds grounds to grant Movants relief from the automatic stay pursuant to 11 U.S.C. § 362(d)(1) and (d)(2).

Section 362(d)(1) of the Bankruptcy Code allows the court to grant relief from the stay for cause. "Because there is no clear definition of what constitutes 'cause,' discretionary relief from the stay must be determined on a case by case basis." In re Mac Donald, 755 F.2d 715, 717 (9th Cir. 1985). Here, there is cause to lift the stay because Debtor has made no pre- and post-petition payments and Movants' claim is not provided for in Debtor's schedules or plan resulting in a lack of adequate protection for Movants.

Section 362(d)(2) of the Bankruptcy Code allows the court to grant relief from the stay if the debtor does not have any equity in such property and such property is not necessary to an effective reorganization. Here, Debtor does not have any equity in the Property and the Property is not necessary to an effective reorganization because she does not own the Property.

Accordingly, pending opposition being raised at the hearing, the motion will be GRANTED. The court confirms there is no automatic stay in effect as to Debtor with respect to the Property. To the extent that there is an automatic stay in place, the automatic stay will be terminated pursuant to 11 U.S.C. § 362(d)(1) and (2) to permit Movants to proceed under applicable non-bankruptcy law to enforce Movants' remedies to gain possession of the Property.

The order shall also provide that the bankruptcy proceeding has been finalized for purposes of California Civil Code § 2923.5.

The 14-day stay of Fed. R. Bankr. P. 4001(a)(3) will be ordered waived to permit Movants to take possession of the Property.

14. 25-13059-A-13 **IN RE: DINORAH CORDOVA**
ALG-2

MOTION FOR RELIEF FROM AUTOMATIC STAY
1-8-2026 [61]

ASHLEY OLIVER/MV
ROBERT WILLIAMS/ATTY. FOR DBT.
ARNOLD GRAFF/ATTY. FOR MV.

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Granted.

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

This motion was filed and served on at least 14 days' notice prior to the hearing date pursuant to Local Rule of Practice ("LBR") 9014-1(f)(2) and will proceed as scheduled. Unless opposition is presented at the hearing, the court intends to enter the respondents' defaults and grant the motion. If opposition is presented at the hearing, the court will consider the opposition and whether further hearing is proper pursuant to LBR 9014-1(f)(2). The court will issue an order if a further hearing is necessary.

Creditor Jesse Oliver and Ashley Oliver (together, "Movants") move the court for an order confirming the termination of the automatic stay in this case pursuant to 11 U.S.C. § 362 to allow Movants to proceed with their state law remedies regarding real property referred to as 3221 Mesa Drive, Bakersfield, California 93306 ("Property"). Doc. #65.

Debtor Dinorah Lizbeth Cordova ("Debtor") is the chief financial officer ("CFO") for Our Empire, Inc. ("Borrower"). Doc. #65. Borrower obtained a loan from Movants and that note was signed by Debtor as CFO of Borrower. Doc. #65; Ex. 1, Doc. #64. Borrower secured repayment of the loan through a deed of trust recorded against the Property. Doc. #65; Ex. 2, Doc. #64. Borrower defaulted on the terms of the loan, which caused Movants to commence foreclosure proceedings. Doc. #65.

Debtor filed this case on September 10, 2025. Petition, Doc. #1. Debtor claims to possess no legal title interest in Property and does not list the Property or disclose any interest in the Property on any of Debtor's schedules. Doc. #65. Further, through communication between Movants and Debtor's counsel, Debtor claims that she only signed the loan documents as an officer of Borrower and not personally. Decl. of Arnold Graff, Doc. #67. At Debtor's 341 meeting, Debtor testified under oath that she is not on record title to the Property, does not believe the Property to be her estate property, and had no issue with Movants bringing the instant motion. Graff Decl., Doc. #67.

Because the Property is not owned by Debtor and Debtor merely signed the loan documents as an officer of Borrower, Debtor has no legal or equitable ownership interest in the Property, and the Property itself is not part of Debtor's bankruptcy estate. The court finds that the automatic stay did not go into effect as to the Property when Debtor filed this case.

Even if the stay were in place, the court finds grounds to grant Movants relief from the automatic stay pursuant to 11 U.S.C. § 362(d)(1) and (d)(2).

Section 362(d)(1) of the Bankruptcy Code allows the court to grant relief from the stay for cause. "Because there is no clear definition of what constitutes 'cause,' discretionary relief from the stay must be determined on a case by case basis." In re Mac Donald, 755 F.2d 715, 717 (9th Cir. 1985). Here, there is cause to lift the stay because Debtor has made no pre- and post-petition payments and Movants' claim is not provided for in Debtor's schedules or plan resulting in a lack of adequate protection for Movants.

Section 362(d)(2) of the Bankruptcy Code allows the court to grant relief from the stay if the debtor does not have any equity in such property and such property is not necessary to an effective reorganization. Here, Debtor does not have any equity in the Property and the Property is not necessary to an effective reorganization because she does not own the Property.

Accordingly, pending opposition being raised at the hearing, the motion will be GRANTED. The court confirms there is no automatic stay in effect as to Debtor with respect to the Property. To the extent that there is an automatic stay in place, the automatic stay will be terminated pursuant to 11 U.S.C. § 362(d)(1) and (2) to permit Movants to proceed under applicable non-bankruptcy law to enforce Movants' remedies to gain possession of the Property.

The order shall also provide that the bankruptcy proceeding has been finalized for purposes of California Civil Code § 2923.5.

The 14-day stay of Fed. R. Bankr. P. 4001(a)(3) will be ordered waived to permit Movants to take possession of the Property.

15. 25-14060-A-13 **IN RE: KATHRYN MILLER**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES
1-9-2026 [19]

INSTALLMENTS $79.00 AND $78.00 PAID 1/20/26

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

DISPOSITION: The order to show cause will be vacated.

ORDER: The court will issue an order.

The record shows that the installment fees now due have been paid.

The order permitting the payment of filing fees in installments will be modified to provide that if future installments are not received by the due date, the case will be dismissed without further notice or hearing.

16. 25-10963-A-13 **IN RE: ERIC DUTRA**
BDB-1

OBJECTION TO CLAIM OF KIMBERLY ANNE ACOSTA, CLAIM NUMBER 8
12-24-2025 [28]

ERIC DUTRA/MV
BENNY BARCO/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 Moving Party will submit a proposed order after the hearing.

This motion was filed and served on at least 30 days' notice prior to the hearing date pursuant to Local Rule of Practice ("LBR") 3007-1(b)(2) 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 further hearing is necessary.

Eric Joseph Dutra ("Debtor"), the chapter 13 debtor in this bankruptcy case, objects to claim no. 8 ("Claim") filed by Kimberly Anne Acosta ("Claimant") on the grounds that the Claim is for equalization payments, which is not considered a domestic support obligation and, therefore, Claimant's Claim is not entitled to be treated as a priority under Federal Rule of Bankruptcy Procedure 3001(f). Doc. #28.

Federal Rule of Bankruptcy Procedure 3001(f) provides that "[a] proof of claim executed and filed in accordance with these rules shall constitute prima facie evidence of the validity and amount of the claim." 11 U.S.C. § 502(a) states that a claim or interest, evidenced by a proof of claim filed under section 501, is deemed allowed unless a party in interest objects.

"In determining whether an obligation is a [domestic support obligation] entitled to priority under § 507(a), the court looks to the interpretation of [domestic support obligation] discussed in cases relating to the dischargeability of support under former § 523(a)(5)." In re Nelson, 451 B.R. 918, 921 (Bankr. D. Ore. 2011) (emphasis in original) (citations omitted).

Per In re Sternberg, 85 F.3d 1400 (9th Cir. 1996), rev'd on other grounds, In re Bammer, 131 F.3d 788 (9th Cir. 1997), whether an obligation is in the nature of support, and thus qualifies as support under bankruptcy law, is a question of federal law. Sternberg, 85 F.3d at 1405. As explained by the Nelson court, under Ninth Circuit authority:

> When the obligation is created by a stipulated dissolution judgment, "the intent of the parties at the time the settlement agreement is executed is dispositive." Sternberg, 85 F.3d at 1405. Factors to be considered in determining the intent of the parties include "whether the recipient spouse actually needed spousal support at the time of the divorce[,]" which requires looking at whether there was an "imbalance in the relative income of the parties" at the time of the divorce. Id. Other considerations are whether the obligation terminates on the death or remarriage of the recipient spouse, and whether payments are made directly to the spouse in installments over a substantial period of time. Id.; Shaver [v. Shaver], 736 F.2d [1314,] 1316-1317 [(9th Cir. 1984)]. The labels the parties used for the payments may also provide evidence of the parties' intent. Sternberg, 85 F.3d at 1405.

Nelson, 451 B.R. at 921-22.

Here, Claimant filed her proof of claim for an unpaid equalization payment on May 22, 2025. Claim 8. On December 24, 2025, Debtor filed an objection to the priority nature of Claimant's proof of claim for the unpaid equalization payment. Doc. #28. Debtor asserts that Claimant's claim for the unpaid equalization payment should be treated as a general unsecured claim only because the Claim is not a debt for child or spousal support. Id. Further, the marital settlement agreement specifies that the payment in question is an equalization payment, intended to divide property and assets between the parties and is not designated as alimony, spousal support, or a domestic support obligation. Decl. of Eric Joseph Dutra, Doc. #30; Ex. A, Doc. #31. Having reviewed the Claim and Debtor's objection, the court finds that the Claim is an equalization payment that is not considered a domestic support obligation and therefore will be allowed as a nonpriority unsecured claim only.

Accordingly, pending opposition being raised at the hearing, Debtor's objection will be SUSTAINED. Claimant's claim shall be treated as a general unsecured claim and not as a priority claim.

17. 25-12265-A-13 **IN RE: MANUEL/RISSY MONTOYA**
LGT-3

CONTINUED MOTION TO DISMISS CASE
11-17-2025 [34]

LILIAN TSANG/MV
ANTHONY EGBASE/ATTY. FOR DBT.
RESPONSIVE PLEADING
WITHDRAWN

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

DISPOSITION: Dropped from calendar.

NO ORDER REQUIRED.

Movant withdrew the motion to dismiss on January 23, 2026. Doc. #91.

18. 25-13980-A-13 **IN RE: CLAUDIA TORRES AND EDUARDO TAPIA GAYTAN**
LGT-1

OBJECTION TO CONFIRMATION OF PLAN BY LILIAN G. TSANG
1-2-2026 [14]

LILIAN TSANG/MV
BENNY BARCO/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 to confirmation on January 23, 2026. Doc. #17.

19. 25-13288-A-13 **IN RE: JOSE LOPEZ-LOPEZ AND BLANCA LOPEZ**
SL-1

CONTINUED MOTION TO VALUE COLLATERAL OF TOYOTA FINANCIAL SERVICES
10-21-2025 [12]

BLANCA LOPEZ/MV
SCOTT LYONS/ATTY. FOR DBT.
RESPONSIVE PLEADING

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

DISPOSITION: Dropped from calendar.

NO ORDER REQUIRED.

A stipulated order resolving the motion was signed on January 28, 2026. Doc. #53.

20. 25-13275-A-13 **IN RE: JUAN CARLOS MIRANDA AND CARRIE BONILLA**
MAZ-2

MOTION TO CONFIRM PLAN
12-19-2025 [37]

CARRIE BONILLA/MV
MARK ZIMMERMAN/ATTY. FOR DBT.

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

DISPOSITION: Granted.

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

This motion was set for hearing on at least 35 days' notice prior to the hearing date pursuant to Local Rule of Practice ("LBR") 3015-1(d)(1). The failure of creditors, 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 Sys., Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires a moving party 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.

**11:00 AM**

1. 24-12000-A-7 **IN RE: JOSHUA MITCHELL**
24-1041

PRE-TRIAL CONFERENCE RE: COMPLAINT
10-23-2024 [1]

LOPEZ ET AL V. MITCHELL
PAUL GAUS/ATTY. FOR PL.
DISMISSED 5/8/25; CLOSED 7/11/25

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

DISPOSITION: Dropped from calendar.

NO ORDER REQUIRED.

This adversary proceeding was dismissed on May 8, 2025. Doc. #15.

2. 24-13616-A-7 **IN RE: TRINA PAYNE**
25-1025 DMG-1

CONTINUED MOTION TO COMPEL AND/OR MOTION FOR IN CAMERA REVIEW
11-19-2025 [31]

AMERICAN CONTRACTORS INDEMNITY COMPANY V. PAYNE
D. GARDNER/ATTY. FOR MV.
RESPONSIVE PLEADING

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Denied.

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

This motion was set for hearing on at least 28 days' notice prior to the hearing date pursuant to Local Rule of Practice 9014-1(f)(1). The plaintiff filed timely written opposition on December 4, 2025. Doc. ##36-38. The defendant filed a timely response on December 11, 2025. Doc. #40. This matter will proceed as scheduled.

Due to the unexpected unavailability of the assigned judge on January 15, 2026, the court is inclined to further extend the close of fact discovery from January 30, 2026 to February 13, 2026. At the hearing on January 29, 2026, the court will consider the parties' positions as to whether any other deadlines in the scheduling order (Doc. #22) should be extended.

Trina Payne ("Defendant") moves pursuant to Federal Rule of Civil Procedure ("Rule") 45, made applicable to this adversary proceeding through Federal Rule of Bankruptcy Procedure Rule 9016, for an order compelling American Contractors Indemnity Company ("Plaintiff") to produce documents as well as be allowed to supplement the record with a billing statement in order to recover attorney's fees. Doc. #31. In the alternative, Defendant requests an *in camera* review of

the contested documents. Id. At an initial hearing on the motion held on December 18, 2025, the court ordered Plaintiff to submit two emails dated April 3, 2025, and listed on a privilege log, to the court for *in camera* review at the request of Defendant for discovery purposes. Order, Doc. #44. This is the continued hearing after that submission. Id.; Order, Doc. #51.

**FACTS**

Plaintiff filed this adversary proceeding on June 9, 2025, and a first amended complaint on June 26, 2025. Doc. ##1, 7. By the amended complaint, Plaintiff seeks to have its prepetition judgment arising from Defendant's defalcation while acting in a fiduciary capacity determined to be non-dischargeable under 11 U.S.C. §§ 523(a)(3) and (a)(4). Doc. #7. With respect to the 11 U.S.C. § 523(a)(3) claim, Plaintiff asserts that its state court judgment against Defendant was entered on October 20, 2008. Id. Defendant filed a voluntary chapter 7 bankruptcy petition on December 16, 2024 ("Bankruptcy Case") and did not properly list or schedule Plaintiff as a creditor. Id. Plaintiff alleges it did not receive notice of Defendant's bankruptcy petition in time to file a timely complaint pursuant to 11 U.S.C. § 523(a)(4). Id.

A scheduling order was issued in this adversary proceeding on August 7, 2025, which set the discovery deadline and the resolution of any discovery disputes by December 31, 2025. Doc. #22. Defendant sent a request for production of documents ("Request for Production") to Plaintiff on September 25, 2025. Decl. of D. Max Gardner, Doc. #33; Ex. A, Doc. #34. Plaintiff provided its responses on October 15, 2025 in which Plaintiff invoked the work product doctrine in response to Request of Production Nos. 3, 5, 6, and 7. Gardner Decl., Doc. #33; Ex. B, Doc. #34. After meeting and conferring prior to and after this motion was filed, the parties have resolved all outstanding discovery matters except as to the production of two emails dated April 3, 2025 that are listed on a privilege log. Doc. ##40, 44.

**LEGAL AUTHORITY**

The procedural immunity of the work product doctrine is not a privilege. So, the scope of the work-product doctrine is determined by federal law even if the federal court must apply state substantive law. In re 4-S Ranch Partners, LLC, 2020 Bankr. LEXIS 2709, at *1 (Bankr. E.D. Cal. Sept. 30, 2020). For purposes of the work product doctrine, in the Ninth Circuit, documents that have both business and litigation relevance must be carefully considered. In re 4-S Ranch Partners, LLC, 2020 Bankr. LEXIS 2709, at *1 (citing United States v. Torf (In re Grand Jury Subpoena), 357 F.3d 900, 910 (9th Cir. 2003)). The court should consider facts surrounding the creation of the documents. Id. If their litigation purpose so permeates any non-litigation purpose that the two purposes cannot be discretely separated from the factual nexus as a whole, the documents can be within the ambit of work product. Id.

The party who is asserting the work product privilege bears the burden of proving that the materials withheld meet the standards established to be qualified as work product. Garcia v. City of El Centro, 214 F.R.D. 587, 591 (S.D. Cal. 2003). The party seeking to withhold documents on the ground of work product privilege must show that the materials are: "1) documents and tangible things; 2) prepared in anticipation of litigation or for trial; and, 3) the documents or tangible things were prepared by or for the party or the attorney asserting the privilege." Id. If the privilege is found to apply, then the burden shifts to the party seeking discovery to show that "that it has substantial need for the materials to prepare its case and cannot, without undue hardship, obtain their substantial equivalent by other means." Fed. R. Civ. P. 26(b)(3)(A)(ii); Garcia, 214 F.R.D. at 591.

The work product doctrine does not protect materials that are prepared in the ordinary course of business. Griffith v. David, 161 F.R.D. 687, 696 (C.D. Cal. 1995). To be protected by the doctrine, the primary motivating purpose behind the creation of the materials must be to aid in possible future litigation. Id. Where a document serves a dual purpose, then the "because of" test is used to determine if it is covered by the doctrine. United States v. Richey, 632 F.3d 559, 568 (9th Cir. 2011).

"Dual purpose documents are deemed prepared because of litigation if 'in light of the nature of the document and the factual situation in the particular case, the document can be fairly said to have been prepared or obtained because of the prospect of litigation.'" Richey, 632 F.3d at 568 (quoting In re Grand Jury Subpoena, Mark Torf/Torf Envtl. Mgmt. (Torf), 357 F.3d 900, 907 (9th Cir. 2004)). In applying this standard, courts are required to consider "the totality of the circumstances and determine whether the 'document was created because of anticipated litigation, and would not have been created in substantially similar form but for the prospect of litigation.'" Richey, 632 F.3d at 568 (quoting United States v. Adlman, 134 F.3d 1194 (2d Cir. 1998)).

**APPLICATION TO DEFENDANT'S MOTION**

Plaintiff's first claim for relief in the complaint arises pursuant to 11 U.S.C. § 523(a)(3) in which Plaintiff asserts Plaintiff was not properly listed in Defendant's schedules of liabilities or creditor matrix and did not receive formal or actual notice of the Bankruptcy Case or the deadline to file a complaint to determine the dischargeability of debt. Doc. #7. Request for Production No. 6 requests production of "any and all communications, correspondence, internal memoranda, notes and emails among Plaintiff's employees pertaining to the Defendant's Chapter 7 bankruptcy." Ex. A, Doc. #34. Request for Production No. 7 requests production of "any and all written, recorded or signed statements made by the Plaintiff pertaining to its contention that it did not receive notice of the Defendant's Chapter 7 case in time to file this action." Id.

With respect to the two emails Defendant seeks to compel dated April 3, 2025, Plaintiff's counsel asserts that the materials requested to be produced are internal emails that were prepared by Plaintiff's counsel's employees in anticipation of litigation after learning of Defendant's bankruptcy case filing. Doc. #36. Defendant argues that the emails requested are communications among Plaintiff's counsel's employees, and Defendant is entitled to review those communications because Plaintiff's counsel is not included in the request. Doc. #40. However, this is not correct. If the emails were prepared "by or for" Plaintiff's attorney who is asserting this privilege even if those emails were not actually written by Plaintiff's attorney or sent to Plaintiff's attorney directly, the work product doctrine would apply.

After conducting an *in camera* review of the two emails at issue, the court finds that the primary motivating purpose behind these two emails is to aid in possible future litigation. Thus, the court finds that the two emails are covered by the work product privilege.

Because the court determines the two emails meet the standard established to be qualified as work product, the burden then shifts to Defendant to show a substantial need for the emails to prepare her case and why Defendant cannot, without undue hardship, obtain their substantial equivalent by other means. The court finds Defendant has failed to provide sufficient evidence to show the need for production of the two emails requested from Plaintiff is so substantial that Defendant will be prejudiced without these documents.

Therefore, the court finds Defendant has not met her burden of showing that Defendant cannot, without undue hardship, obtain the substantial equivalent of the information in the two emails by other means or that Defendant will be prejudiced. Therefore, the court will not require Plaintiff to produce these two emails that are subject to the work product privilege.

**FURTHER ENFORCEMENT MOTIONS**

In Defendant's reply, Defendant requests that the court makes no ruling that Defendant has waived the right to bring further enforcement, including but not limited to, evidentiary objections to dispositive motions and motions in limine at the time of trial. Doc. #40. By this ruling, the court does not preclude Defendant from filing any motion in the further proceedings that Defendant deems appropriate.

**REQUEST FOR ATTORNEY'S FEES**

Rule 37(a)(4) permits a moving party to recover reasonable expenses incurred in making a discovery motion, including attorney's fees, provided the court grants the motion or the discovery is provided after the filing of the motion. Here, the court denies compelling Plaintiff to turnover the two emails submitted *in camera* for the court's review, so Defendant's request for attorney's fees is denied.

**CONCLUSION**

Accordingly, the motion to compel is DENIED.

3. 25-12920-A-7 **IN RE: TITO/STACEY LUNA**
25-1049 CAE-1

STATUS CONFERENCE RE: COMPLAINT
11-24-2025 [1]

VALLEY OXYGEN, LLC V. LUNA ET AL
DUSTIN DODGIN/ATTY. FOR PL.
RESPONSIVE PLEADING

NO RULING.

4. 22-10825-A-7 **IN RE: JAMIE/MARIA GARCIA**
22-1018 BBR-14

MOTION TO STRIKE AND/OR MOTION FOR ENTRY OF DEFAULT JUDGMENT
12-22-2025 [243]

AGRO LABOR SERVICES, INC. ET AL V. GARCIA ET AL
VIVIANO AGUILAR/ATTY. FOR MV.

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

DISPOSITION: Granted.

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

This motion was set for hearing on at least 28 days' notice prior to the hearing date pursuant to Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of the answering defendant 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 Sys., Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires a moving party make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

Agro Labor Services, Inc. ("Agro") and Cal Central Harvesting, Inc. ("CCH", and together with Agro, "Plaintiffs") move to (i) strike the answer of Adela Garcia ("Co-Defendant") pursuant to Federal Rule of Civil Procedure ("Rule") 37(d), incorporated into this adversary proceeding by Federal Rule of Bankruptcy Procedure ("Bankruptcy Rule") 7037, and (ii) enter default judgment against Co-Defendant pursuant to Rule 55, incorporated into this adversary proceeding by Bankruptcy Rule 7055. Doc. #243. While Co-Defendant was originally represented in this adversary proceeding by counsel Phillip Gillet ("Mr. Gillet"), Co-Defendant's counsel withdrew from this adversary proceeding on May 5, 2025, and Co-Defendant now represents herself. Order, Doc. #170.

**RELEVANT FACTS**

Jamie Rene Garcia ("Jamie") and Maria Cruz Garcia ("Maria", and together with Jamie, "Initial Defendants") filed a voluntary petition under chapter 7 on May 17, 2022. Case No. 22-10825, Doc. #1. On August 19, 2022, Plaintiffs commenced adversary proceeding 22-1018 by filing their complaint for determination of dischargeability of debt pursuant to l1 U.S.C. §§ 523(a)(2)(A), (a)(3)(B), (a)(4) and (a)(6) against Initial Defendants ("First Adversary Proceeding"). Doc. #1. The Initial Defendants filed their answer on September 16, 2022. Doc. #7.

Co-Defendant filed a voluntary petition under chapter 7 along with co-debtor Rene Hernandez Garcia on June 10, 2022. Case No. 22-10982, Doc. #1. On September 19, 2022, Plaintiffs commenced adversary proceeding 22-1020 by filing their complaint for determination of dischargeability of debt pursuant to l1 U.S.C. §§ 523(a)(2)(A), (a)(3)(B), (a)(4) and (a)(6) against Co-Defendant ("Second Adversary Proceeding"). Adv. Proc. 22-1020, Doc. #1.

According to the complaint filed in the Second Adversary Proceeding, Co-Defendant is the mother of Jamie and the mother-in-law of Maria. Maria was employed as an office manager by Agro from some time in 2016 until October 8, 2021. At times, Maria performed a similar function for CCH. During Maria's employment with Agro, Maria embezzled money from Plaintiffs by issuing unauthorized checks to herself, Co-Defendant, or other family members. Maria also used her position as office manager to change the information in the accounting programs used by Plaintiffs to conceal the fact that those checks had been issued to these individuals. Plaintiffs only became aware of the fact that Maria was embezzling and/or fraudulently obtaining or wrongfully appropriating assets, funds and/or money from Plaintiffs at or around the time that Maria was terminated from employment at Agro. Plaintiffs never consented to the conduct of Maria or Co-Defendant. Co-Defendant filed her answer in the Second Adversary Proceeding on January 23, 2023, and an amended answer on January 25, 2023. Adv. Proc. 22-1020, Doc. ##20, 22.

On February 9, 2023, the Initial Defendants and Co-Defendant (collectively, "Defendants") and Plaintiffs stipulated to consolidate the First Adversary Proceeding and the Second Adversary Proceeding as both adversary proceedings were in the preliminary stages, discovery was not yet complete, and the facts/claims were related. Doc. #42; Aguilar Decl., Doc. #246.

On December 29, 2022, Plaintiffs and Initial Defendants filed a joint discovery plan in the First Adversary Proceeding. Doc. #31. An amended scheduling order was entered after consolidation of the adversary proceedings. Doc. #43; Aguilar Decl., Doc. #246.

On September 21, 2023, Plaintiffs filed a motion to amend scheduling order dated March 10, 2023, which was granted to extend the time for the parties to conduct and finalize discovery due to Defendants' lack of response to discovery requests that had been propounded by Plaintiffs in May 2023. Doc. #46; Order, Doc. #80. The new deadline to complete fact discovery was set for December 15, 2023. Id.

After Defendants invoked their fifth amendment rights due to a pending criminal action regarding the same subject matter, Plaintiffs and Defendants stipulated to stay the adversary proceeding pending the resolution of the criminal case. Doc. #84; Aguilar Decl., Doc. #246. On August 29, 2024, Plaintiffs filed a status report stating that the criminal matters involving Defendants had been resolved and the stay in the consolidated adversary proceeding should be lifted. Doc. #89; Aguilar Decl., Doc. #246.

Following the stay being lifted, Plaintiffs' counsel was informed that Mr. Gillet intended to seek permission to withdraw as counsel for Defendants and requested that Plaintiffs' counsel contact Co-Defendant directly. Aguilar Decl., Doc. #246. Pursuant to this instruction, attorney Viviano Aguilar made several attempts to meet and confer with Co-Defendant directly regarding pending discovery items. Aguilar Decl., Doc. #246.

On October 2, 2024, Plaintiffs filed a motion to compel Co-Defendant's initial disclosures, responses and produce documents responsive to Plaintiffs' First Set of Request for Production of Documents and Interrogatories but the court denied the motion finding that Plaintiffs did not meet the certification requirements of Rule 37(a)(1). Order, Doc. #131. Plaintiffs' refiled motion to compel was granted because Plaintiffs met the certification requirements of Rule 37(a)(1) and Co-Defendant had not served Plaintiffs' counsel with her initial disclosures or provided responses and produced documents responsive to Plaintiffs' First Set of Request for Production of Documents and Interrogatories. Order, Doc. #204.

**STRIKING CO-DEFENDANT'S ANSWER**

Under Rule 37(d), this court can issue sanctions listed in Rule 37(b)(2)(a)(i)-(vi) for the failure of a party to serve answers, objections or written response after being properly served with interrogatories under Rule 33. The sanctions permitted under Rule 37(b)(2)(a)(i)-(vi) include striking a pleading in whole or in part. The court has broad discretion to impose sanctions as a remedy for non-compliance with a discovery order. See Roadway Express v. Piper, 447 U.S. 752, 763 (1980).

Here, the court's previous discovery order warned Co-Defendant of the consequences if Co-Defendant failed to comply with that order, including the striking Co-Defendant's answer upon motion by Plaintiff and entering default judgment against Co-Defendant. Doc. #43.

Plaintiffs state they have diligently prosecuted this action for over two years both in state court and bankruptcy court and believe that Plaintiffs would be prejudiced in the form of further delay and expense if the instant motion is denied. Aquilar Decl., Doc. #246. Plaintiffs have not received adequate responses to their first set of interrogatories or first set of requests for production of documents or any other communication from Co-Defendant. Aguilar Decl., Doc. #246. While Co-Defendant has been given multiple notices and chances to respond, Co-Defendant still has not served Plaintiff with a response to the written discovery. Id. Further, Co-Defendant failed to oppose the instant motion. Doc. #262. Because Co-Defendant has had ample time and opportunity to respond to Plaintiff's written discovery and has not responded or communicated with Plaintiff, the court GRANTS Plaintiffs' request to strike the answer of Co-Defendant.

**ENTRY OF DEFAULT JUDGMENT AGAINST CO-DEFENDANT**

Rule 55, made applicable to this proceeding by Bankruptcy Rule 7055, "gives the court considerable leeway as to what it may require as a prerequisite to the entry of a default judgment." Televideo, 826 F.2d at 917. "The general rule of law is that upon default the factual allegations of the complaint, except those relating to the amount of damages, will be taken as true." Geddes v. United Fin. Grp., 559 F.2d 557, 560 (9th Cir. 1977). Factors which may be considered by the court in exercising discretion as to the entry of default judgment include: (1) the possibility of prejudice to the plaintiff; (2) the merits of the plaintiff's substantive claim; (3) the sufficiency of the complaint; (4) the sum of money at stake in the action; (5) the possibility of a dispute concerning material facts; (6) whether the default was due to excusable neglect; and (7) the strong policy underlying the Federal Rules of Civil Procedure favoring decisions on the merits. Eitel v. McCool, 782 F.2d 1470, 1471-72 (9th Cir. 1986).

"Section 523(a)(4) of the Bankruptcy Code does not allow an individual debtor to discharge a debt incurred by 'fraud or defalcation while acting in a fiduciary capacity, embezzlement, or larceny.'" Transamerica Com. Fin. Corp. v. Littleton (In re Littleton), 942 F.2d 551, 555 (9th Cir. 1991) (quoting 11 U.S.C. § 523(a)(2)(4)). For purposes of § 523(a)(4), a bankruptcy court is not bound by the state law definitions of larceny or embezzlement but, rather, may follow federal common law. See Ormsby v. First Am. Title Co. (In re Ormsby), 591 F.3d 1199, 1206 (9th Cir. 2010) (fraud); Littleton, 942 F.2d at 555 (embezzlement).

Federal common law "defines larceny as a felonious taking of another's personal property with intent to convert it or deprive the owner of the same." Ormsby, 591 F.3d at 1206. "[A] 'felonious taking' refers to a situation in which a debtor comes into possession of property of another by unlawful means; it does not refer to the subsequent withholding of property from its alleged owner." In re Jenkins, BAP Nos. CC-14-1185-PaTaD, CC-14-1258-PaTaD (Cross-Appeals), 2015 Bankr. LEXIS 578 at *12 (B.A.P. 9th Cir. Feb. 20, 2015) (analyzing Ormsby).

"In a non-dischargeability action under § 523(a), the creditor has the burden of proving all the elements of its claim by a preponderance of the evidence. Exceptions to discharge are strictly construed against an objecting creditor and in favor of the debtor to effectuate the fresh start policies under the Bankruptcy Code." Cardenas v. Shannon (In re Shannon), 553 B.R. 380, 388 (B.A.P. 9th Cir. 2016).

Based on the facts set out in the complaint filed in the Second Adversary Proceeding as well as the evidence submitted by Plaintiffs in support of this motion, Co-Defendant is the mother-in-law of Maria. Adv. Proc. 22-1020,

Doc. #1. Maria was employed as an office manager by Agro from some time in 2016 until October 8, 2021. Id. At times, Maria performed a similar function for CCH. Id. During Maria's employment with Agro, Maria embezzled money from Plaintiffs by, among other things, issuing unauthorized checks to Co-Defendant. Id. Maria also used her position as office manager to change the information in the accounting programs used by Plaintiffs to conceal the fact that those checks had been issued to these individuals. Id. Maria also added Co-Defendant as an employee of Agro in order to facilitate payments to Co-Defendant even though Co-Defendant was never an employee of Agro. Decl. of Antonio Pacheco, Jr., Doc. #245. Plaintiffs only became aware of the fact that Maria was embezzling and/or fraudulently obtaining or wrongfully appropriating assets, funds and/or money from Plaintiffs at or around the time that Maria was terminated from employment at Agro. Adv. Proc. 22-1020, Doc. #1. When the president of Plaintiffs confronted Maria about the unauthorized checks, Maria confessed to making the unauthorized checks. Pacheco Decl., Doc. #245. Plaintiffs never consented to the conduct of Maria or Co-Defendant. Adv. Proc. 22-1020, Doc. #1. According to the docket of the criminal action against Maria, Jamie and Co-Defendant, Co-Defendant pled no contest to grand theft. Pacheco Decl., Doc. #245. While the total amount of money wrongfully taken and appropriated from Plaintiffs cannot be fully ascertained, the amount paid to Co-Defendant exceeds $60,000.00. Id. Based on the foregoing, the court finds that Plaintiffs have presented evidence that Co-Defendant came into possession of Plaintiffs' property by unlawful means and proven a *prima facie* claim against Co-Defendant in the amount of $60,000.00 under 11 U.S.C. § 523(a)(4).

Accordingly, Plaintiffs' request that a default judgement in their favor and against Co-Defendant in the amount of $60,000.00 plus interest from the date of the filing of the Second Adversary Proceeding is GRANTED. Plaintiffs shall submit two proposed orders to the court. One order shall grant this motion, and the second order shall enter judgment by default.

5. 22-10825-A-7 **IN RE: JAMIE/MARIA GARCIA**
22-1018 BBR-15

MOTION TO STRIKE AND/OR MOTION FOR ENTRY OF DEFAULT JUDGMENT
12-22-2025 [248]

AGRO LABOR SERVICES, INC. ET AL V. GARCIA ET AL
VIVIANO AGUILAR/ATTY. FOR MV.

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

DISPOSITION: Granted.

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

This motion was set for hearing on at least 28 days' notice prior to the hearing date pursuant to Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of the answering defendant 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 Sys., Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires a moving party make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

Agro Labor Services, Inc. ("Agro") and Cal Central Harvesting, Inc. ("CCH", and together with Agro, "Plaintiffs") move to (i) strike the answer of Jamie Rene Garcia ("Co-Defendant") pursuant to Federal Rule of Civil Procedure ("Rule") 37(d), incorporated into this adversary proceeding by Federal Rule of Bankruptcy Procedure ("Bankruptcy Rule") 7037, and (ii) enter default judgment against Co-Defendant pursuant to Rule 55, incorporated into this adversary proceeding by Bankruptcy Rule 7055. Doc. #248. While Co-Defendant was originally represented in this adversary proceeding by counsel Phillip Gillet ("Mr. Gillet"), Co-Defendant's counsel withdrew from this adversary proceeding on May 5, 2025, and Co-Defendant now represents himself. Order, Doc. #170.

**RELEVANT FACTS**

Co-Defendant and Maria Cruz Garcia ("Maria", and together with Co-Defendant, "Initial Defendants") filed a voluntary petition under chapter 7 on May 17, 2022. Case No. 22-10825, Doc. #1. On August 19, 2022, Plaintiffs commenced adversary proceeding 22-1018 by filing their complaint for determination of dischargeability of debt pursuant to l1 U.S.C. §§ 523(a)(2)(A), (a)(3)(B), (a)(4) and (a)(6) against Initial Defendants ("First Adversary Proceeding"). Doc. #1.

According to the complaint filed in the First Adversary Proceeding, Maria was employed as an office manager by Agro from some time in 2016 until October 8, 2021. At times, Maria performed a similar function for CCH. During Maria's employment with Agro, Maria embezzled money from Plaintiffs by issuing unauthorized checks to herself, Co-Defendant, or other family members. Maria also used her position as office manager to change the information in the accounting programs used by Plaintiffs to conceal the fact that those checks had been issued to these individuals. In addition, Maria, Co-Defendant and/or Co-Defendant's son and/or employee of Co-Defendant conspired to submit fraudulent auto repair invoices from Co-Defendant's auto mechanic shop as a means of embezzling additional monies from Plaintiffs. Plaintiffs only became aware of the fact that Maria was embezzling and/or fraudulently obtaining or wrongfully appropriating assets, funds and/or money from Plaintiffs at or around the time that Maria was terminated from employment at Agro. When the president of Plaintiffs confronted Maria on or about October 7, 2021, Maria confessed to making the unauthorized checks. Plaintiffs never consented to the conduct of Maria or Co-Defendant. The Initial Defendants filed their answer on September 16, 2022. Doc. #7.

Adela Garcia ("Adela") filed a voluntary petition under chapter 7 along with co-debtor Rene Hernandez Garcia on June 10, 2022. Case No. 22-10982, Doc. #1. On September 19, 2022, Plaintiffs commenced adversary proceeding 22-1020 by filing their complaint for determination of dischargeability of debt pursuant to l1 U.S.C. §§ 523(a)(2)(A), (a)(3)(B), (a)(4) and (a)(6) against Adela ("Second Adversary Proceeding"). Adv. Proc. 22-1020, Doc. #1. Adela filed her answer in the Second Adversary Proceeding on January 23, 2023, and an amended answer on January 25, 2023. Adv. Proc. 22-1020, Doc. ##20, 22.

On February 9, 2023, the Initial Defendants and Adela (collectively, "Defendants") and Plaintiffs stipulated to consolidate the First Adversary Proceeding and the Second Adversary Proceeding as both adversary proceedings were in the preliminary stages, discovery was not yet complete, and the facts/claims were related. Doc. #42; Aguilar Decl., Doc. #251.

On December 29, 2022, Plaintiffs and Initial Defendants filed a joint discovery plan in the First Adversary Proceeding. Doc. #31. An amended scheduling order was entered after consolidation of the adversary proceedings. Doc. #43; Aguilar Decl., Doc. #251.

On September 21, 2023, Plaintiffs filed a motion to amend scheduling order dated March 10, 2023, which was granted to extend the time for the parties to conduct and finalize discovery due to Defendants' lack of response to discovery requests that had been propounded by Plaintiffs in May 2023. Doc. #46; Order, Doc. #80. The new deadline to complete fact discovery was set for December 15, 2023. Id.

After Defendants invoked their fifth amendment rights due to a pending criminal action regarding the same subject matter, Plaintiffs and Defendants stipulated to stay the adversary proceeding pending the resolution of the criminal case. Doc. #84; Aguilar Decl., Doc. #251. On August 29, 2024, Plaintiffs filed a status report stating that the criminal matters involving Defendants had been resolved and the stay in the consolidated adversary proceeding should be lifted. Doc. #89; Aguilar Decl., Doc. #251.

Following the stay being lifted, Plaintiffs' counsel was informed that Mr. Gillet intended to seek permission to withdraw as counsel for Defendants and requested that Plaintiffs' counsel contact Co-Defendant directly. Aguilar Decl., Doc. #251. Pursuant to this instruction, attorney Viviano Aguilar made several attempts to meet and confer with Co-Defendant directly regarding pending discovery items. Aguilar Decl., Doc. #251.

On October 2, 2024, Plaintiffs filed a motion to compel Co-Defendant's initial disclosures, responses and produce documents responsive to Plaintiffs' First Set of Request for Production of Documents and Interrogatories but the court denied the motion finding that Plaintiffs did not meet the certification requirements of Rule 37(a)(1). Order, Doc. #132. Plaintiffs' refiled motion to compel was granted because Plaintiffs met the certification requirements of Rule 37(a)(1) and Co-Defendant had not served Plaintiffs' counsel with his initial disclosures or provided responses and produced documents responsive to Plaintiffs' First Set of Request for Production of Documents and Interrogatories. Order, Doc. #216.

**STRIKING CO-DEFENDANT'S ANSWER**

Under Rule 37(d), this court can issue sanctions listed in Rule 37(b)(2)(a)(i)-(vi) for the failure of a party to serve answers, objections or written response after being properly served with interrogatories under Rule 33. The sanctions permitted under Rule 37(b)(2)(a)(i)-(vi) include striking a pleading in whole or in part. The court has broad discretion to impose sanctions as a remedy for non-compliance with a discovery order. See Roadway Express v. Piper, 447 U.S. 752, 763 (1980).

Here, the court's previous discovery order warned Co-Defendant of the consequences if Co-Defendant failed to comply with that order, including the striking Co-Defendant's answer upon motion by Plaintiff and entering default judgment against Co-Defendant. Doc. #43.

Plaintiffs state they have diligently prosecuted this action for over two years both in state court and bankruptcy court and believe that Plaintiffs would be prejudiced in the form of further delay and expense if the instant motion is denied. Aquilar Decl., Doc. #251. Plaintiffs have not received adequate responses to their first set of interrogatories or first set of requests for production of documents or any other communication from Co-Defendant. Aguilar Decl., Doc. #251. While Co-Defendant has been given multiple notices and

chances to respond, Co-Defendant still has not served Plaintiff with a response to the written discovery. Id. Further, Co-Defendant failed to oppose the instant motion. Doc. #265. Because Co-Defendant has had ample time and opportunity to respond to Plaintiff's written discovery and has not responded or communicated with Plaintiff, the court GRANTS Plaintiffs' request to strike the answer of Co-Defendant.

**ENTRY OF DEFAULT JUDGMENT AGAINST CO-DEFENDANT**

Rule 55, made applicable to this proceeding by Bankruptcy Rule 7055, "gives the court considerable leeway as to what it may require as a prerequisite to the entry of a default judgment." Televideo, 826 F.2d at 917. "The general rule of law is that upon default the factual allegations of the complaint, except those relating to the amount of damages, will be taken as true." Geddes v. United Fin. Grp., 559 F.2d 557, 560 (9th Cir. 1977). Factors which may be considered by the court in exercising discretion as to the entry of default judgment include: (1) the possibility of prejudice to the plaintiff; (2) the merits of the plaintiff's substantive claim; (3) the sufficiency of the complaint; (4) the sum of money at stake in the action; (5) the possibility of a dispute concerning material facts; (6) whether the default was due to excusable neglect; and (7) the strong policy underlying the Federal Rules of Civil Procedure favoring decisions on the merits. Eitel v. McCool, 782 F.2d 1470, 1471-72 (9th Cir. 1986).

"Section 523(a)(4) of the Bankruptcy Code does not allow an individual debtor to discharge a debt incurred by 'fraud or defalcation while acting in a fiduciary capacity, embezzlement, or larceny.'" Transamerica Com. Fin. Corp. v. Littleton (In re Littleton), 942 F.2d 551, 555 (9th Cir. 1991) (quoting 11 U.S.C. § 523(a)(2)(4)). For purposes of § 523(a)(4), a bankruptcy court is not bound by the state law definitions of larceny or embezzlement but, rather, may follow federal common law. See Ormsby v. First Am. Title Co. (In re Ormsby), 591 F.3d 1199, 1206 (9th Cir. 2010) (fraud); Littleton, 942 F.2d at 555 (embezzlement).

Federal common law "defines larceny as a felonious taking of another's personal property with intent to convert it or deprive the owner of the same." Ormsby, 591 F.3d at 1206. "[A] 'felonious taking' refers to a situation in which a debtor comes into possession of property of another by unlawful means; it does not refer to the subsequent withholding of property from its alleged owner." In re Jenkins, BAP Nos. CC-14-1185-PaTaD, CC-14-1258-PaTaD (Cross-Appeals), 2015 Bankr. LEXIS 578 at *12 (B.A.P. 9th Cir. Feb. 20, 2015) (analyzing Ormsby).

"In a non-dischargeability action under § 523(a), the creditor has the burden of proving all the elements of its claim by a preponderance of the evidence. Exceptions to discharge are strictly construed against an objecting creditor and in favor of the debtor to effectuate the fresh start policies under the Bankruptcy Code." Cardenas v. Shannon (In re Shannon), 553 B.R. 380, 388 (B.A.P. 9th Cir. 2016).

Based on the facts set out in the complaint filed in the First Adversary Proceeding as well as the evidence submitted by Plaintiffs in support of this motion, Co-Defendant is the husband of Maria. Doc. #1. Maria was employed as an office manager by Agro from some time in 2016 until October 8, 2021. Id. At times, Maria performed a similar function for CCH. Id. During Maria's employment with Agro, Maria embezzled money from Plaintiffs by, among other things, issuing unauthorized checks to Co-Defendant. Id. Maria also used her position as office manager to change the information in the accounting programs used by Plaintiffs to conceal the fact that those checks had been issued to Co-Defendant. Id. In addition, Maria, Co-Defendant and/or Co-Defendant's son

and/or employee of Co-Defendant conspired to submit fraudulent auto repair invoices from Co-Defendant's auto mechanic shop as a means of embezzling additional monies from Plaintiffs. Id. Plaintiffs only became aware of the fact that Maria was embezzling and/or fraudulently obtaining or wrongfully appropriating assets, funds and/or money from Plaintiffs at or around the time that Maria was terminated from employment at Agro. Id. When the president of Plaintiffs confronted Maria about the unauthorized checks, Maria confessed to making the unauthorized checks. Id.; Decl. of Antonio Pacheco, Jr., Doc. #250. Plaintiffs never consented to the conduct of Maria or Co-Defendant. Doc. #1. According to the docket of the criminal action against Maria, Co-Defendant and Adela, Co-Defendant pled no contest to grand theft. Pacheco Decl., Doc. #250. Based on a preliminary investigation and vendor reports from Plaintiffs' accounting system, Agro paid $345,411.29 and CCH paid $191,180.30 to Co-Defendant's auto repair service for unauthorized repairs. Id. Based on the foregoing, the court finds that Plaintiffs have presented evidence that Co-Defendant came into possession of Plaintiffs' property by unlawful means and proven a *prima facie* claim against Co-Defendant in the amount of $500,000.00 under 11 U.S.C. § 523(a)(4).

Accordingly, Plaintiffs' request that a default judgement in their favor and against Co-Defendant in the amount of $500,000.00 plus interest from the date of the filing of the First Adversary Proceeding is GRANTED. Plaintiffs shall submit two proposed orders to the court. One order shall grant this motion, and the second order shall enter judgment by default.

6. 22-10825-A-7 **IN RE: JAMIE/MARIA GARCIA**
22-1018 BBR-16

MOTION TO STRIKE AND/OR MOTION FOR ENTRY OF DEFAULT JUDGMENT
12-22-2025 [254]

AGRO LABOR SERVICES, INC. ET AL V. GARCIA ET AL
VIVIANO AGUILAR/ATTY. FOR MV.

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

DISPOSITION: Granted.

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

This motion was set for hearing on at least 28 days' notice prior to the hearing date pursuant to Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of the answering defendant 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 Sys., Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires a moving party make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

Agro Labor Services, Inc. ("Agro") and Cal Central Harvesting, Inc. ("CCH", and together with Agro, "Plaintiffs") move to (i) strike the answer of Maria Cruz Garcia ("Co-Defendant") pursuant to Federal Rule of Civil Procedure ("Rule") 37(d), incorporated into this adversary proceeding by Federal Rule of Bankruptcy Procedure ("Bankruptcy Rule") 7037, and (ii) enter default judgment against Co-Defendant pursuant to Rule 55, incorporated into this adversary proceeding by Bankruptcy Rule 7055. Doc. #254. While Co-Defendant was originally represented in this adversary proceeding by counsel Phillip Gillet ("Mr. Gillet"), Co-Defendant's counsel withdrew from this adversary proceeding on May 5, 2025, and Co-Defendant now represents herself. Order, Doc. #170.

**RELEVANT FACTS**

Jamie Rene Garcia ("Jamie") and Co-Defendant (together with Jamie, "Initial Defendants") filed a voluntary petition under chapter 7 on May 17, 2022. Case No. 22-10825, Doc. #1. On August 19, 2022, Plaintiffs commenced adversary proceeding 22-1018 by filing their complaint for determination of dischargeability of debt pursuant to l1 U.S.C. §§ 523(a)(2)(A), (a)(3)(B), (a)(4) and (a)(6) against Initial Defendants ("First Adversary Proceeding"). Doc. #1.

According to the complaint filed in the First Adversary Proceeding, Co-Defendant was employed as an office manager by Agro from some time in 2016 until October 8, 2021. At times, Co-Defendant performed a similar function for CCH. During Co-Defendant's employment with Agro, Co-Defendant embezzled money from Plaintiffs by issuing unauthorized checks to herself, Jamie, or other family members. Co-Defendant also used her position as office manager to change the information in the accounting programs used by Plaintiffs to conceal the fact that those checks had been issued to these individuals. In addition, Co-Defendant, Jamie and/or Jamie's son and/or employee of Jamie conspired to submit fraudulent auto repair invoices from Jamie's auto mechanic shop as a means of embezzling additional monies from Plaintiffs. Plaintiffs only became aware of the fact that Co-Defendant was embezzling and/or fraudulently obtaining or wrongfully appropriating assets, funds and/or money from Plaintiffs at or around the time that Co-Defendant was terminated from employment at Agro. When the president of Plaintiffs confronted Co-Defendant on or about October 7, 2021, Co-Defendant confessed to making the unauthorized checks. Plaintiffs never consented to the conduct of Co-Defendant or Jamie. The Initial Defendants filed their answer on September 16, 2022. Doc. #7.

Adela Garcia ("Adela") filed a voluntary petition under chapter 7 along with co-debtor Rene Hernandez Garcia on June 10, 2022. Case No. 22-10982, Doc. #1. On September 19, 2022, Plaintiffs commenced adversary proceeding 22-1020 by filing their complaint for determination of dischargeability of debt pursuant to l1 U.S.C. §§ 523(a)(2)(A), (a)(3)(B), (a)(4) and (a)(6) against Adela ("Second Adversary Proceeding"). Adv. Proc. 22-1020, Doc. #1. Adela filed her answer in the Second Adversary Proceeding on January 23, 2023, and an amended answer on January 25, 2023. Adv. Proc. 22-1020, Doc. ##20, 22.

On February 9, 2023, the Initial Defendants and Adela (collectively, "Defendants") and Plaintiffs stipulated to consolidate the First Adversary Proceeding and the Second Adversary Proceeding as both adversary proceedings were in the preliminary stages, discovery was not yet complete, and the facts/claims were related. Doc. #42; Aguilar Decl., Doc. #256.

On December 29, 2022, Plaintiffs and Initial Defendants filed a joint discovery plan in the First Adversary Proceeding. Doc. #31. An amended scheduling order was entered after consolidation of the adversary proceedings. Doc. #43; Aguilar Decl., Doc. #256.

On September 21, 2023, Plaintiffs filed a motion to amend scheduling order dated March 10, 2023, which was granted to extend the time for the parties to conduct and finalize discovery due to Defendants' lack of response to discovery requests that had been propounded by Plaintiffs in May 2023. Doc. #46; Order, Doc. #80. The new deadline to complete fact discovery was set for December 15, 2023. Id.

After Defendants invoked their fifth amendment rights due to a pending criminal action regarding the same subject matter, Plaintiffs and Defendants stipulated to stay the adversary proceeding pending the resolution of the criminal case. Doc. #84; Aguilar Decl., Doc. #256. On August 29, 2024, Plaintiffs filed a status report stating that the criminal matters involving Defendants had been resolved and the stay in the consolidated adversary proceeding should be lifted. Doc. #89; Aguilar Decl., Doc. #256.

Following the stay being lifted, Plaintiffs' counsel was informed that Mr. Gillet intended to seek permission to withdraw as counsel for Defendants and requested that Plaintiffs' counsel contact Co-Defendant directly. Aguilar Decl., Doc. #256. Pursuant to this instruction, attorney Viviano Aguilar made several attempts to meet and confer with Co-Defendant directly regarding pending discovery items. Aguilar Decl., Doc. #256.

On October 2, 2024, Plaintiffs filed a motion to compel Co-Defendant's initial disclosures, responses and produce documents responsive to Plaintiffs' First Set of Request for Production of Documents and Interrogatories but the court denied the motion finding that Plaintiffs did not meet the certification requirements of Rule 37(a)(1). Order, Doc. #133. Plaintiffs' refiled motion to compel was granted because Plaintiffs met the certification requirements of Rule 37(a)(1) and Co-Defendant had not served Plaintiffs' counsel with her initial disclosures or provided responses and produced documents responsive to Plaintiffs' First Set of Request for Production of Documents and Interrogatories. Order, Doc. #217.

**STRIKING CO-DEFENDANT'S ANSWER**

Under Rule 37(d), this court can issue sanctions listed in Rule 37(b)(2)(a)(i)-(vi) for the failure of a party to serve answers, objections or written response after being properly served with interrogatories under Rule 33. The sanctions permitted under Rule 37(b)(2)(a)(i)-(vi) include striking a pleading in whole or in part. The court has broad discretion to impose sanctions as a remedy for non-compliance with a discovery order. See Roadway Express v. Piper, 447 U.S. 752, 763 (1980).

Here, the court's previous discovery order warned Co-Defendant of the consequences if Co-Defendant failed to comply with that order, including the striking Co-Defendant's answer upon motion by Plaintiff and entering default judgment against Co-Defendant. Doc. #43.

Plaintiffs state they have diligently prosecuted this action for over two years both in state court and bankruptcy court and believe that Plaintiffs would be prejudiced in the form of further delay and expense if the instant motion is denied. Aquilar Decl., Doc. #256. Plaintiffs have not received adequate responses to their first set of interrogatories or first set of requests for production of documents or any other communication from Co-Defendant. Aguilar Decl., Doc. #256. While Co-Defendant has been given multiple notices and chances to respond, Co-Defendant still has not served Plaintiff with a response to the written discovery. Id. Further, Co-Defendant failed to oppose the instant motion. Doc. #267. Because Co-Defendant has had ample time and opportunity to respond to Plaintiff's written discovery and has not responded

or communicated with Plaintiff, the court GRANTS Plaintiffs' request to strike the answer of Co-Defendant.

**ENTRY OF DEFAULT JUDGMENT AGAINST CO-DEFENDANT**

Rule 55, made applicable to this proceeding by Bankruptcy Rule 7055, "gives the court considerable leeway as to what it may require as a prerequisite to the entry of a default judgment." Televideo, 826 F.2d at 917. "The general rule of law is that upon default the factual allegations of the complaint, except those relating to the amount of damages, will be taken as true." Geddes v. United Fin. Grp., 559 F.2d 557, 560 (9th Cir. 1977). Factors which may be considered by the court in exercising discretion as to the entry of default judgment include: (1) the possibility of prejudice to the plaintiff; (2) the merits of the plaintiff's substantive claim; (3) the sufficiency of the complaint; (4) the sum of money at stake in the action; (5) the possibility of a dispute concerning material facts; (6) whether the default was due to excusable neglect; and (7) the strong policy underlying the Federal Rules of Civil Procedure favoring decisions on the merits. Eitel v. McCool, 782 F.2d 1470, 1471-72 (9th Cir. 1986).

"Section 523(a)(4) of the Bankruptcy Code does not allow an individual debtor to discharge a debt incurred by 'fraud or defalcation while acting in a fiduciary capacity, embezzlement, or larceny.'" Transamerica Com. Fin. Corp. v. Littleton (In re Littleton), 942 F.2d 551, 555 (9th Cir. 1991) (quoting 11 U.S.C. § 523(a)(2)(4)). For purposes of § 523(a)(4), a bankruptcy court is not bound by the state law definitions of larceny or embezzlement but, rather, may follow federal common law. See Ormsby v. First Am. Title Co. (In re Ormsby), 591 F.3d 1199, 1206 (9th Cir. 2010) (fraud); Littleton, 942 F.2d at 555 (embezzlement).

Federal common law "defines larceny as a felonious taking of another's personal property with intent to convert it or deprive the owner of the same." Ormsby, 591 F.3d at 1206. "[A] 'felonious taking' refers to a situation in which a debtor comes into possession of property of another by unlawful means; it does not refer to the subsequent withholding of property from its alleged owner." In re Jenkins, BAP Nos. CC-14-1185-PaTaD, CC-14-1258-PaTaD (Cross-Appeals), 2015 Bankr. LEXIS 578 at *12 (B.A.P. 9th Cir. Feb. 20, 2015) (analyzing Ormsby).

Embezzlement in the context of non-dischargeability requires three elements: (1) property rightfully in the possession of a nonowner; (2) nonowner's appropriation of the property to a use other than which it was entrusted; and (3) circumstances indicating fraud. Littleton, 942 F.2d at 555 (citations and punctuation omitted).

"In a non-dischargeability action under § 523(a), the creditor has the burden of proving all the elements of its claim by a preponderance of the evidence. Exceptions to discharge are strictly construed against an objecting creditor and in favor of the debtor to effectuate the fresh start policies under the Bankruptcy Code." Cardenas v. Shannon (In re Shannon), 553 B.R. 380, 388 (B.A.P. 9th Cir. 2016).

Based on the facts set out in the complaint filed in the First Adversary Proceeding as well as the evidence submitted by Plaintiffs in support of this motion, Co-Defendant was employed as an office manager by Agro from some time in 2016 until October 8, 2021. Doc. #1. At times, Co-Defendant performed a similar function for CCH. Id. During Co-Defendant's employment with Agro, Co-Defendant embezzled money from Plaintiffs by, among other things, issuing unauthorized checks to Jamie. Id. Co-Defendant is the wife of Jamie. Id. Co-Defendant also used her position as office manager to change the information in

the accounting programs used by Plaintiffs to conceal the fact that those checks had been issued to these individuals. Id. In addition, Co-Defendant, Jamie and/or Jamie's son and/or employee of Jamie conspired to submit fraudulent auto repair invoices from Jamie's auto mechanic shop as a means of embezzling additional monies from Plaintiffs. Id. Plaintiffs only became aware of the fact that Co-Defendant was embezzling and/or fraudulently obtaining or wrongfully appropriating assets, funds and/or money from Plaintiffs at or around the time that Co-Defendant was terminated from employment at Agro. Id. When the president of Plaintiffs confronted Co-Defendant about the unauthorized checks, Co-Defendant confessed to making the unauthorized checks. Id.; Decl. of Antonio Pacheco, Jr., Doc. #257. Plaintiffs never consented to the conduct of Co-Defendant. Doc. #1. According to the docket of the criminal action against Co-Defendant, Jamie and Adela, Co-Defendant pled no contest to embezzlement and grand theft. Pacheco Decl., Doc. #257. While the total amount of money wrongfully taken and appropriated from Plaintiffs by Co-Defendant cannot be fully ascertained, the amounts paid to Co-Defendant and/or her related company exceed $500,000.00. Id. Based on the foregoing, the court finds that Plaintiffs have presented evidence that Co-Defendant came into possession of Plaintiffs' property through embezzlement and by unlawful means and proven a *prima facie* claim against Co-Defendant in the amount of $500,000.00 under 11 U.S.C. § 523(a)(4).

Accordingly, Plaintiffs' request that a default judgement in their favor and against Co-Defendant in the amount of $500,000.00 plus interest from the date of the filing of the First Adversary Proceeding is GRANTED. Plaintiffs shall submit two proposed orders to the court. One order shall grant this motion, and the second order shall enter judgment by default.

7. 22-10825-A-7 **IN RE: JAMIE/MARIA GARCIA**
22-1018 CAE-1

CONTINUED STATUS CONFERENCE RE: COMPLAINT
8-19-2022 [1]

AGRO LABOR SERVICES, INC. ET AL V. GARCIA ET AL
VIVIANO AGUILAR/ATTY. FOR PL.
RESPONSIVE PLEADING

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

DISPOSITION: Continued February 26, 2026 at 11:00 a.m.

ORDER: The court will issue an order.

Because the court is granting the plaintiffs' motions for default judgment as to all defendants (see calendar matters ##4-6 above), the status conference will be continued to February 26, 2026 at 11:00 a.m. to allow the plaintiffs to submit the orders required by those final rulings. If a default judgment has not been entered as to each defendant by February 19, 2026, the plaintiffs shall file a status report explaining the delay.

8. 19-11628-A-12 **IN RE: MIKAL JONES**
19-1081 CAE-1

CONTINUED STATUS CONFERENCE RE: COMPLAINT
6-28-2019 [1]

DILDAY ET AL V. JONES
RILEY WALTER/ATTY. FOR PL.
RESPONSIVE PLEADING

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

DISPOSITION: Continued March 5, 2026 at 11:00 a.m.

ORDER: The court will issue an order.

Pursuant to the joint status report filed on January 23, 2026 (Doc. #228), the status conference will be continued to March 5, 2026 at 11:00 a.m.

The parties shall file either joint or unilateral status report(s) not later than February 26, 2026.

9. 24-13371-A-7 **IN RE: RICARDO/INDIRA TREVINO**
25-1005 CAE-1

CONTINUED STATUS CONFERENCE RE: COMPLAINT
1-29-2025 [1]

MONDRAGON ET AL V. TREVINO, JR.
HECTOR MARTINEZ/ATTY. FOR PL.
RESPONSIVE PLEADING

NO RULING.