



**UNITED STATES BANKRUPTCY COURT
Eastern District of California
Honorable René Lastreto II
Department B – Courtroom #13
Fresno, California**

Hearing Date: Wednesday, February 12, 2025

Unless otherwise ordered, all matters before the Honorable René Lastreto II, shall be simultaneously: (1) **In Person** at, Courtroom #13 (Fresno hearings only), (2) via **ZoomGov Video**, (3) via **ZoomGov Telephone**, and (4) via **CourtCall**. You may choose any of these options unless otherwise ordered or stated below.

All parties or their attorneys 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/attorney 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 and their attorneys who wish to appear remotely must contact the Courtroom Deputy for the Department holding the hearing.

Please also note the following:

- Parties in interest and/or their attorneys 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 who wish to attend by ZoomGov may only listen in to the hearing using the Zoom telephone number. Video participation or observing are not permitted.
- Members of the public and the press may not listen in to trials or evidentiary hearings, though they may attend in person unless otherwise ordered.

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.

Post-Publication Changes: The court endeavors to publish its rulings as soon as possible. However, calendar preparation is ongoing, and these rulings may be revised or updated at any time prior to 4:00 p.m. the day before the scheduled hearings. Please check at that time for any possible updates.

9:30 AM

1. [24-13508](#)-B-13 **IN RE: DENISE JACKSON**
[LGT-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY LILIAN TSANG
1-21-2025 [\[15\]](#)

LILIAN TSANG/MV
SCOTT LYONS/ATTY. FOR DBT.

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

DISPOSITION: Denied as moot.

ORDER: The court will issue an order.

On January 17, 2025, the Debtor in this case filed an Amended Chapter 13 Plan. Doc. #14. Accordingly, the Trustee's Objection to Confirmation of the earlier plan dated December 5, 2025, is DENIED AS MOOT.

2. [23-11518](#)-B-13 **IN RE: ROBERT/JUVELYN GALO**
[PBB-1](#)

MOTION TO MODIFY PLAN
1-8-2025 [\[31\]](#)

JUVELYN GALO/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.

Robert and Juvelyn Galo ("Debtors") move for an order confirming the *First Modified Chapter 13 Plan* dated January 8, 2025. Docs. #31, #36. Debtor's current plan was confirmed on July 14, 2023. Doc. #15.

No party has timely objected.

This motion was set for hearing on 35 days' notice as required by Local Rule of Practice ("LBR") 3015-1(d)(1). The failure of any party in interest, including but not limited to creditors, the U.S. Trustee, and the case Trustee, 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 above-mentioned parties in interest are entered. Upon default, factual allegations will be taken as true (except those relating to amounts of damages). *Televideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917 (9th Cir. 1987).

The motion requests that the confirmed plan be modified as follows:

1. Any missed plan payments will be deferred.
2. Aggregate payments of \$9,986.14 for months 1-17. Monthly payments of \$2,201.00 for months 18-28. Monthly payments of \$2,834.00 for months 29-35. Monthly payments of \$3,409.00 for months 36-60.
3. Attorney fees shall be paid an aggregate amount of \$1,072.00 for months 1-17 and then \$68.09 per month beginning in January 2025 and continuing for the life of the plan.
4. Dividend to general unsecured creditors remains at 94%.
5. The plan is otherwise unchanged.

Docs. ##33-36.

Debtors aver that this modification is necessary because they fell behind in plan payments due to unexpected living expenses, vehicle expenses, and emergency medical services provided for Debtors' daughter while in the Philippines. Doc. #34. This is confirmed by Debtors' *Amended Schedule I & J*, which reflects a monthly net income of \$2,201.62, which is sufficient to pay the monthly payment at this time. Doc. #38. While the plan payments will rise beginning in month 29, this will coincide with the Debtors' completion of payments on the co-debtor's 401k loans, which will allow for a further increase in funds with which to pay into the plan. Doc. #34.

No party in interest has objected, and the defaults of all non-responding parties in interest are entered. This motion is GRANTED. The order shall include the docket control number of the motion, shall reference the plan by the date it was filed, and shall be approved as to form by Trustee.

3. [24-13518](#)-B-13 **IN RE: RACHELLE KREILACH**
[RMP-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY PHH MORTGAGE CORPORATION
1-21-2025 [[15](#)]

PHH MORTGAGE CORPORATION/MV
NICHOLAS WAJDA/ATTY. FOR DBT.
RENEE PARKER/ATTY. FOR MV.

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

DISPOSITION: Withdrawn

No order is required.

On February 10, 2025, PHH Mortgage Corporation ("Movant") withdrew its Objection to Confirmation of the Chapter 13 plan filed on December 5, 2024, by Rachelle Kreilach ("Debtor") after Debtor filed a new plan that same day. Docs. #27, #30. Accordingly, the Objection is WITHDRAWN.

4. [24-13431](#)-B-13 **IN RE: OMAR AISPURO FELIX AND ERENDIDA AISPURO**
[LGT-2](#)

OBJECTION TO DEBTOR'S CLAIM OF EXEMPTIONS
1-13-2025 [[30](#)]

LILIAN TSANG/MV
FLOR DE MARIA TATAJE/ATTY. FOR DBT.
WITHDRAWN

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

DISPOSITION: Withdrawn

No order is required.

On January 28, 2025, the Trustee withdrew her *Objection to Debtor's Claim of Exemptions*. Docs. #30, #35. Accordingly, this Objection is WITHDRAWN.

5. [24-13334](#)-B-13 **IN RE: DAVID REED AND TONYA UNDERWOOD**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES
1-22-2025 [[30](#)]

STEPHEN LABIAK/ATTY. FOR DBT.

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

DISPOSITION: Dropped from calendar as moot.

No order is required

On February 6, 2025, an order dismissing this case was entered. Doc. #35. Accordingly, this *Order to Show Cause* for failure to pay fees will be DROPPED from the calendar on mootness grounds.

6. [24-11837](#)-B-13 **IN RE: DAVID/RICCI COMBS**
[LGT-2](#)

MOTION TO DISMISS CASE
1-6-2025 [[86](#)]

LILIAN TSANG/MV
TIMOTHY SPRINGER/ATTY. FOR DBT.

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

DISPOSITION: Granted and the case converted to Chapter 7.

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

The chapter 13 trustee asks the court to dismiss this case under 11 U.S.C. § 1307(c)(1) for unreasonable delay by debtors that is prejudicial to creditors and 11 U.S.C. § 1307(c)(4) debtors' failure to commence making plan payments. Doc. #86. David and Ricci Combs ("Debtors") did not oppose.

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

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

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

Here, the chapter 13 trustee asks the court to dismiss this case for unreasonable delay by the Debtors that is prejudicial to creditors (11 U.S.C. § 1307(c)(1)) and because Debtors have failed to make all payments due under the plan (11 U.S.C. § 1307(c)(4)). Debtors are delinquent in the amount of \$2,040.00. Doc. #88. Before this hearing, another payment in the amount of \$688.00 will also come due. *Id.*

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.

In addition, the trustee has reviewed the schedules and determined that this case has a liquidation value of \$13,250.85 after trustee compensation if the case were converted to chapter 7. Doc. #88. This amount is comprised of the non-exempt equity in Debtors' 2016 Dodge Ram and 2019 Hyundai. *Id.* The court believes that the amount which can be obtained through liquidation is sufficient to be of use to the estate. Therefore, conversion, rather than dismissal, best serves the interests of creditors and the estate.

Accordingly, the motion will be GRANTED AS MODIFIED, and the case CONVERTED TO CHAPTER 7.

7. [24-13339](#)-B-13 **IN RE: MARCUS BURKS AND JENNIFER RICHELLE**
[LGT-1](#)

CONTINUED OBJECTION TO CONFIRMATION OF PLAN
BY LILIAN G. TSANG
12-18-2024 [\[14\]](#)

LILIAN TSANG/MV
RABIN POURNAZARIAN/ATTY. FOR DBT.
WITHDRAWN

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

DISPOSITION: Withdrawn

No order is required.

On January 23, 2025, the Trustee withdrew her *Objection to Confirmation*. Docs. #14, #26. Accordingly, this Objection is WITHDRAWN.

8. [24-13256](#)-B-13 **IN RE: PARAMJIT SINGH**
[LGT-1](#)

CONTINUED OBJECTION TO CONFIRMATION OF PLAN BY
BY LILIAN G. TSANG
12-18-2024 [\[11\]](#)

LILIAN TSANG/MV
DISMISSED 01/27/2025

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

DISPOSITION: Overruled as moot.

No order is required.

On January 18, 2025, a Notice of Entry of Order of Dismissal was entered in this case. Doc. #24. Accordingly, this Objection is OVERRULED AS MOOT.

9. [24-13256](#)-B-13 **IN RE: PARAMJIT SINGH**
[LGT-2](#)

MOTION TO DISMISS CASE
1-3-2025 [[14](#)]

LILIAN TSANG/MV
DISMISSED 01/27/2025

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 already entered on January 27, 2025.
Doc. #24. The motion will be DENIED AS MOOT.

10. [23-12760](#)-B-13 **IN RE: CHRISTOPHER RANGEL**
[TCS-1](#)

CONTINUED MOTION TO MODIFY PLAN
11-19-2024 [[34](#)]

CHRISTOPHER RANGEL/MV
TIMOTHY SPRINGER/ATTY. FOR DBT.
RESPONSIVE PLEADING

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

DISPOSITION: Denied without prejudice.

ORDER: The court will issue an order.

This motion was originally heard on January 10, 2025. Doc. #46.

Christopher Rangel ("Debtor") moves for an order confirming the First Modified Chapter 13 Plan dated November 19, 2024. Doc. #39. Debtor's current plan was confirmed on February 22, 2024. Doc. #23. Chapter 13 trustee Lilian G. Tsang ("Trustee") timely objected to confirmation of the plan for the following reason(s):

1. The modified plan calls for Debtor to pay at least \$982.50 per month starting in month 12, which is not feasible according to Debtor's Schedule J.
2. Debtor's Amended Schedule J includes new expenses not previously disclosed, and Trustee requests documentation for them.
3. The plan provides for payment of attorney's fees in excess of what is allowed under LBR 2016-1(c). The attorney fee dividend must be reduced to \$138.13 per month.

Doc. #41.

The court continued this motion to February 12, 2025. Debtor was directed to file and serve a written response to Trustee's objection not later than two weeks before the hearing date or file a confirmable, modified plan in lieu of a response not later than one week before the hearing date, or the objection would be sustained and the motion denied on the grounds stated in the objections without further hearing. Doc. #46.

Debtor neither filed a written response to the objections nor a modified plan. Therefore, Trustee's objection will be SUSTAINED on the grounds stated in the objection, and this motion will be DENIED WITHOUT PREJUDICE.

11. [24-10360](#)-B-13 **IN RE: REBECCA SAVALA**
[LGT-1](#)

CONTINUED MOTION TO DISMISS CASE
11-25-2024 [\[28\]](#)

LILIAN TSANG/MV
PETER BUNTING/ATTY. FOR DBT.
RESPONSIVE PLEADING

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Granted, denied or continued.

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

Lilian G. Tsang, chapter 13 trustee ("Trustee") moves for dismissal of this case for unreasonable delay by Debtor Rebecca Savala ("Debtor") that is prejudicial to creditors (11 U.S.C. § 1307(c)(1)) and for failure to complete the terms of the confirmed plan (11 U.S.C. § 1307(c)(6)). Doc. #28.

On January 8, 2025, counsel for Debtor in this matter filed a late response to this motion averring that, through inadvertence, a timely response was not filed; that Debtor has made payments since the filing of the motion but not enough to bring her current; and that Debtor requests a continuance in which to either bring her plan current or file an amended plan. Doc. #36. The court granted the motion to allow the untimely response and continued this matter to February 12, 2025, at 9:30 a.m. to give Debtor time in which to either notify the court that the plan was now current or to file an amended plan.

Since then, the Debtor has neither filed a new plan nor submitted a Declaration or other evidence that the plan payments had been brought current.

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.

Unless this motion is withdrawn by the Trustee, this matter will proceed as scheduled. If Debtor has not brought her plan payments current, the Motion to Dismiss may be GRANTED. If Debtor has brought payments current and Trustee has no other grounds for dismissal, this motion may be DENIED. If warranted by the circumstances, the court may CONTINUE this matter instead.

12. [24-13674](#)-B-13 **IN RE: YVONNE OLMOS**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES
1-24-2025 [\[15\]](#)

MARK ZIMMERMAN/ATTY. FOR DBT.

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. If the fees due at the time of the hearing have not been paid prior to the hearing, the case will be dismissed on the grounds stated in the OSC.

If the installment fees due at the time of hearing are paid before the hearing, 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. [24-13674](#)-B-13 **IN RE: YVONNE OLMOS**
[LGT-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY TRUSTEE LILIAN G. TSANG
1-27-2025 [\[17\]](#)

MARK ZIMMERMAN/ATTY. FOR DBT.

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

DISPOSITION: Continued to March 12, 2025, at 9:30 a.m.

ORDER: The court will issue an order.

Chapter 13 Trustee Lilian G. Tsang ("Trustee") objects to confirmation of the *Chapter 13 Plan* filed by Yvonne Olmos ("Debtor") on December 20, 2024, on the following basis:

1. The plan incorrectly lists creditor U.S. Bank as a Class 1 Creditor, but no post-petition monthly payment is provided. Based on the Schedules, the U.S. Bank claim should be in Class 2.
2. The plan provides for payment of attorney's fees in excess of what is allowed under LBR 2016-1(c). The Disclosure of Compensation of Attorney for Debtor form filed on December 20, 2024, is incomplete and does not match the form provided on the Eastern District of California court's website.

Doc. #17.

This objection will be CONTINUED to **March 12, 2025, at 9:30 a.m.** Unless this case is voluntarily converted to chapter 7, dismissed, or the objection to confirmation is withdrawn, the Debtor shall file and serve a written response to the Objection not later than **14 days before the hearing**. 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 Debtors' position. Any reply shall be served no later than **7 days before the hearing**.

If the Debtor elects to withdraw the plan and file a modified plan in lieu of filing a response, then a confirmable, modified plan shall be filed, served, and set for hearing not later than **7 days before the hearing**. If the Debtor does not timely file a modified plan or a written response, this objection will be sustained on the grounds stated in the objection without further hearing.

14. [23-12481](#)-B-13 **IN RE: CAROL DEYON**
[NES-3](#)

CONTINUED MOTION TO MODIFY PLAN
11-8-2024 [\[51\]](#)

CAROL DEYON/MV
NEIL SCHWARTZ/ATTY. FOR DBT.
RESPONSIVE PLEADING WITHDRAWN

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 matter was originally heard on December 11, 2024. Doc. #60.

Carol Deyon ("Debtor") moves for an order confirming the *Third Modified Chapter 13 Plan* dated November 8, 2024. Docs. #51, #54. Debtor's current plan was confirmed on December 22, 2023. Doc. #13.

This motion was set for hearing on 35 days' notice as required by Local Rule of Practice ("LBR") 3015-1(d)(1). The failure of any party in interest, including but not limited to creditors, the U.S. Trustee, and the case Trustee, 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 above-mentioned parties in interest are entered. Upon default, factual allegations will be taken as true (except those relating to amounts of damages). *Televideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917 (9th Cir. 1987).

No party in interest objected other than the Trustee, whose objection was withdrawn on January 28, 2025. Doc. #64.

The motion requests that the confirmed plan be modified as follows:

1. Plan payments will be modified from \$1,675.00 in months 1-11 to \$4,300.00 in months 12-60.
2. The claim of mortgage holder Essex Mortgage will be moved from Class 4 to Class 1, with an arrearage of \$14,250.0 to be paid through the plan.
3. Distribution to unsecured creditors will be reduced from 100\$ to 0%.

Doc. #51 *et seq.*

Debtor avers that this modification is necessary because Debtor wishes to pay her mortgage through the plan to provide for an arrearage. Doc.

#62. Debtor's *Amended Schedule I & J* reflects a monthly net income of \$4,317.47, which is adequate to make the plan payments. Doc. #49.

No party in interest has objected except for the Trustee whose objection has been withdrawn, and the defaults of all non-responding parties in interest are entered. This motion is GRANTED. The order shall include the docket control number of the motion, shall reference the plan by the date it was filed, and shall be approved as to form by Trustee.

15. [24-13491](#)-B-13 **IN RE: SALATIEL/MARIA RUIZ**
[LGT-2](#)

MOTION TO DISMISS CASE
1-6-2025 [\[16\]](#)

JOEL WINTER/ATTY. FOR DBT.

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

DISPOSITION: Granted.

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

The chapter 13 trustee asks the court to dismiss this case under 11 U.S.C. § 1307(c)(1) for unreasonable delay by Salatiel and Maria Ruiz ("Debtors") that is prejudicial to creditors. Doc. #16. Debtors did not oppose.

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

As an informative matter, the certificate of service filed in connection with this motion used an older version of the court's *Official Certificate of Service* form (EDC Form 7-005, Rev. 10/30/2024) instead of the most updated version of the form (EDC Form 7-005, Rev. 1/8/2025). Doc. #30. The correct form can be accessed on the court's website. See Official Certificate of Service Form Information on the court's website, <https://www.caeb.uscourts.gov/CertificateOfServiceForm>

This motion was set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of the creditors, the debtor, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See *Boone v. Burk (In re Eliapo)*, 468 F.3d 592

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

The record shows that there has been unreasonable delay by the Debtors that is prejudicial to creditors (11 U.S.C. § 1307(c)(1)). The Debtors failed to:

1. Debtors failed to appear and testify at the initial 341 Meeting of Creditors;
2. Provide required documentation to the trustee;
3. Accurately file the Disclosure of Attorney Compensation; and
4. Debtors failed to timely complete credit counseling as required by 11 U.S.C. § 109(h), and therefore, Debtor is ineligible to be a chapter 13 debtor.

Doc. #18.

Accordingly, the motion will be GRANTED and the case dismissed.

11:00 AM

1. [24-11900](#)-B-13 **IN RE: RICHARD/JANICE TOGNOTTI**
[24-1058](#) [CAE-1](#)

STATUS CONFERENCE RE: COMPLAINT
12-12-2024 [[1](#)]

TOGNOTTI ET AL V. KAISER
FOUNDATION HEALTH PLAN, INC.
PETER SAUER/ATTY. FOR PL.

NO RULING.

2. [22-11403](#)-B-7 **IN RE: STANFORD CHOPPING, INC.**
[24-1024](#) [CAE-1](#)

CONTINUED STATUS CONFERENCE RE: COMPLAINT
8-19-2024 [[1](#)]

HOLDER V. SILVA AUTO GROUP, INC. ET AL
RAMANDEEP MAHAL/ATTY. FOR PL.
RESPONSIVE PLEADING

NO RULING.

3. [24-13116](#)-B-7 **IN RE: FRANCISCO ZUNIGA**
[24-1048](#) [CAE-1](#)

CONTINUED STATUS CONFERENCE RE: (COMPLAINT)
11-14-2024 [[1](#)]

U.S. TRUSTEE V. ZUNIGA, JR.
DEANNA HAZELTON/ATTY. FOR PL.

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

DISPOSITION: Concluded and dropped from calendar.

ORDER: The court will prepare the order.

On January 8, 2025, the U.S. Trustee filed a *Motion for Entry of Default Judgment* in this adversary. Doc. #14. Accordingly, this Status Conference will be CONCLUDED AND DROPPED from the calendar.

4. [24-13116](#)-B-7 **IN RE: FRANCISCO ZUNIGA**
[24-1048](#) [UST-1](#)

MOTION FOR ENTRY OF DEFAULT JUDGMENT
1-8-2025 [\[13\]](#)

U.S. TRUSTEE V. ZUNIGA, JR.
DEANNA HAZELTON/ATTY. FOR MV.

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

DISPOSITION: Granted.

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

The United States Trustee for Region 17 ("Plaintiff" or "UST") requests that the court enter a default judgment against Francisco Zuniga, Jr. ("Defendant" or "Debtor"), pursuant to Federal Rule of Civil Procedure 55 (incorporated herein by Federal Rule of Bankruptcy Procedure 7055). Doc. #13.

This motion was set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1). Thus, pursuant to LBR 9014-1(f)(1)(B), the failure of any party in interest (including but not limited to creditors, the debtor, the U.S. Trustee, or any other properly-served party in interest) to file written opposition at least 14 days prior to the hearing may be deemed a waiver of any such opposition to the granting of the motion. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). When there is no opposition to a motion, the defaults of all parties in interest who failed to timely respond will be entered, and, in the absence of any opposition, the movant's factual allegations will be taken as true (except those relating to amounts of damages). *Televideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917 (9th Cir. 1987). Because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary when an unopposed movant has made a prima facie case for the requested relief. See *Boone v. Burk (In re Eliapo)*, 468 F.3d 592 (9th Cir. 2006).

No party in interest timely filed written opposition, and the defaults of all nonresponding parties will be entered. This motion will be GRANTED.

On November 14, 2024, the UST commenced this adversary proceeding with a *Complaint for Injunctive Relief and Denial of Discharge*, alleging as grounds the fact that Defendant has filed at least 9 other bankruptcy cases ("the Prior Cases") in the 8 years preceding Case No. 24-13116, the bankruptcy case underlying this adversary ("the Current Case"). Doc. #1. The Complaint alleges that all of the Prior Cases were dismissed due to failure to timely file required documents and that in nine of Defendant's ten cases, including the Current Case, Defendant

has not even attempted to pay the filing fee. *Id.* The one exception was Prior Case No. 23-12709, in which Debtor attempted to pay the filing fee with a check which was not honored due to insufficient funds. *Id.*

The relief requested by the Complaint consists of (1) a 2-year bar to filing a new bankruptcy case without first obtaining the permission of the Chief Bankruptcy Judge for this district and (2) denial of discharge in the Current Case due to Defendant's failure to disclose the Prior Cases and fraudulently making a false oath or account in connection with the Current Case. *Id.*

Defendant did not file an Answer. On December 17, 2024, the UST filed a Request for Entry of Default, and the UST filed the instant Application for Entry of Default Judgment on January 8, 2025, with February 12, 2025, set as the hearing date. Docs. #7, #13. Defendant has not responded to the Application.

The Application is accompanied by (1) the Declaration of Cecilia Jimenez, a Paralegal Specialist employed by the UST and (2) Exhibits consisting of the docket sheets from the Prior and Current Cases, the *Motion to Impose/Continue the Automatic Stay* that Defendant filed in the Current Case, and the Schedules and Statements from Prior Case 23-12709-A-13. Doc. #16.

The Complaint identifies the following Prior Cases:

- a. **Case No. 17-14755-A-13.** Defendant filed this case under Chapter 13 of the Bankruptcy Code on December 14, 2017. The case was dismissed on January 12, 2018, due to Defendant's failure to timely file required documents.
- b. **Case No. 18-10171-A-7.** Defendant filed this case under Chapter 7 of the Bankruptcy Code on January 22, 2018. The case was dismissed on February 9, 2018, due to Defendant's failure to timely file required documents.
- c. **Case No. 22-10639-B-13.** Defendant filed this case under Chapter 13 of the Bankruptcy Code on April 14, 2022. The case was dismissed on April 25, 2022, due to Defendant's failure to timely file required documents.
- d. **Case No. 23-10280-A-13.** Defendant filed this case under Chapter 13 of the Bankruptcy Code on February 17, 2023. The case was dismissed on March 20, 2023, due to Defendant's failure to timely file required documents.
- e. **Case No. 23-11719-A-13.** Defendant filed this case under Chapter 13 of the Bankruptcy Code on August 8, 2023. The case was dismissed on September 6, 2023, due to Defendant's failure to timely file required documents.
- f. **Case No. 23-12709-A-13.** Defendant filed this case under Chapter 13 of the Bankruptcy Code on December 5, 2023. The case was dismissed on February 1, 2024, due to Defendant's failure to pay filing fee.

- g. **Case No. 24-10510-A-7.** Defendant filed this case under Chapter 7 of the Bankruptcy Code on March 1, 2024. The case was dismissed on March 19, 2024, due to Defendant's failure to timely file required documents.
- h. **Case No. 24-12263-A-7.** Defendant filed this case under Chapter 7 of the Bankruptcy Code on August 5, 2024. The case was dismissed on August 16, 2024, due to Defendant's failure to timely file required documents.
- i. **Case No. 24-12624-B-7.** Defendant filed this case under Chapter 7 of the Bankruptcy Code on September 9, 2024. The case was dismissed on September 27, 2024, due to Defendant's failure to timely file required documents.

Doc. #16.

As noted, because of Defendant's default, both to the Answer and to the instant Application, the factual allegations of the Complaint, except those pertaining to damages, will be taken as true. *Televideo Systems, Inc.*, 826 F.2d at 917-18.

Generally, dismissals of individual bankruptcy cases are governed by § 349 and § 109(g) of the Code. Section 349 states that dismissal of a bankruptcy does not "prejudice the debtor with regard to filing of a subsequent petition under this title, except as provided in section 109(g)." 11 U.S.C. § 349(a). Section 109(g) bars individuals from being debtors under the Code who have, within the preceding 180 days, had a prior case dismissed "for willful failure of the debtor to abide by orders of the court or to appear before the court in proper prosecution of the case." 11 U.S.C. § 109(g). Viewed in tandem, these Code provisions state the general proposition that a court may only impose a 180-day bar on refiling by a debtor after dismissing the debtor's case with a finding of willful failure to abide by the court's orders, which certainly seems to be the case here.

However, § 349 also implicitly empowers the court, *for cause*, to order the dismissal of a case and to impose a bar on the filing of any subsequent petition for periods longer than 180 days, or even permanently. *Leavitt v. Soto (In re Leavitt)*, 171 F.3d 1219, 1223 (9th Cir. 1999) (*superseded on other grounds as recognized by In re Burkes*, Nos. 21-23813-rmb, 22-20431-rmb, 2025 Bankr. LEXIS 2401, at *17 (Bankr. E.D. Wis. Sep. 29, 2025)). See also *Duran v. Rojas (In re Duran)*, 630 B.R. 797 (B.A.P. 9th Cir. 2021).

As the *Leavitt* court noted, the Code does not specifically define "cause" in the context of bankruptcy dismissal. *Leavitt*, 171 F.3d at 1224. However, the Ninth Circuit went on to note that "bad faith" is a "cause" for dismissal under § 1307(c), and the court reasoned that "bad faith based on egregious behavior can justify dismissal with prejudice." *Id.* To reach such justification, *Leavitt* continues, a bankruptcy court should consider "the totality of the circumstances," taking into account the following factors: (1) whether the debtor

misrepresented facts, unfairly manipulated the Bankruptcy Code, or otherwise filed his case(s) in an inequitable manner; (2) the debtor's history of filings and dismissals; (3) whether "the debtor only intended to defeat state court litigation"; and (4) whether egregious behavior is present. *Id.* (citations omitted).

"[T]he court is not obligated to count the four *Leavitt* factors as though they present some sort of a box-score but rather is to consider them all and weigh them in judging the 'totality of the circumstances.'" *In re Lehr*, 479 B.R. 90, 98 (Bankr. N.D. Cal. 2012). The court considers the *Leavitt* factors under the "preponderance of the evidence" standard. *In re Dores*, 2017 Bankr. LEXIS 1539, at *14 (Bankr. E.D. Cal. June 7, 2017).

Here, Debtor's history of filings and dismissals clearly demonstrate an unfair manipulation of the Bankruptcy Code. Debtor has filed nine prior bankruptcy cases since 2017, each of which was swiftly dismissed for failure to file required documents. The Current Case is ripe for the same disposition. Thus, the first and second *Leavitt* factors support a finding of bad faith.

It is impossible to say one way or the other whether Debtor's goal is to defeat any pending state court litigation because Debtor's refusal to provide any documentation of his financial affairs beyond the petition over the course of the filings gives the court no information upon which to base such a determination. This is, at best, a neutral factor.

Finally, the court must consider whether Debtor's conduct is "egregious" and has little reservation about making such a finding. By way of comparison, the court in *Davis v. Brest-Taylor* applied the *Leavitt* factors and found the debtor's conduct egregious in part because of "[t]he sheer numerosity of filings." 572 B.R. 750, 756 (Bankr. E.D. Cal. 2017). In that case, the debtor had filed six bankruptcies within the preceding eight years, all of which had been dismissed for failure to file documents, make payments, or perform other obligations under the Bankruptcy Code. *Davis*, 572 B.R. at 756.

In the instant case, Debtor has filed nine bankruptcies within the last eight years and four within just the last year. The court finds "the sheer numerosity of filings" to be indicative of egregious conduct.

Based on the foregoing analysis, the *Leavitt* factors clearly militate towards a finding of bad faith under § 349 on the part of this Debtor that is sufficient to justify the requested two-year bar against refiling.

Turning to the requested denial of discharge, the UST relies on the elements for a false oath outlined in *Retz v. Samson (In re Retz)*, 606 F.3d 1189, 1196 (9th Cir. 2010) and in 11 U.S.C. § 727(a)(4)(A): (a) the Defendant made a false oath in connection with the Current Case;

(2) the oath related to a material fact; (3) the oath was made knowingly; and (4) the oath was made with fraudulent intent.

The UST points to the following undisputed facts to satisfy these four elements. First, Defendant made a false statement and omission in his petition by failing to list his 9 prior filings and whether they were discharged or dismissed. See Current Case, Doc. #1. The statement/omission was regarding a material fact, as knowledge of the Prior Cases was crucial for determining Debtor's financial situation and eligibility for bankruptcy relief. Defendant is certainly aware that he has filed 9 prior bankruptcies, each of which he signed. And Defendant signed under penalty of perjury in the Current Case but, in ¶ 9 ("Have you filed for bankruptcy within the last 8 years?"), he simply marked "Yes" and identified "California Eastern" as the District but gave no further information.

Finally, UST argues, and the court agrees, that Defendant's fraudulent intent can be inferred from the sheer numerosity of his filings over the last 8 years, with all Prior Cases dismissed for failure to provide required documents. But while Debtor has been unable or unwilling to file Schedules or other required documents in the Current Case or to attend the 341 meeting which has been continued four times to date, Debtor proved himself knowledgeable enough to file a *pro se* motion to extend/impose the automatic stay (albeit using a form from the Central District of California not permissible here in the Eastern District).

The court is satisfied that the elements of § 727(a)(4)(A) have been met and that this Debtor should be denied a discharge in the Current Case.

Accordingly, it is hereby ordered that:

1. This Application is GRANTED, and a default judgment will be entered against Francisco Zuniga.
2. Debtor Francisco Zuniga will be denied a discharge in *In re Francisco Zuniga*, Case No. 24-13116.
3. Debtor Francisco Zuniga is hereby barred from filing a bankruptcy petition for a period of two (2) years from the entry of this order.
4. Leave of court shall be obtained by Debtor Francisco Zuniga attaching to a future bankruptcy petition, while this order is effective, a declaration under oath stating specific reasons for filing the petition, and this order. The petition, declaration, and this order shall be presented to the Chief Judge of the United States Bankruptcy Court for the Eastern District of California. Said petition shall be filed only if permitted by the Chief Bankruptcy Judge.
5. Any bankruptcy case filed in violation of this order by Debtor shall be deemed null and void and dismissed without notice to Debtor.

6. If Debtor violates this Order by filing a bankruptcy petition within the two (2) years following the entry of this order without permission from the court, the court will issue an order to show cause why further sanctions including compensatory and coercive monetary sanctions should not be awarded against Debtor.

5. [24-11633](#)-B-7 **IN RE: THOMAS AMARO**
[24-1047](#) [CAE-1](#)

CONTINUED STATUS CONFERENCE RE: COMPLAINT
11-12-2024 [[1](#)]

U.S. TRUSTEE V. AMARO
MICHAEL FLETCHER/ATTY. FOR PL.

NO RULING.

6. [24-11633](#)-B-7 **IN RE: THOMAS AMARO**
[24-1047](#) [UST-1](#)

MOTION TO DISMISS ADVERSARY PROCEEDING/NOTICE OF REMOVAL
1-29-2025 [[13](#)]

U.S. TRUSTEE V. AMARO
MICHAEL FLETCHER/ATTY. FOR MV.

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

DISPOSITION: Granted. Adversary to be dismissed.

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

Tracy Hope Davis, the United States Trustee for Region 17 (the "UST"), by and through counsel, moves for an order dismissing this adversary proceeding against debtor and defendant Thomas B. Amaro ("Defendant"). AP Doc. #13. The Debtor in the underlying Chapter 7 case (Case No. 24-11833) is Thomas B. Amaro ("Debtor" or "Defendant").

Written opposition was not required and may be presented at the hearing. In the absence of opposition, this motion will be GRANTED.

This motion was filed and served 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.

Debtor filed for Chapter 7 on January 13, 2024. Main Doc. #1. On November 12, 2024, the UST filed this adversary objecting to Debtor's discharge under 11 U.S.C. §§ 727(a)(2) (concealment of assets) and (a)(4) (false oaths). AP Doc. #1. Debtor subsequently filed a waiver of discharge in the bankruptcy case which this court approved. Main Doc. #30, #33. The UST now moves for dismissal because the remedy sought by this adversary, denial of discharge for the grounds referenced above, was effectively granted by the waiver of discharge and further litigation is unnecessary.

Written responses were not required. If there is no opposition at the hearing, this motion will be GRANTED, and this adversary proceeding will be DISMISSED.

7. [24-10546](#)-B-12 **IN RE: MAXIMINIO/MARIE SILVEIRA**
[24-1014](#) [CAE-1](#)

CONTINUED STATUS CONFERENCE RE: COMPLAINT
6-4-2024 [\[1\]](#)

BANK OF THE SIERRA V. SILVEIRA ET AL.
DON POOL/ATTY. FOR PL.
RESPONSIVE PLEADING

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

DISPOSITION: Continued to April 23, 2025, at 11:00 am

ORDER: The court will prepare the order.

On February 4, 2025, Bank of the Sierra ("Sierra") submitted a status conference statement stating as follows:

1. Sierra and the Debtors in the underlying Chapter 12 case reached a stipulation to stay this proceeding pending confirmation of Debtors' Chapter 12 plan and the subsequent sale of Sierra's collateral as contemplated by the plan.
2. Debtors have sold one parcel of real property and the other is the subject of a motion to sell scheduled to be heard on February 11, 2025. The projected closing date is assumed to be 60 days after acceptance, i.e. sometime in mid to late March.
3. Accordingly, Sierra requests that this Status Conference be continued to a date in late April or early May 2025, to allow the sale sufficient time to close and for the parties to determine whether there is any remaining balance due Sierra and/or how to proceed.

Doc. #29.

In light of these representations, which the court construes as an ex parte request for continuance, this Status Conference is hereby CONTINUED to April 23, 2025, at 11:00 a.m.

Unless this adversary proceeding is disposed of prior to the continued hearing date, Plaintiff's counsel shall file and serve a status report no later than April 16, 2025.