

UNITED STATES BANKRUPTCY COURT  
Eastern District of California  
Honorable Jennifer E. Niemann  
Hearing Date: Thursday, February 10, 2022  
Place: Department A – Courtroom #11  
Fresno, California

*Beginning the week of June 28, 2021, and in accordance with District Court General Order No. 631, the court resumed in-person courtroom proceedings in Fresno. Parties to a case may still appear by telephone, provided they comply with the court's telephonic appearance procedures, which can be found on the court's website.*

**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.**

1. [18-12801](#)-A-13     **IN RE: JEREMY/SHIRRELL COOK**  
[WSL-4](#)

MOTION TO MODIFY PLAN  
1-4-2022    [\[93\]](#)

SHIRRELL COOK/MV  
GREGORY SHANFELD/ATTY. FOR DBT.  
RESPONSIVE PLEADING

TENTATIVE RULING:            This matter will proceed as scheduled.

DISPOSITION:                  Granted.

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

This motion was set for hearing on at least 35 days' notice as required by Local Rule of Practice ("LBR") 3015-1(d)(2). The chapter 13 trustee ("Trustee") timely opposed this motion on January 24, 2022. Doc. #101. Jeremy Daniel Cook and Shirrell Linette Cook (together, "Debtors") replied on February 3, 2022. Doc. #104. 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). Therefore, the defaults of the non-responding parties in interest are entered.

Debtors move the court to confirm Debtors' third modified chapter 13 plan. Doc. ##93-98. Trustee opposes plan modification because the modified plan reduced the percentage paid to unsecured creditors from 5% to 0%. Doc. #101. Trustee also contends that Debtors are delinquent \$8,023.30 and that the modified plan seeks to forgive a portion of the delinquency. Doc. #101. Scant information is available regarding Debtors' alleged delinquency. To support a reduction in payments to non-priority unsecured creditors, Trustee requested Debtors submit certain tax returns, paystubs, a vehicle purchase agreement, and other information surrounding a loan against Debtors' 401(k) and voluntary contributions to retirement. Doc. #101.

Per their reply, Debtors have submitted the requested documentation. Doc. #104. Additionally, Debtors state that a loan was taken against Debtors' 401(k) so that Debtors could avoid dismissal of the chapter 13 case. Doc. #104. Debtors explain that they sought to make voluntary retirement contributions to take advantage of an employer's match program, but that Debtors have ceased voluntary contributions in response to Trustee's opposition. Doc. #104. Further, Debtors are willing to increase the plan payment to \$4,144 beginning February 2022 to maintain a 5% payment to general unsecured creditors. Doc. #104.

Trustee has not withdrawn the opposition to confirmation of the third modified plan, but it appears from the record available that the third modified plan may be confirmed if the concessions proposed by Debtors can be included in the order confirming plan.

This matter will proceed as scheduled so the court can hear from Trustee and Debtors as to whether a new plan will need to be filed or whether, in light of Debtors' representations on the record, the third modified chapter 13 plan can be confirmed.

2. [20-11302](#)-A-13     **IN RE: EFREN/ANGELICA FERNANDEZ**  
[PBB-1](#)

MOTION TO MODIFY PLAN  
12-31-2021    [\[24\]](#)

ANGELICA FERNANDEZ/MV  
PETER BUNTING/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 as required by Local Rule of Practice ("LBR") 3015-1(d)(2). 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.

3. [20-10608](#)-A-13     **IN RE: TRISHALL WASHINGTON**  
[TCS-4](#)

MOTION TO MODIFY PLAN  
1-3-2022    [\[58\]](#)

TRISHALL WASHINGTON/MV  
TIMOTHY SPRINGER/ATTY. FOR DBT.  
RESPONSIVE PLEADING

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

DISPOSITION:     Continued to March 31, 2022 at 9:30 a.m.

ORDER:             The court will issue an order.

This motion was set for hearing on at least 35 days' notice as required by Local Rule of Practice ("LBR") 3015-1(d)(2). The Chapter 13 trustee ("Trustee") filed an objection to the debtor's motion to modify the Chapter 13 plan. Tr.'s Opp'n, Doc. #66. Unless this case is voluntarily converted to Chapter 7, dismissed, or Trustee's opposition to confirmation is withdrawn, the debtor shall file and serve a written response no later than February 24, 2022. 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 the debtor's position. Trustee shall file and serve a reply, if any, by March 3, 2022.

If the debtor elects to withdraw this plan and file a modified plan in lieu of filing a response, then a confirmable modified plan shall be filed, served, and set for hearing, not later than March 3, 2022. If the debtor does not timely file a modified plan or a written response, this motion will be denied on the grounds stated in Trustee's opposition without a further hearing.

4. [16-10626](#)-A-13      **IN RE: RAMON GUTIERREZ AND MARGARITA AGUILERA**  
[TMO-2](#)

MOTION TO AVOID LIEN OF FINANCIAL CREDIT NETWORK, INC.  
1-17-2022    [\[82\]](#)

MARGARITA AGUILERA/MV  
THOMAS GILLIS/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.

Ramon Gutierrez and Margarita Marquez Aguilera (collectively, "Debtors"), the debtors in this chapter 13 case, move pursuant to 11 U.S.C. § 522(f) and Federal Rules of Bankruptcy Procedure 4003(d) and 9014 to avoid the judicial lien of Financial Credit Network Inc. ("Creditor") on their residential real property commonly referred to as 3247 S. Hall St., Visalia, CA 93277 (the "Property"). Doc. #82; Schedules C and D, Doc. #1.

In order to avoid a lien under 11 U.S.C. § 522(f)(1), the movant must establish four elements: (1) there must be an exemption to which the debtor would be entitled under § 522(b); (2) the property must be listed on the debtors' schedules as exempt; (3) the lien must impair the exemption; and (4) the lien must be either a judicial lien or a non-possessory, non-purchase money security interest in personal property listed in § 522(f)(1)(B). 11 U.S.C. § 522(f)(1); Goswami v. MTC Distrib. (In re Goswami), 304 B.R. 386, 390-91 (B.A.P. 9th Cir. 2003) (quoting In re Mohring, 142 B.R. 389, 392 (Bankr. E.D. Cal. 1992)).

Debtors filed their bankruptcy petition on March 1, 2016. A judgment was entered against Ramon S. Gutierrez in the amount of \$9,014.31 in favor of Creditor on March 27, 2015. Ex. A, Doc. #85. The abstract of judgment was recorded pre-petition in Tulare County on August 19, 2015 as document number 2015-0047457. Ex. A, Doc. #85. The lien attached to Debtors' interest in the Property located in Tulare County. Doc. #84. The Property also is encumbered by a lien in favor of Wells Fargo Mortgage in the amount \$139,190.00. Schedule D, Doc. #1. Debtors claimed an exemption of \$100,000.00 in the Property under California Code of Civil Procedure § 704.730. Schedule C, Doc. #1. Debtors assert a market value for the Property as of the petition date at \$152,875. Schedule A/B, Doc. #1.

Applying the statutory formula:

Amount of Creditor's judicial lien		\$9,014.31
Total amount of all other liens on the Property (excluding junior judicial liens)	+	139,190.00
Amount of Debtors' claim of exemption in the Property	+	100,000.00
		\$248,204.31
Value of Debtors' interest in the Property absent liens	-	152,875.00
Amount Creditor's lien impairs Debtors' exemption		\$95,329.31

After application of the arithmetical formula required by § 522(f)(2)(A), the court finds there is insufficient equity to support Creditor's judicial lien. Therefore, the fixing of this judicial lien impairs Debtors' exemption in the Property and its fixing will be avoided.

Debtors have established the four elements necessary to avoid a lien under 11 U.S.C. § 522(f)(1). Accordingly, this motion is GRANTED.

5. [17-12047](#)-A-13 **IN RE: TAMMY ABELS**  
[FW-6](#)

MOTION TO MODIFY PLAN  
12-28-2021 [[144](#)]

TAMMY ABELS/MV  
PETER FEAR/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 as required by Local Rule of Practice ("LBR") 3015-1(d)(2). 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.

6. [21-11251](#)-A-13      **IN RE: EDGARDO/TONI LACSINA**  
[DRJ-2](#)

MOTION FOR COMPENSATION BY THE LAW OFFICE OF DAVID R. JENKINS  
FOR DAVID R. JENKINS, DEBTORS ATTORNEY(S)  
1-12-2022    [\[31\]](#)

DAVID JENKINS/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 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.

David R. Jenkins ("Movant"), counsel for Edgardo Flores Lacsina and Toni Lynn Lascsina (together, "Debtors"), the debtors in this chapter 13 case, request allowance of final compensation in the amount of \$4,000.00 and reimbursement for expenses in the amount of \$250.00 for services rendered from April 22, 2021 through January 1, 2022. Doc. #31. Debtors' confirmed plan provides for \$4,000.00 in attorney's fees to be paid through the plan. Plan, Doc. #3. No prior fee applications have been submitted. Debtors consent to the amount requested in Movant's application. Ex. D, Doc. #33. Movant was substituted out as Debtors' counsel in this case on February 4, 2022. Doc. #41.

Section 330(a) of the Bankruptcy Code authorizes "reasonable compensation for actual, necessary services rendered" and "reimbursement for actual, necessary expenses" to a debtor's attorney in a chapter 13 case. 11 U.S.C. § 330(a)(1), (4)(B). The court may allow reasonable compensation to the chapter 13 debtor's attorney for representing interests of the debtor in connection with the bankruptcy case. 11 U.S.C. § 330(a)(4). In determining the amount of reasonable compensation, the court shall consider the nature, extent, and value of such services, taking into account all relevant factors. 11 U.S.C. § 330(a)(3).

Here, Movant demonstrates services rendered relating to: (1) pre-petition consulting and fact gathering; (2) investigating and analyzing Debtors' monthly income; (3) reviewing creditor's objection to confirmation and preparing stipulation resolving objection; (4) preparing amended schedules; and (5) preparing and prosecuting plan confirmation. Exs., Doc. #33. Although Debtors' bankruptcy petition was not filed until May 15, 2021, the court approves Movant's application for reasonable compensation for work in connection with the bankruptcy case. Movant and Debtors first met in April 2021, but due to a review of Debtors' documents and assessing options, the bankruptcy petition was not ready for filing until May 15, 2021. Ex. B, Doc. #33. A review of Movant's time sheets shows the work performed from April 2021 to the petition date was reasonably necessary and connected to the bankruptcy case. The court finds that the compensation and reimbursement sought are reasonable, actual, and necessary, and the court will approve the motion.

This motion is GRANTED. The court allows on a final basis compensation in the amount of \$4,000.00 and reimbursement of expenses in the amount of \$250.00 to be paid in a manner consistent with the terms of the confirmed plan.

7. [21-10852](#)-A-13 **IN RE: GUILLERMO/ELIZABETH CORTINA**  
[DRJ-3](#)

MOTION FOR COMPENSATION FOR DAVID R. JENKINS, DEBTORS ATTORNEY(S)  
1-6-2022 [[69](#)]

DAVID JENKINS/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 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.

David R. Jenkins ("Movant"), counsel for Guillermo Cortina, III and Elizabeth Sylvia Cortina (together, "Debtors"), the debtors in this chapter 13 case, request allowance of final compensation in the amount of \$4,000.00 and reimbursement of expenses in the amount of \$513.00 for services rendered from March 1, 2021 through December 30, 2021. Doc. #69. Debtors' confirmed plan provides for \$4,000.00 in attorney's fees to be paid through the plan. Plan, Doc. #27. No prior fee applications have been submitted. Debtors consent to the



amount requested in Movant's application. Ex. D, Doc. #71. Movant was substituted out as Debtors' counsel in this case on February 3, 2022. Doc. #75.

Section 330(a) of the Bankruptcy Code authorizes "reasonable compensation for actual, necessary services rendered" and "reimbursement for actual, necessary expenses" to a debtor's attorney in a chapter 13 case. 11 U.S.C. § 330(a)(1), (4)(B). The court may allow reasonable compensation to the chapter 13 debtor's attorney for representing interests of the debtor in connection with the bankruptcy case. 11 U.S.C. § 330(a)(4). In determining the amount of reasonable compensation, the court shall consider the nature, extent, and value of such services, taking into account all relevant factors. 11 U.S.C. § 330(a)(3).

Here, Movant demonstrates services rendered relating to: (1) pre-petition consulting and fact gathering; (2) responding to request for review from the Office of the U.S. Trustee ("UST") and entering stipulation between the UST and Debtors; and (3) preparing and prosecuting plan confirmation. Exs., Doc. #71. Although Debtors' bankruptcy petition was not filed until April 6, 2021, the court approves Movant's application for reasonable compensation for work in connection with the bankruptcy case. Movant and Debtors first met in March 2021, but due to Debtors' assets and various other issues, the bankruptcy petition was not ready for filing until April 2021. Ex. A, Doc. #71. A review of Movant's time sheets shows the work performed from March 2021 to the petition date was reasonably necessary and connected to the bankruptcy case. The court finds that the compensation and reimbursement sought are reasonable, actual, and necessary, and the court will approve the motion.

This motion is GRANTED. The court allows on a final basis compensation in the amount of \$4,000.00 and reimbursement of expenses in the amount of \$513.00 to be paid in a manner consistent with the terms of the confirmed plan.

8. [19-12168](#)-A-13     **IN RE: SANDRA BOMBITA**  
[KEH-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY  
12-30-2021    [[117](#)]

BALBOA THRIFT & LOAN/MV  
TIMOTHY SPRINGER/ATTY. FOR DBT.  
KEITH HERRON/ATTY. FOR MV.  
DISMISSED 1/20/22

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

DISPOSITION:        Denied as moot.

ORDER:                The court will issue an order.

An order dismissing this case was entered on January 20, 2022. Doc. #125. The motion will be DENIED AS MOOT.



9. [21-11874](#)-A-13     **IN RE: MICHAEL MCCLURE**  
[MAZ-2](#)

MOTION TO CONFIRM PLAN  
12-23-2021    [\[40\]](#)

MICHAEL MCCLURE/MV  
MARK ZIMMERMAN/ATTY. FOR DBT.  
WITHDRAWN

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

DISPOSITION:                    Dropped from calendar.

NO ORDER REQUIRED.

Movant withdrew the motion on January 14, 2022. Doc. #46.

10. [21-11788](#)-A-13     **IN RE: JAVIER/DANIELLE DE OCHOA**  
[MHM-1](#)

CONTINUED MOTION TO DISMISS CASE  
11-19-2021    [\[29\]](#)

MICHAEL MEYER/MV  
ROBERT WILLIAMS/ATTY. FOR DBT.  
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 the order.

This motion to dismiss was originally filed by the chapter 13 trustee ("Trustee") on November 19, 2021 and set for hearing on December 22, 2021 at 9:30 a.m. Doc. ##29-32. Trustee moved to dismiss for: (1) unreasonable delay by the debtor that is prejudicial to creditors; and (2) failure to make payments to the trustee under the proposed plan. Doc. #29. The debtors responded on December 10, 2021. Doc. #33.

The hearing on this matter was continued twice, most recently to track with the debtors' motion to confirm a modified plan. Doc. #46. On January 27, 2022, the debtors and Trustee filed a stipulation seeking to confirm the modified plan pursuant to a proposed order submitted as Exhibit A, Doc. #51. Doc. ##50, 51. Although Trustee's motion to dismiss has not been withdrawn, it appears that the stipulation to confirm the debtors' modified plan resolves Trustee's motion to dismiss this case.

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). Here, there is no "cause"

for dismissal under 11 U.S.C. § 1307(c)(1) for unreasonable delay by debtor that is prejudicial to creditors or 11 U.S.C. § 1307(c)(4) for failing to timely make payments due under the plan because a joint stipulation to confirm a modified plan has been filed with the court.

Accordingly, this motion will be DENIED.

11. [21-11788](#)-A-13     **IN RE: JAVIER/DANIELLE DE OCHOA**  
[RSW-1](#)

MOTION TO CONFIRM PLAN  
1-7-2022    [\[40\]](#)

DANIELLE DE OCHOA/MV  
ROBERT WILLIAMS/ATTY. FOR DBT.  
STIPULATION

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 as required by Local Rule of Practice ("LBR") 3015-1(d)(2). On January 27, 2022, the chapter 13 trustee and the debtors submitted a stipulation with a proposed order confirming the plan. Doc. ##50, 51. 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 be consistent with the proposed order marked Exhibit A, Doc. #51.

1. [18-14920](#)-A-7     **IN RE: SOUTH LAKES DAIRY FARM, A CALIFORNIA  
GENERAL PARTNERSHIP**  
[20-1034](#)

PRE-TRIAL CONFERENCE RE: AMENDED COMPLAINT  
10-20-2020    [\[46\]](#)

SOUSA V. FRED AND AUDREY SCHAKEL AS TRUSTEES OF THE  
RONALD CLIFFORD/ATTY. FOR PL.  
CONT'D TO 2/24/22 ORDER DOC #110

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

DISPOSITION:     Continued to February 24, 2022 at 11:00 a.m.

NO ORDER REQUIRED.

On December 28, 2021, the court issued an amended scheduling order continuing the pre-trial conference to February 24, 2022 at 11:00 a.m. Doc. #110.

2. [21-10679](#)-A-13     **IN RE: SYLVIA NICOLE**  
[21-1023](#)     [CAE-1](#)

CONTINUED STATUS CONFERENCE RE: COMPLAINT  
5-26-2021    [\[1\]](#)

U.S. TRUSTEE V. NICOLE  
JUSTIN VALENCIA/ATTY. FOR PL.  
RESPONSIVE PLEADING

NO RULING.

3. [19-14729](#)-A-13     **IN RE: JASON/JODI ANDERSON**  
[19-1131](#)     [FW-4](#)

CONTINUED MOTION FOR COMPENSATION BY THE LAW OFFICE OF FEAR  
WADDELL, P.C. FOR GABRIEL J. WADDELL, PLAINTIFFS ATTORNEY(S)  
12-28-2021    [\[156\]](#)

ANDERSON ET AL V. NATIONAL ENTERPRISE SYSTEMS, INC.  
RESPONSIVE PLEADING

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

DISPOSITION:     Continued hearing vacated

ORDER:             The court will issue an order.

Defendant's response to the January 30, 2022 Court Order (Doc. #176) confirms the waiver of any further briefing and/or hearing on Plaintiff's motion for attorney's fees and costs or in challenging the supplemental fees. Doc. #178. Therefore, the continued hearing will be vacated. Plaintiffs shall submit a

proposed order granting attorney fees pursuant to the January 30, 2022 Court Order (Doc. #176).