

UNITED STATES BANKRUPTCY COURT  
Eastern District of California  
Honorable René Lastreto II  
Hearing Date: Wednesday, March 6, 2019  
Place: Department B – Courtroom #13  
Fresno, 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. The court may continue the hearing on the matter, set a briefing schedule or enter other orders appropriate for efficient and proper resolution of the matter. The original moving or objecting party shall give notice of the continued hearing date and the deadlines. The minutes of the hearing will be the court's findings and conclusions.

**Final Ruling:** Unless otherwise ordered, there will be no hearing on these matters. The final disposition of the matter is set forth in the ruling and it will appear in the minutes. The final ruling may or may not finally adjudicate the matter. If it is finally adjudicated, the minutes constitute the court's findings and conclusions.

**Orders:** Unless the court specifies in the tentative or final ruling that it will issue an order, the prevailing party shall lodge an order within 14 days of the final hearing on the matter.

**THE COURT ENDEAVORS TO PUBLISH ITS RULINGS AS SOON AS POSSIBLE. HOWEVER, CALENDAR PREPARATION IS ONGOING AND THESE RULINGS MAY BE REVISED OR UPDATED AT ANY TIME PRIOR TO 4:00 P.M. THE DAY BEFORE THE SCHEDULED HEARINGS. PLEASE CHECK AT THAT TIME FOR POSSIBLE UPDATES.**

**9:30 AM**

1. [18-13678](#)-B-11     **IN RE: VERSA MARKETING, INC.**  
[WW-17](#)

MOTION TO DISALLOW CERTAIN CLAIMS NOT ARISING UNDER THE  
PERISHABLE AGRICULTURAL COMMODITIES ACT  
2-8-2019     [\[288\]](#)

VERSA MARKETING, INC./MV  
RILEY WALTER

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  
will submit a proposed order after hearing.

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.

This motion is GRANTED. Pursuant to a prior order of this court (doc. #197), any Perishable Agricultural Commodities Act ("PACA") creditor who disagrees with the amount or characterization of a particular claim as a PACA claim will have 20 days from the date of service of the Report to contact debtor's counsel to object. Objections to characterizations or amount of their claims were received by Fresno First Bank, the Creditor's Committee, and NORPAC ("Monitors") from these claimants: Bonduelle, Inc., Oxford Frozen Foods Limited, and Dennis Sales, LTD ("Creditors"). Doc. #288.

After the Monitors contacted the Creditors, they learned that Oxford Frozen Foods does not possess a PACA license. Bonduelle, Inc. did not respond, and Dennis Sales, LTD stated that they do possess a PACA license, but did not provide further evidence that PACA protection applied to the sale of rice. Doc. #288.

Debtor objects to their claims on two grounds: (1) that Bonduelle, Inc.'s claim (claim #27) and Oxford Frozen Foods Limited's claim (claim #36) are invalid PACA claims because "none of the invoices included in support of the Claim included the required PACA language." Id., and; (2) that the product sold to the debtor by Dennis Sales, LTD (rice) is not a perishable agricultural product and therefore not protected by PACA. Id. Dennis Sales, LTD has not filed a claim in this case.

Unless opposition is presented at the hearing, this motion will be GRANTED for the reasons stated above.

2. [17-13797](#)-B-9      **IN RE: TULARE LOCAL HEALTHCARE DISTRICT**  
[FWP-1](#)

CONTINUED MOTION FOR ADMINISTRATIVE EXPENSES  
1-14-2019    [\[993\]](#)

CERNER CORPORATION/MV  
RILEY WALTER  
JASON RIOS/ATTY. FOR MV.  
STIP AND ORDER ECF #1144 CONTINUING TO 3/21/19

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

DISPOSITION:                      Continued to March 21, 2019 at 9:30 a.m.

NO ORDER REQUIRED:              The court already issued an order. Doc.  
#1144.

3. [19-10423](#)-B-12      **IN RE: KULWINDER SINGH AND BINDER KAUR**  
[FRB-1](#)

MOTION TO RESTRICT THE USE OF CASH COLLATERAL, MOTION TO  
SEGREGATE CASH COLLATERAL, MOTION TO OBTAIN AN ACCOUNTING,  
MOTION/APPLICATION TO GRANT RELATED RELIEF  
2-26-2019    [\[25\]](#)

FARM CREDIT SERVICES OF  
AMERICA, PCA/MV  
DAVID JOHNSTON  
MICHAEL GOMEZ/ATTY. FOR MV.  
OST 2/26/19

NO RULING.

1:30 PM

1. [15-14800](#)-B-13     **IN RE: RICHARD LIMA**  
[MHM-3](#)

MOTION TO DISMISS CASE  
2-4-2019    [[104](#)]

MICHAEL MEYER/MV  
WITHDRAWN

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

DISPOSITION:                    Dropped from calendar.

NO ORDER REQUIRED:            Movant withdrew the motion. Doc. #110.

2. [17-10507](#)-B-13     **IN RE: KRYSTAL WEDEKIND**  
[FW-6](#)

MOTION TO MODIFY PLAN  
1-23-2019    [[80](#)]

KRYSTAL WEDEKIND/MV  
GABRIEL WADDELL  
RESPONSIVE PLEADING

TENTATIVE RULING:            This matter will proceed as scheduled.

DISPOSITION:                    Granted.

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

This motion was set for hearing on 35 days' notice as required by Local Rule of Practice ("LBR") 3015-1(d)(1) and will proceed as scheduled. 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, except for the chapter 13 trustee.

This motion is GRANTED. Debtor timely filed this motion, and the chapter 13 trustee ("Trustee") timely objected on the grounds that the trustee was unable to execute the plan. Doc. #92. Debtor timely replied with evidence, purporting to alleviate the issues outlined in Trustee's objection. Doc. ##94, 95, and 96. The court has

reviewed the evidence and is persuaded that the plan can be confirmed with changes incorporated into the order confirming plan. However, this matter will be called to allow Trustee to respond to debtor's reply and evidence.

3. [19-10307](#)-B-13     **IN RE: MAYVELIN TAYO**  
[DWE-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY AND/OR MOTION FOR  
RELIEF FROM CO-DEBTOR STAY  
2-5-2019    [\[11\]](#)

U.S. BANK NATIONAL  
ASSOCIATION/MV  
DANE EXNOWSKI/ATTY. FOR MV.

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 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 movant, GSR Mortgage Loan Trust 2002-AR5, U.S. Bank National Association, as Trustee, seeks relief from the automatic stay under 11 U.S.C. § 362(d)(4) on real property located at 6027 Kingsmill Terrace in Dublin, CA 94568 ("Property").

Under § 362(d)(4), if the court finds that the debtor's filing of the petition was part of a scheme to delay, hinder, or defraud creditors that involved either transfer of all or part ownership of, or other interest in, such real property without the consent of the secured creditor or court approval OR multiple bankruptcy filings affecting such real property, then an order entered under paragraph (4) is binding in any other bankruptcy case purporting to affect

such real property filed not later than two years after the date of entry of the order.

After review of the included evidence, the court finds that the debtor's filing of the petition was part of a scheme to delay, hinder, or defraud creditors that involved the transfer of all or part ownership of the subject real property without the consent of the secured creditor or court approval.

The Property has been involved in no less than 13 bankruptcy cases, as outlined in Shane Ellis' declaration (doc. #14). Of those 13 cases, eight involved one "Sharon Forshey" in one form or another. Id. Nine of the 13 cases were dismissed for failure to file information not more than two months after filing. Id. Only one of those 13 received a discharge. In this case, debtor had until February 27, 2019 to file schedules. See doc. #23. Debtor did not comply with the court's order, and the case was dismissed on February 28, 2019. Doc. #30.

This case was filed by this debtor without counsel. No schedules were filed with the petition. No plan was filed. The debtor resides in Visalia, CA. The application for an extension of time to file schedules states the debtor wants to stop foreclosure of property where she resides in Visalia, CA. Doc. #20. The property at issue here is in Dublin, Ca and is not the debtor's residence. The court granted an extension of time to file schedules through February 27, 2019. No schedules were filed. Also, based on the exhibits, a short form deed of trust recorded in Alameda County, November 1, 2018 purports to transfer a beneficial interest from co-borrower to the co-borrower as trustee representing an example of a transfer of a partial interest.

The Court having rendered findings of fact and conclusions of law pursuant to Federal Rule of Civil Procedure 52, as incorporated by Federal Rule of Bankruptcy Procedure 7052:

IT IS ORDERED that the automatic stay of 11 U.S.C. § 362(a) is vacated on real property located at 6027 Kingsmill Terrace in Dublin, CA 94568; and

IT IS FURTHER ORDERED, pursuant to 11 U.S.C. § 362(d)(4), that the filing of the petition was part of a scheme to delay, hinder, or defraud creditors that involved either transfer of all or part ownership of, or other interest in, the aforesaid real property without the consent of the secured creditor or court approval; or multiple bankruptcy filings affecting such real property. The order shall be binding in any other case under Title 11 of the United States Code purporting to affect the real property described in the motion not later than two years after the date of entry of the order.

The 14-day stay of Fed. R. Bankr. P. 4001(a)(3) will be ordered waived because over \$2,000,000.00 is secured by the Dublin property and the case was dismissed on February 28, 2019.

4. [18-15011](#)-B-13     **IN RE: CARLOS/BRANDI MOLINA**  
[MHM-2](#)

MOTION TO DISMISS CASE  
2-6-2019    [\[19\]](#)

MICHAEL MEYER/MV  
F. GIST  
RESPONSIVE PLEADING

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

DISPOSITION:                    Dropped from calendar.

NO ORDER REQUIRED:          Movant withdrew the motion. Doc. #27.

5. [18-15117](#)-B-13     **IN RE: MARIA GOMEZ**  
[MHM-1](#)

MOTION TO DISMISS CASE  
2-6-2019    [\[13\]](#)

MICHAEL MEYER/MV  
THOMAS GILLIS  
RESPONSIVE PLEADING

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

DISPOSITION:                    Dropped from calendar.

NO ORDER REQUIRED:          Movant withdrew the motion. Doc. #21.

6. [18-13541](#)-B-13     **IN RE: MORGAN BROWN**  
[FW-1](#)

MOTION TO CONFIRM PLAN  
1-22-2019    [\[48\]](#)

MORGAN BROWN/MV  
GABRIEL WADDELL  
RESPONSIVE PLEADING

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

DISPOSITION:                    Continued to April 11, 2019 at 1:30 p.m. The court  
sets May 30, 2019 as a bar date by which a chapter  
13 plan must be confirmed or objections to claims  
must be filed.

ORDER:                            The court will issue an order.

The trustee and creditors Jean Kelsey Wright, J.T.W., and J.J.L.W.  
("Creditor") have filed objections to the debtor's fully noticed  
motion to confirm a chapter 13 plan. The debtor has the burden in

proving good faith for plan confirmation. See 11 U.S.C. § 1325(a)(3). The court is informed (see doc. #60) that a new trial date for a state court action involving the debtor and Creditor is scheduled for March 11, 2019. Debtor has acknowledged that Creditor's claim and the student loans (which are the only unsecured debts with amounts listed on Schedule E/F) are non-dischargeable (with the exception of an order from an adversary proceeding stating that the student loans are discharged).

Unless this case is voluntarily converted to chapter 7, dismissed, or the oppositions are withdrawn, the debtor shall file and serve a written response not later than March 28, 2019. The response shall specifically address each issue raised in the opposition to confirmation, state whether the issue is disputed or undisputed, and include admissible evidence to support the debtor's position. The trustee and Creditor shall file and serve a reply, if any, by April 4, 2019.

If the debtor does not timely file a modified plan or a written response, this motion will be denied on the grounds stated in the opposition without a further hearing.

Pursuant to § 1324(b), the court will set May 30, 2019 as a bar date by which a chapter 13 plan must be confirmed or objections to claims must be filed or the case will be dismissed on the trustee's declaration.

7. [18-12542](#)-B-13     **IN RE: ISABEL SANCHEZ**  
[TCS-2](#)

MOTION TO CONFIRM PLAN  
1-31-2019    [\[77\]](#)

ISABEL SANCHEZ/MV  
TIMOTHY SPRINGER  
OST 2/4/19

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 will submit a proposed order after hearing.

This motion was set for hearing on at least 28 days' notice under Local Rule of Practice ("LBR") 9014-1(f)(1) but less than 35 days' notice as required by LBR 3015-1(d)(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). 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 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.

This motion is GRANTED. The confirmation order shall include the docket control number of the motion and it shall reference the plan by the date it was filed.

The court in its order shortening time did not specify whether notice would be sufficient under LBR 9014-1(f)(1) or (f)(3). Though interested parties received notice on at least 28 days', required notice for plan confirmation motions is out of on 35 days. Therefore, this matter will be called in an abundance of caution.

8. [18-14561](#)-B-13      **IN RE: KRISTI GARCIA**  
[BDB-2](#)

MOTION TO VALUE COLLATERAL OF WHEELS FINANCIAL GROUP, LLC  
2-1-2019    [\[32\]](#)

KRISTI GARCIA/MV  
BENNY BARCO

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 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 debtor is competent to testify as to the value of the 2009 Toyota Corolla. Given the absence of contrary evidence, the debtor's opinion of value may be conclusive. Enewally v. Washington Mutual Bank (In re Enewally), 368 F.3d 1165, 1173 (9th Cir. 2004). The

respondent's secured claim will be fixed at \$3,000.00. The proposed order shall specifically identify the collateral, and if applicable, the proof of claim to which it relates. The order will be effective upon confirmation of the chapter 13 plan.

9. [16-11578](#)-B-13     **IN RE: MARY WALKER**  
[APN-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY  
1-25-2019    [\[27\]](#)

TOYOTA MOTOR CREDIT  
CORPORATION/MV  
JERRY LOWE  
ERICA LOFTIS/ATTY. FOR MV.

NO RULING.

10. [18-14178](#)-B-13     **IN RE: GENE FEUERSINGER AND DENISE CAMPOS**  
[PBB-3](#)

MOTION TO CONFIRM PLAN  
1-11-2019    [\[30\]](#)

GENE FEUERSINGER/MV  
PETER BUNTING  
RESPONSIVE PLEADING

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 35 days' notice as required by Local Rule of Practice ("LBR") 3015-1(d)(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.

This motion is GRANTED. The trustee withdrew their opposition to confirmation on March 1, 2019. Doc. #59. The confirmation order shall include the docket control number of the motion and it shall reference the plan by the date it was filed.

11. [18-15084](#)-B-13     **IN RE: ROBERT SANFORD**  
[MHM-2](#)

MOTION TO DISMISS CASE  
2-4-2019    [\[20\]](#)

MICHAEL MEYER/MV  
SCOTT LYONS

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

DISPOSITION:                    Dropped from calendar.

NO ORDER REQUIRED:            Movant withdrew the motion. Doc. #30.

12. [14-15485](#)-B-13     **IN RE: JACOB MARTINEZ**  
[MHM-2](#)

MOTION TO DISMISS CASE  
2-4-2019    [\[83\]](#)

MICHAEL MEYER/MV  
PETER BUNTING

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

DISPOSITION:                    Dropped from calendar.

NO ORDER REQUIRED:            Movant withdrew the motion. Doc. #87.