



UNITED STATES BANKRUPTCY COURT  
Eastern District of California  
Honorable Jennifer E. Niemann  
Hearing Date: Thursday, February 27, 2025  
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 (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 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.
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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.

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## 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. [24-13617](#)-A-13     **IN RE: ROSELLE/RONNIE ANTHONY GARCIA**  
[LGT-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY LILIAN G. TSANG  
2-11-2025    [[17](#)]

LILIAN TSANG/MV  
JENNIFER REICHHOFF/ATTY. FOR DBT.

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

DISPOSITION:                    Dropped from calendar.

NO ORDER REQUIRED.

Trustee withdrew the objection to confirmation on February 19, 2025. Doc. #22.

2. [24-13318](#)-A-13     **IN RE: ROBERT FLORES**  
[KSH-1](#)

CONTINUED OBJECTION TO CONFIRMATION OF PLAN BY CAPITAL ONE AUTO FINANCE  
12-26-2024    [[18](#)]

CAPITAL ONE AUTO FINANCE/MV  
KRISTIN SCHULER-HINTZ/ATTY. FOR MV.

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

DISPOSITION:                    Sustained.

ORDER:                            The court will issue an order.

Robert Flores ("Debtor") filed a voluntary petition under chapter 13 on November 14, 2024 along with a chapter 13 plan ("Plan") on November 27, 2024. Doc. #1, 13. Capital One Auto Finance, a division of Capital One, N.A. ("Creditor") objected to confirmation of the Plan. Doc. #18. The court continued this matter to February 27, 2025 and ordered Debtor to file and serve a written response to Creditor's objection by February 13, 2025; or if Debtor elected to withdraw this Plan, then Debtor had to file, serve, and set for hearing a confirmable modified plan by February 20, 2025. Doc. #31.

Having reviewed the docket in this case, the court finds Debtor has not voluntarily converted this case to chapter 7 or dismissed this case, and Creditor's objection has not been withdrawn. Further, Debtor has not filed and served any written response to Creditor's objection. Debtor has not filed, served, and set for hearing a confirmable modified plan by the time set by the court.

Accordingly, Creditor's objection to the Plan is SUSTAINED on the grounds set forth in Creditor's objection.

3. [24-13318](#)-A-13     **IN RE: ROBERT FLORES**  
[LGT-1](#)

CONTINUED OBJECTION TO CONFIRMATION OF PLAN BY LILIAN G. TSANG  
12-31-2024    [\[22\]](#)

LILIAN TSANG/MV

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

DISPOSITION:     Sustained.

ORDER:             The court will issue an order.

Robert Flores ("Debtor") filed a voluntary petition under chapter 13 on November 14, 2024 along with a chapter 13 plan ("Plan") on November 27, 2024. Doc. #1, 13. The chapter 13 trustee ("Trustee") objected to confirmation of the Plan. Doc. #22. The court continued this matter to February 27, 2025 and ordered Debtor to file and serve a written response to Trustee's objection by February 13, 2025; or if Debtor elected to withdraw this Plan, then Debtor had to file, serve, and set for hearing a confirmable modified plan by February 20, 2025. Doc. #32.

Having reviewed the docket in this case, the court finds Debtor has not voluntarily converted this case to chapter 7 or dismissed this case, and Trustee's objection has not been withdrawn. Further, Debtor has not filed and served any written response to Trustee's objection. Debtor has not filed, served, and set for hearing a confirmable modified plan by the time set by the court.

Accordingly, Trustee's objection to the Plan is SUSTAINED on the grounds set forth in Trustee's objection.

4. [24-13318](#)-A-13     **IN RE: ROBERT FLORES**  
[LGT-2](#)

MOTION TO DISMISS CASE  
1-29-2025    [\[25\]](#)

LILIAN TSANG/MV

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

DISPOSITION:     Granted.

ORDER:             The court will issue an order.

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 movant incorrectly completed Section 6 of the court's mandatory Certificate of Service form. In Section 6, the declarant marked that service was effectuated by Rule 5 and Rules 7005, 9036 Service. Doc. #28. However, Federal Rule of Bankruptcy Procedure ("Rule") 9014 requires service of a motion to dismiss be made pursuant to Rule 7004, which was done. In Section 6, the declarant should have checked the appropriate box under Section 6A, not Section 6B.

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 debtor 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 default of the debtor is 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 a movant make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

Here, 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 debtor that is prejudicial to creditors. Doc. #25. Specifically, Trustee asks the court to dismiss this case for the debtor's failure to: (1) appear at the scheduled § 341 meeting of creditors; (2) provide Trustee with any requested documents; and (3) make all payments due under the plan. Doc. #25. The debtor did not oppose.

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 the debtor failed to appear at the scheduled 341 meeting of creditors and failed to provide Trustee with all of the documentation required by 11 U.S.C. § 521(a)(3) and (4). Cause also exists under 11 U.S.C. § 1307(c)(4) to dismiss this case as the debtor has failed to make all payments due under the plan.

A review of the debtor's Schedules A/B, C and D shows that the debtor's assets are fully exempt after consideration of secured claims. In addition, the debtor has failed to appear at the meeting of creditors. Because there is no equity in the debtor's asset to be realized for the benefit of the estate, dismissal rather than conversion is appropriate.

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

5. [23-11520](#)-A-13     **IN RE: THEDFORD JONES**  
[FW-2](#)

CONTINUED STATUS CONFERENCE RE: OBJECTION TO CLAIM OF DENISE BALESTIER,  
CLAIM NUMBER 1  
8-21-2023    [[40](#)]

THEDFORD JONES/MV  
GABRIEL WADDELL/ATTY. FOR DBT.  
RESPONSIVE PLEADING

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

DISPOSITION:        Dropped from calendar.

ORDER:                The court will issue an order.

Based on the status reports filed by the debtor (Doc. #205) and the claimant (Doc. #206), this objection to claim has been fully resolved by consensus of the parties. This status conference is dropped from the calendar.

6. [24-13728](#)-A-13     **IN RE: NICHOLAS CANTU**  
[LGT-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY LILIAN G. TSANG  
2-11-2025    [[14](#)]

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

TENTATIVE RULING:        This matter will proceed as scheduled.

DISPOSITION:        Continued to March 27, 2025 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.

As an informative matter, the movant incorrectly completed Section 6 of the court's mandatory Certificate of Service form. In Section 6, the declarant marked that service was effectuated by Rule 5 and Rules 7005, 9036 Service. Doc. #16. However, Federal Rule of Bankruptcy Procedure ("Rule") 9014 requires service of an objection to confirmation of plan be made pursuant to Rule 7004, which was done. In Section 6, the declarant should have checked the appropriate box under Section 6A, not Section 6B.

On December 27, 2024, Nicholas Jordan Madrid Cantu ("Debtor") filed a voluntary petition under chapter 13 and a chapter 13 plan ("Plan"). Doc. ##1, 3. The chapter 13 trustee ("Trustee") objects to confirmation of the Plan because: (1) Debtor has failed to provide the Trustee with a Domestic Support Obligation Checklist; (2) Debtor's plan does not provide for all of Debtor's projected disposable income; (3) Debtor needs to file an amended Schedule A/B; and (4) Trustee requests language in the Plan requiring Debtor's tax returns be provided to Trustee before April 30 of each year. Doc. #14.

Debtor responded to Trustee's objection to confirmation on February 20, 2024. Doc. #17. Debtor states that an amended Schedule J was filed on January 10, 2025, which now includes Debtor's dependents. Id.; Am. Schedule J, Doc. #10. Further, Debtor's counsel is in the process of filing an amended Schedule A/B and an amended Domestic Support Obligation Checklist. Doc. #17. Lastly, Debtor does not oppose adding language to an order confirming plan requiring Debtor's tax returns be provided to Trustee before April 30 of each year. Id. Debtor's counsel requests that the confirmation hearing be continued to resolve the pending issues. Id.

Based on Debtor's response to Trustee's objection, the court is inclined to continue the hearing on this objection to permit the parties to resolve the outstanding issues in Trustee's objection.

7. [23-10947](#)-A-13     **IN RE: SONIA LOPEZ**  
[MRB-2](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY  
1-21-2025    [\[163\]](#)

FIRST REGIONAL BANK/MV  
SUSAN SILVEIRA/ATTY. FOR DBT.  
EDWARD WEBER/ATTY. FOR MV.  
RESPONSIVE PLEADING

TENTATIVE RULING:            This matter will proceed as scheduled.

DISPOSITION:                Conditionally 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 ("LBR") 9014-1(f)(1). The debtor timely filed written opposition on February 13, 2025 and amended written opposition on February 15, 2025. Doc. ##169, 171. The movant timely filed its reply on February 20, 2025. Doc. #184. 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.

As a procedural matter, the certificate of service filed in connection with this motion for relief from the automatic stay shows that the parties involved were only served electronically pursuant to Federal Rule of Civil Procedure 5 and Federal Rules of Bankruptcy Procedure ("Rule") 7005, 9036 Service. Doc. #168. Rules 4001(a)(1) and 9014(b) require service of a motion for relief from stay on the debtor to be made pursuant to Rule 7004 but the certificate of service filed in connection with this motion does not show that service was made by certified mail the attention of anyone. However, in light of debtor's written opposition to the motion and the failure of debtor to object to improper service of the motion in her written opposition, the court is inclined to find that the debtor has waived improper service of the motion.

As an informative matter, the certificate of service filed in connection with this motion (Doc. #168) was filed as a fillable version of the court's Official

Certificate of Service form (EDC Form 7-005, Rev. 10/2022) instead of being printed prior to filing with the court. The version that was filed with the court can be altered because it is still the fillable version. In the future, the declarant should print the completed certificate of service form prior to filing and not file the fillable version.

As a further informative matter, the address for the chapter 13 trustee in the notice of hearing to which any opposition should be sent is inaccurate. The notice of hearing is dated January 21, 2025, and the name and address for the chapter 13 trustee is: Michael H. Meyer, P.O. Box 28950, Fresno, CA 93729. Doc. #164. However, Mr. Meyer retired as the chapter 13 trustee as of December 31, 2023. Doc. #98. The name and address of the successor chapter 13 trustee is: Lilian G. Tsang, P.O. Box 3051, Modesto, CA 95353-3051, and that should have been the name and address used in the notice of hearing.

Brilena, Inc., as to an undivided 31.2500% interest, Michael Bumbaca and Adele Bumbaca husband and wife as joint tenants, as to an undivided 43.7500% interest, and First Regional Bank, as Custodian FBO Robert Pastor IRA Acct. No. 051236, as to an undivided 25.000% interest (collectively, "Movant"), seeks relief from the automatic stay under 11 U.S.C. § 362(d)(1) and (d)(2) with respect to real property located at 819, 819 1/2, 821 & 821 1/2 North Divisadero Street, Visalia, California 93291 ("Property"). Doc. #163. Movant further seeks relief to enter into forbearance agreements, refinance agreements, loan workouts, communicate with the Debtor, terms for a refinance, and a right to a reaffirmation if requested from the court. Id.

### **Relevant Background**

On August 29, 2007, Debtor executed a promissory note in the original principal amount of \$80,000.00 ("Note"). Doc. #163. Movant is the current holder of the Note. Doc. #163; Ex. A, Doc. #166. The Note is secured by a deed of trust recorded against the Property ("Deed of Trust"), of which Movant is the current beneficiary. Doc. #163; Ex. B, Doc. #166. On March 25, 2015, Movant commenced a non-judicial foreclosure proceeding with the recording of a notice of default on March 25, 2015, recorded a notice of trustee's sale on April 7, 2023, and a trustee's sale was set for May 4, 2023. Id.

In order to keep the Property, Debtor filed bankruptcy cases as follows:

1. Case No. 09-90730 filed on March 20, 2009 in the United States Bankruptcy Court in the Eastern District of California ("Eastern District"), which was dismissed on June 11, 2009;
2. Case No. 09-91977 filed on June 29, 2009 in the Eastern District, which was dismissed on April 22, 2015 ("2009 Bankruptcy Case");
3. Case No. 11-94324 filed on December 21, 2011 in the Eastern District, which was dismissed on January 3, 2012;
4. Case No. 15-14086 filed on July 26, 2015 in the United States Bankruptcy Court in the District of Nevada ("Nevada District"), in which Debtor received a discharge on January 5, 2021 ("2015 Bankruptcy Case")
5. Case No. 21-11266 filed on March 16, 2021 in the Nevada District, which was dismissed on May 7, 2021;
6. Case No. 21-12418 filed on May 10, 2021 in the Nevada District, which was dismissed on April 4, 2023; and
7. Case No. 23-10947 filed on May 2, 2023 in the Eastern District ("Instant Bankruptcy Case").

Doc. #163.



In this bankruptcy case, Debtor filed an adversary proceeding on September 21, 2023 against Movant seeking, among other things, a determination of the nature, extent and validity of Movant's lien against the Property and objecting to Movant's proof of claim. Adv. Proc. 23-1031, Doc. #1. That adversary proceeding remains pending with a pre-trial conference scheduled for March 27, 2025. Adv. Proc. 23-1031, Doc. #145.

Movant states that Debtor currently has three material defaults that warrant relief from the automatic stay: (1) Debtor has failed to make monthly plan payments for November 2024 and December 2024 in the total amount of \$1,849.74; (2) Debtor has defaulted on payment of real property taxes for the Property in the amount of \$4,288.92; and (3) Debtor has failed to maintain proper insurance on the Property. Doc. #163.

#### **11 U.S.C. § 362(d) (1) Analysis**

11 U.S.C. § 362(d) (1) allows the court to grant relief from the stay for cause, including the lack of adequate protection. "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).

Debtor opposes the motion stating that Debtor has been making her mortgage payments of \$840.79 with her monthly plan payments in this case, and Debtor is current on her mortgage payments to Movant. Doc. #171; Ex. A, Doc. #172. Further, Debtor's modified plan confirmed on December 3, 2024 provides for payment of all delinquent real property taxes, and Debtor has paid all post-petition delinquent property taxes as of February 13, 2025. Plan, Doc. #151; Doc. #171; Ex. B, Doc. #172.

In Movant's reply, Movant acknowledges Debtor's post-petition payments delinquencies have been cured. Doc. #184. However, Movant asserts that payments shown in Exhibit A is evidence that Debtor is struggling to maintain her obligations under the Plan. Ex. A, Doc. #172; Doc. #184. Regarding insurance on the Property, Debtor did not provide proof of insurance, which is required to be maintained per the Deed of Trust. Ex. B, Doc. #166; Doc. #184. Lastly, while Debtor has made some progress in paying Property taxes for the 2024-2025 tax year, Debtor still remains delinquent on real property for the Property. Doc. #184.

Based on the pleadings provided in support of, opposition to and reply to the motion, it appears that: (1) there is an unresolved dispute between the parties regarding the nature, extent and validity of Movant's lien against the Property; (2) Debtor is current with her post-petition mortgage payments to Movant; (3) Debtor has paid the first installment of her 2024-2025 real property taxes due on the Property; (4) the second installment of Debtor's 2024-2025 real property taxes due on the Property is not due until April 10, 2025, and is not delinquent; and (5) Debtor has not provided Movant with proof that the Property is insured, which is a condition of the Deed of Trust. Ex. B at ¶ 5, Doc. #166.

After consideration of the pleadings filed with respect to this motion, the court will deny the motion conditioned upon Debtor providing proof of insurance on the Property to Movant within 10 days of the entry of an order conditionally denying this motion. Should Debtor fail to provide such proof of insurance, Movant can re-set this motion for hearing on at least 14 days' notice to Debtor and the chapter 13 trustee.

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## 11 U.S.C. § 362(d) (2) Analysis

11 U.S.C. § 362(d) (2) 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.

It is unclear from Movant's papers whether Movant seeks relief from stay pursuant to 11 U.S.C. § 362(d) (2). The introductory paragraph of the motion references 11 U.S.C. § 362(d) (2); however, the argument section of the motion does not address 11 U.S.C. § 362(d) (2). Doc. #163.

Debtor opposes granting relief from stay pursuant to 11 U.S.C. § 362(d) (2) because Movant has not established that the Property is not essential to Debtor's plan of reorganization. Doc. #171. However, it is Debtor's burden to show that the Property is not essential to Debtor's plan of reorganization. 11 U.S.C. § 362(g) (2).

The evidence filed in support of the motion does not address whether Debtor has any equity in the Property, and Movant has the burden with respect to that issue. 11 U.S.C. § 362(g) (1). Because Movant has not met its burden with respect to establishing Debtor's lack of equity in the Property, relief from stay based on 11 U.S.C. § 362(d) (2) is denied.

## Conclusion

Accordingly, the motion is CONDITIONALLY DENIED. Debtor shall provide proof of insurance on the Property to Movant within 10 days of the entry of the order conditionally denying this motion. Should Debtor fail to provide such proof of insurance, Movant can re-set this motion for hearing on at least 14 days' notice to Debtor and the chapter 13 trustee pursuant to Rule 7004.

8. [24-12361](#)-A-13      **IN RE: EDWARD/CRYSTAL PEREZ**  
[PLG-1](#)

CONTINUED MOTION TO MODIFY PLAN  
12-3-2024    [\[29\]](#)

CRYSTAL PEREZ/MV  
RABIN POURNAZARIAN/ATTY. FOR DBT.  
RESPONSIVE PLEADING

TENTATIVE RULING:            This matter will proceed as scheduled.

DISPOSITION:                Continued to March 27, 2025, 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.

Lakeview Loan Servicing, LLC ("Creditor"), filed a status report on February 18, 2025 indicating that the parties have met and conferred regarding Creditor's objection to the debtors' motion to modify plan and a resolution is pending. Doc. #44. Creditor asks the court to continue the hearing on the motion to modify plan to permit the parties to resolve Creditor's objection. Doc. #44. The court is inclined to continue this matter to March 27, 2025 at 9:30 a.m. to allow the parties additional time to resolve Creditor's objection.

MOTION TO SELL  
2-6-2025    [\[42\]](#)

KARL NOLAND/MV  
ROBERT WILLIAMS/ATTY. FOR DBT.  
RESPONSIVE PLEADING

TENTATIVE RULING:            This matter will proceed as scheduled for higher and better offers.

DISPOSITION:                Granted pending Debtor supplementing the record regarding Creditor's limited opposition.

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 21 days' notice prior to the hearing date pursuant to Federal Rule of Bankruptcy Procedure 2002 and Local Rule of Practice ("LBR") 9014-1(f)(2) and will proceed as scheduled. While not required, the chapter 13 trustee filed written opposition on February 11, 2025. Doc. #46. Debtor filed a response to the chapter 13 trustee's opposition on February 12, 2025. Doc. #48. While not required, secured creditor Lakeview Loan Servicing, LLC filed limited opposition on February 25, 2025. Doc. #49. Unless further opposition is presented at the hearing, the court intends to enter the defaults of the non-responding parties, partially overrule the trustee's objection and grant the motion subject to higher and better offers and the debtor adequately addressing the secured creditor's limited opposition. If further opposition is presented at the hearing, the court will consider that 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.

Karl Vinson Noland, Jr. ("Debtor") petitions the court for an order authorizing Debtor to sell real property located at 35368 Tule River Drive, Springville, California 93265 (the "Property") for \$150,000.00 to Kenneth Brian Atchison. Doc. #42. The sale of the Property is subject to higher and better offers at the hearing. Id. Debtor filed a voluntary chapter 13 petition on December 15, 2023. Doc. #1. Debtor's chapter 13 plan was confirmed on February 2, 2024. Plan, Doc. #3; Order, Doc. #22.

LBR 3015-1(h)(1)(E) provides in relevant part that "if the debtor wishes to . . . transfer property 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."

This motion was properly served and noticed. Debtor has a fee simple ownership interest in the Property. Schedule A/B, Doc. #1. Debtor has claimed an exemption of the Property in the amount of \$189,050.00 under California Code of Civil Procedure § 703.730. Am. Schedule C, Doc #20. The Property is encumbered by liens and/or security interests totaling \$131,520.77. Schedule D, Doc. #1. Debtor will pay the closing costs in the amount of \$1,771.00. Decl. of Karl Noland Jr., Doc. #44.

While not required, Lilian G. Tsang the chapter 13 trustee ("Trustee") filed opposition to Debtor's motion to sell. Doc. #46. Trustee objects to the motion to sell the Property because: (1) Debtor has not attached the Estimated Sellers Settlement Statement and the Residential Sale Agreement to the motion; (2) Debtor's motion states Debtor claimed a homestead exemption of \$339,203.00 but Debtor's amended Schedule C claimed a homestead exemption of only \$189,050.00; and (3) Debtor is delinquent in his plan payments in the amount of \$3,702.77. Doc. #46. In Debtor's response, Debtor has attached the Sales Agreement and Seller's Estimated Net Sheet requested by Trustee. Doc. #48. Debtor agrees that the correct homestead exemption is listed on Debtor's amended Schedule C and believes the amount can be corrected in an order approving the sale. Id. Lastly, Debtor doesn't believe that being current on plan payments is a condition precedent to being allowed to close escrow for the sale of the Property. Id.

With respect to Trustee's objection, the court finds that Debtor has provided the sale agreement and acknowledges the proper exemption amount in the real property to be sold. Regarding whether Debtor's delinquent plan payments preclude the sale, the court is inclined to overrule Trustee's objection because the Property is wholly exempt after consideration of secured claims, so there is no obligation of Debtor under the Bankruptcy Code to use any sale proceeds to become current on plan payments. The court also finds that the sale of the Property is in the best interests of the estate.

Also, while not required, Lakeview Loan Servicing, LLC ("Creditor") filed limited opposition to Debtor's motion to sell. Doc. #49. Creditor states that Debtor's motion does not specify the amount of proceeds that will be generated from the sale and/or whether Debtor intends to pay off creditors in full. Id. Further, Debtor's motion is not supported by any evidence showing how proceeds will be dealt with and disbursed. Id. The court notes that Debtor filed a Seller's Estimated Net Sheet with limited information, and Seller's Estimated Net Sheet does not indicate as to the payment or payoff of Creditor's claim as would be listed in a Seller's Estimated Closing Statement. At the hearing, Debtor should be prepared to supplement the record acknowledging the sale of the Property will result in Creditor's lien to be paid in full upon the close of escrow.

Accordingly, subject to Debtor supplementing the record, and subject to overbid offers made at the hearing, the court is inclined to grant this motion.

10. [20-11190](#)-A-13     **IN RE: SAMUEL/KERI CASTILLO**  
[SAH-5](#)

MOTION FOR COMPENSATION FOR SUSAN A. HEMB, DEBTORS ATTORNEY(S)  
1-21-2025    [\[101\]](#)

SUSAN HEMB/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.

Hemb Law Group ("Movant"), counsel for Samuel A. Castillo and Keri N. Castillo (collectively, "Debtors"), the debtors in this chapter 13 case, requests interim allowance of compensation in the amount of \$6,172.50 and no reimbursement for expenses for services rendered from March 1, 2019 through October 15, 2024. Doc. #101. Specifically, Movant is requesting allowance of attorney fees in total amount of \$6,172.50, of which \$2,500.00 has already been received. Decl. of Susan A. Hemb, Doc. #104. Therefore, Movant is requesting payment for the difference of said fees in the amount of \$3,672.50. Id. Debtors' confirmed plan provides, in addition to \$1,500.00 paid prior to filing the case, for \$2,500.00 in attorney's fees to be paid through the plan. Plan, Doc. #4, 59. No prior fee application has been filed. Debtors consent to the amount requested in Movant's application. Decl. of Samuel and Keri Castillo, Doc. #103.

Section 3.05 of Debtors' confirmed plan clearly states that the \$4,000 in total attorney fees are to be approved by complying with LBR 2016-1(c), and the order confirming Debtors' plan specifically approves \$4,000.00 in attorneys' fees to Movant under the "no-look" provisions of LBR 2016-1(c). Plan, Doc. #4; Order, Doc. #59.

Because Debtors filed their chapter 13 case on March 25, 2020, former LBR 2016-1(c)(5) applies to Debtors' case. Former LBR 2016-1(c)(5) provides that the court may allow compensation different from the compensation provided under LBR 2016-1(c) "any time prior to entry of a final decree, if such compensation proves to have been improvident in light of developments not capable of being anticipated at the time the plan is confirmed or denied confirmation."

Here, Movant states that it was discovered after Debtors' plan was confirmed that Debtors' student loans were not addressed. Decl. of Susan A. Hemb, Doc. #104. Further, Movant states that the negotiations with US Bank regarding the motion to value collateral was unanticipated and required a lot of correspondences between the parties. Id. The court finds that Movant has satisfactorily explained why the "no-look" fee in this case was improvident in light of developments not capable of being anticipated at the time the plan was confirmed.

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's application demonstrates services rendered relating to:  
(1) meeting with Debtors and preparing documents to file their bankruptcy case;

(2) preparing for and attending meeting of creditors; (3) preparing motion to value collateral and addressing opposition thereto; (4) negotiating with US Bank regarding the motion to value collateral and entering into a stipulation to resolve issues; (5) corresponding and negotiating with the US Department of Education to ensure student loan was paid; and (6) general case administration. Ex. A, Doc. #105. The court finds that the compensation and reimbursement sought are reasonable, actual, and necessary.

Accordingly, this motion is GRANTED. The court will allow final compensation in the amount of \$6,172.50, of which \$3,672.50 remains to be paid, and no reimbursement for expenses to be paid in a manner consistent with the terms of the confirmed plan.

11. [23-10947](#)-A-13     **IN RE: SONIA LOPEZ**  
[SDS-7](#)

MOTION BY SUSAN D. SILVEIRA TO WITHDRAW AS ATTORNEY  
2-19-2025    [[179](#)]

SUSAN SILVEIRA/ATTY. FOR DBT.  
OST 2/18/25

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.

On February 18, 2025, the court granted the movant's ex parte Motion for Order Shortening Time to hear the movant's Motion to Withdraw as Counsel. Doc. #178. This motion was set for hearing on February 27, 2025 at 9:30 a.m. pursuant to Local Rule of Practice ("LBR") 9014-1(f)(3). 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 a further hearing is proper. The court will issue an order if a further hearing is necessary.

Susan D. Silveira and Silveira Law Offices ("Movant"), counsel for chapter 13 debtor Sonia Lopez ("Debtor"), moves to withdraw as Debtor's attorney of record. Doc. #179. Movant seeks withdrawal as attorney of record in Debtor's bankruptcy case and in an adversary proceeding pending before this court as Adversary Proceeding No. 23-1039. Movant's withdrawal will leave Debtor unrepresented by counsel.

LBR 2017-1(e) states that "an attorney who has appeared may not withdraw leaving the client *in propria persona* without leave of court upon noticed motion and notice to the client and all other parties who have appeared." The local rule goes on to require the attorney seeking withdrawal to "provide an affidavit stating the current or last known address" of the client and "the efforts made to notify the client of the motion to withdraw." LBR 2017-1(e). Withdrawal is governed by the California Rules of Professional Conduct. Id.

Movant has conformed with the Local Rules. Movant testifies as to Debtor's current or last known address and explains that she emailed Debtor on February 12, 2025 notifying Debtor of Movant's intention to seek an ex parte order shortening time on a motion to be relieved as counsel to be heard on

February 27, 2025 at 9:30 a.m. Decl. of Susan D. Silveira, Doc. #181. The certificate of service filed with this motion shows that Debtor received notice via electronic mail and U.S. mail. Doc. #182. Service also was made upon creditors, the chapter 13 trustee, and the United States trustee. Doc. #182.

Pursuant to California Rules of Professional Conduct Rule 1.16, formerly Rule 3-700, a lawyer may withdraw from representing a client if the client breaches a material term of an agreement with the lawyer and the lawyer has given the client reasonable warning of withdrawal, if a continuation of the representation is likely to result in a violation of the rules, if the client renders it unreasonably difficult for the lawyer to carry out the representation effectively, or if other good cause for withdrawal exists. Rules Prof. Conduct 1.16(b), <https://www.calbar.ca.gov/Attorneys/Conduct-Discipline/Rules/Rules-of-Professional-Conduct/Current-Rules>.

Movant submits that Debtor accuses Movant of professional negligence. Silveira Decl., Doc. #181. Movant also testifies that there has been an irretrievable breakdown in the attorney-client relationship that makes it unreasonably difficult for Movant to continue with Movant's representation of Debtor. Id. Movant intends to comply with California Rule of Professional Conduct 1.16(e), which requires Movant to turn over any client materials and refund any part of a fee or expense paid in advance that the lawyer has not earned or incurred. Doc. #179. It appears that Movant's withdrawal will cause no undue prejudice to Debtor and Movant has demonstrated cause for withdrawal.

Accordingly, this motion will be GRANTED.

12. [23-10947](#)-A-13     **IN RE: SONIA LOPEZ**  
[23-1039](#)     [SDS-4](#)

MOTION/APPLICATION BY SUSAN D. SILVEIRA TO WITHDRAW AS ATTORNEY  
2-19-2025     [\[155\]](#)

LOPEZ V. UNIFIED MORTGAGE SERVICE, INC. ET AL  
SUSAN SILVEIRA/ATTY. FOR MV.  
OST 2/18/25

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.

On February 18, 2025, the court granted the movant's ex parte Motion for Order Shortening Time to hear the movant's Motion to Withdraw as Counsel. Doc. #154. This motion was set for hearing on February 27, 2025 at 9:30 a.m. pursuant to Local Rule of Practice ("LBR") 9014-1(f)(3). 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 a further hearing is proper. The court will issue an order if a further hearing is necessary.

Susan D. Silveira and Silveira Law Offices ("Movant"), counsel for the plaintiff and chapter 13 debtor Sonia Lopez ("Plaintiff"), moves to withdraw as Plaintiff's attorney of record. Doc. #155. Movant seeks withdrawal as attorney of record in Plaintiff's adversary proceeding and related bankruptcy case

pending before this court as Case No. 23-10947. Movant's withdrawal will leave Plaintiff unrepresented by counsel.

LBR 2017-1(e) states that "an attorney who has appeared may not withdraw leaving the client *in propria persona* without leave of court upon noticed motion and notice to the client and all other parties who have appeared." The local rule goes on to require the attorney seeking withdrawal to "provide an affidavit stating the current or last known address" of the client and "the efforts made to notify the client of the motion to withdraw." LBR 2017-1(e). Withdrawal is governed by the California Rules of Professional Conduct. Id.

Movant has conformed with the Local Rules. Movant testifies as to Plaintiff's current or last known address and explains that she emailed Plaintiff on February 12, 2025 notifying Plaintiff of Movant's intention to seek an ex parte order shortening time on a motion to be relieved as counsel to be heard on February 27, 2025 at 9:30 a.m. Decl. of Susan D. Silveira, Doc. #157. The amended certificate of service filed in support of this motion shows that Plaintiff received notice via electronic mail and U.S. mail. Doc. #161. Service also was made upon counsel for the defendants. Doc. #161.

Pursuant to California Rules of Professional Conduct Rule 1.16, formerly Rule 3-700, a lawyer may withdraw from representing a client if the client breaches a material term of an agreement with the lawyer and the lawyer has given the client reasonable warning of withdrawal, if a continuation of the representation is likely to result in a violation of the rules, if the client renders it unreasonably difficult for the lawyer to carry out the representation effectively, or if other good cause for withdrawal exists. Rules Prof. Conduct 1.16(b), <https://www.calbar.ca.gov/Attorneys/Conduct-Discipline/Rules/Rules-of-Professional-Conduct/Current-Rules>.

Movant submits that Plaintiff accuses Movant of professional negligence. Silveira Decl., Doc. #157. Movant also testifies that there has been an irretrievable breakdown in the attorney-client relationship that makes it unreasonably difficult for Movant to continue with Movant's representation of Plaintiff. Id. Movant intends to comply with California Rule of Professional Conduct 1.16(e), which requires Movant to turn over any client materials and refund any part of a fee or expense paid in advance that the lawyer has not earned or incurred. Doc. #155. It appears that Movant's withdrawal will cause no undue prejudice to Plaintiff and Movant has demonstrated cause for withdrawal.

Accordingly, this motion will be GRANTED.



11:00 AM

1. [23-11803](#)-A-7     **IN RE: VALERIE RODRIGUEZ**  
[23-1051](#)

ORDER TO SHOW CAUSE  
1-16-2025    [\[70\]](#)

RODRIGUEZ V. DEPT OF ED EDFINANCIAL ET AL  
RESPONSIVE PLEADING

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.

On January 16, 2025, this court issued an order to show cause ("OSC") why this adversary proceeding should not be dismissed for lack of prosecution for the failure of the plaintiff to appear at a continued status conference held on January 16, 2025 at 11:00 a.m. Doc. #70. The OSC required any written response to be filed and served on or before February 20, 2025.

On January 29, 2025, the plaintiff filed a declaration explaining that the plaintiff's father passed away on December 16, 2024, and the funeral services were held on January 15 and 16, 2025. Doc. #74.

Based on the explanation provided by the plaintiff, the court finds that the failure of the plaintiff to appear at the January 16, 2025 status conference to be excusable, and the court will not dismiss the adversary proceeding for lack of prosecution as set forth in the OSC. The OSC is vacated.

2. [23-11803](#)-A-7     **IN RE: VALERIE RODRIGUEZ**  
[23-1051](#)     [CAE-1](#)

CONTINUED STATUS CONFERENCE RE: AMENDED COMPLAINT  
7-26-2024    [\[46\]](#)

RODRIGUEZ V. DEPT OF ED EDFINANCIAL ET AL  
VALERIE RODRIGUEZ/ATTY. FOR PL.  
RESPONSIVE PLEADING

NO RULING.

3. [24-12145](#)-A-7     **IN RE: ERIK LUNA**  
[24-1032](#)     [CAE-1](#)

CONTINUED STATUS CONFERENCE RE: AMENDED COMPLAINT  
10-10-2024     [\[8\]](#)

FEAR V. FRANCO ET AL  
PETER SAUER/ATTY. FOR PL.

NO RULING.

4. [24-12873](#)-A-11     **IN RE: GRIFFIN RESOURCES, LLC**  
[24-1056](#)     [CAE-1](#)

CONTINUED STATUS CONFERENCE RE: COMPLAINT  
12-3-2024     [\[1\]](#)

GRIFFIN RESOURCES, LLC V. CALIFORNIA DEPARTMENT OF  
IAN QUINN/ATTY. FOR PL.

NO RULING.

5. [24-12873](#)-A-11     **IN RE: GRIFFIN RESOURCES, LLC**  
[24-1056](#)     [DOJ-5](#)

MOTION TO DISMISS ADVERSARY PROCEEDING/NOTICE OF REMOVAL  
1-30-2025     [\[13\]](#)

GRIFFIN RESOURCES, LLC V. CALIFORNIA DEPARTMENT OF  
MATTHEW STRUHAR/ATTY. FOR MV.  
RESPONSIVE PLEADING

NO RULING.

As a procedural matter, the notice of hearing filed in connection with this motion does not comply with LBR 9014-1(d)(3)(B)(i), which requires the notice include the names and addresses of persons who must be served with any opposition. The notice of hearing also does not comply with LBR 9014-1(d)(3)(B)(iii), which requires the notice to advise respondents that they can determine whether the matter has been resolved without oral argument or whether the court has issued a tentative ruling by viewing the court's website at [www.caeb.uscourts.gov](http://www.caeb.uscourts.gov) after 4:00 p.m. the day before the hearing, and that parties appearing telephonically must view the pre-hearing dispositions prior to the hearing.

6. [24-12873](#)-A-11     **IN RE: GRIFFIN RESOURCES, LLC**  
[24-1056](#)     [WJH-4](#)

MOTION FOR TEMPORARY RESTRAINING ORDER, AND/OR MOTION FOR ORDER TO  
SHOW CAUSE RE: PRELIMINARY INJUNCTION  
12-3-2024     [[20](#)]

GRIFFIN RESOURCES, LLC V. CALIFORNIA DEPARTMENT OF  
IAN QUINN/ATTY. FOR MV.  
RESPONSIVE PLEADING

NO RULING.