



UNITED STATES BANKRUPTCY COURT
Eastern District of California
Honorable Jennifer E. Niemann
Hearing Date: Thursday, March 7, 2024
Department A - 510 19th street
Bakersfield, California

At this time, when in-person hearings in Bakersfield will resume is to be determined. No persons are permitted to appear in court for the time being. All appearances of parties and attorneys shall be as instructed below.

Unless otherwise ordered, all matters before the Honorable Jennifer E. Niemann shall be simultaneously: (1) via **ZoomGov Video**, (2) via **ZoomGov Telephone**, and (3) 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/RemoteAppearances>. Each party who has signed up will receive a Zoom link or phone number, meeting I.D., and password via e-mail.

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

Please also note the following:

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

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

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

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

Unauthorized Recording is Prohibited: Any recording of a court proceeding held by video or teleconference, including "screen shots" or other audio or visual copying of a hearing is prohibited. Violation may result in sanctions, including removal of court-issued media credentials, denial of entry to future hearings, or any other sanctions deemed necessary by the court. For more information on photographing, recording, or broadcasting Judicial Proceedings, please refer to Local Rule 173(a) of the United States District Court for the Eastern District of California.

INSTRUCTIONS FOR PRE-HEARING DISPOSITIONS

Each matter on this calendar will have one of three possible designations: No Ruling, Tentative Ruling, or Final Ruling. These instructions apply to those designations.

No Ruling: All parties will need to appear at the hearing unless otherwise ordered.

Tentative Ruling: **If a matter has been designated as a tentative ruling it will be called, and all parties will need to appear at the hearing unless otherwise ordered.** The court may continue the hearing on the matter, set a briefing schedule, or enter other orders appropriate for efficient and proper resolution of the matter. The original moving or objecting party shall give notice of the continued hearing date and the deadlines. The minutes of the hearing will be the court's findings and conclusions.

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

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

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

9:00 AM

1. [23-12406](#)-A-13 **IN RE: ROBERT SMITH**
[DMG-1](#)

MOTION TO CONFIRM PLAN
1-26-2024 [[38](#)]

ROBERT SMITH/MV
D. GARDNER/ATTY. FOR DBT.
RESPONSIVE PLEADING

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

DISPOSITION: Continued to April 4, 2024 at 9:00 a.m.

ORDER: The court will issue an order.

This motion was set for hearing on at least 35 days' notice prior to the hearing date as required by Local Rule of Practice 3015-1(d)(1). The chapter 13 trustee ("Trustee") filed an objection to the debtor's motion to confirm the chapter 13 plan. Tr.'s Opp'n, Doc. #48. Unless this case is voluntarily converted to chapter 7, dismissed, or Trustee's opposition to confirmation is withdrawn, the debtor shall file and serve a written response no later than March 21, 2024. The response shall specifically address each issue raised in the objection to confirmation, state whether the issue is disputed or undisputed, and include admissible evidence to support the debtor's position. Trustee shall file and serve a reply, if any, by March 28, 2024.

If the debtor elects to withdraw this plan and file a modified plan in lieu of filing a response, then a confirmable modified plan shall be filed, served, and set for hearing, not later than March 28, 2024. If the debtor does not timely file a modified plan or a written response, this motion will be denied on the grounds stated in Trustee's opposition without a further hearing.

2. [22-11711](#)-A-13 **IN RE: CHRISTINA MARTINEZ**
[LGT-1](#)

MOTION TO DISMISS CASE
2-5-2024 [[46](#)]

ROBERT WILLIAMS/ATTY. FOR DBT.
RESPONSIVE PLEADING

NO RULING.

3. [23-12821](#)-A-13 **IN RE: SARA STORIE**
[LGT-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY TRUSTEE LILIAN G. TSANG
1-25-2024 [[19](#)]

MICHAEL REID/ATTY. FOR DBT.
WITHDRAWN

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

DISPOSITION: Dropped from calendar.

NO ORDER REQUIRED.

Movant withdrew the motion on January 29, 2024. Doc. #25.

4. [23-11229](#)-A-13 **IN RE: DUNCAN NORWOOD**
[LGT-1](#)

MOTION TO DISMISS CASE
1-25-2024 [[93](#)]

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

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Continued to April 4, 2024 at 9:00 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.

The debtor timely filed written opposition on February 15, 2024. Doc. #105. The court is inclined to continue the trustee's motion to dismiss to April 4, 2024 at 9:00 a.m., to be heard in connection with the debtor's motion to confirm third modified plan (RSW-4) also set for hearing on that date and time. Doc. ##99-104.

5. [23-12338](#)-A-13 **IN RE: SALINA THOMAS**

CONTINUED MOTION TO CONFIRM PLAN HEARING
1-4-2024 [[35](#)]

SALINA THOMAS/MV
DAVID CHUNG/ATTY. FOR DBT.
WITHDRAWN

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

DISPOSITION: Dropped from calendar.

NO ORDER REQUIRED.

Movant withdrew the motion on February 15, 2024. Doc. #51.

6. [23-12338](#)-A-13 **IN RE: SALINA THOMAS**

MOTION TO CONFIRM PLAN
2-15-2024 [[52](#)]

SALINA THOMAS/MV
DAVID CHUNG/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 matter is DENIED WITHOUT PREJUDICE for improper notice.

Notice by mail of this motion was sent on February 15, 2024, with a hearing date set for March 7, 2024. The motion was set for hearing on less than 35 days' notice as required by Local Rule of Practice ("LBR") 3015-1(d)(1). Because the motion was not noticed at least 35 days prior to the hearing date, the motion was not properly noticed and is denied without prejudice.

As a procedural matter, the motion and supporting papers do not comply with LBR 9014-1(c). "In motions filed in the bankruptcy case, a Docket Control Number (designated as DCN) shall be included by all parties immediately below the case number on all pleadings and other documents, including proofs of service, filed in support of or opposition to motions." LBR 9014-1(c)(1). "Once a Docket Control Number is assigned, all related papers filed by any party, including motions for orders shortening the amount of notice and stipulations resolving that motion, shall include the same number." LBR 9014-1(c)(4). See LBR 9004-2(b)(6). The court encourages counsel to review the local rules to ensure compliance in future matters or those matters may be denied without prejudice for failure to comply with the local rules. The rules can be accessed on the court's website at <https://www.caeb.uscourts.gov/LocalRules.aspx>.

7. [18-12667](#)-A-13 **IN RE: SAMANTHA JOHNSON**
[LGT-1](#)

MOTION TO DISMISS CASE
1-22-2024 [[85](#)]

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

NO RULING.

8. [23-12470](#)-A-13 **IN RE: JAMES/SADIE WITT**
[MHM-1](#)

CONTINUED OBJECTION TO CONFIRMATION OF PLAN BY TRUSTEE MICHAEL H. MEYER
12-20-2023 [[25](#)]

RAJ WADHWANI/ATTY. FOR DBT.
WITHDRAWN

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

DISPOSITION: Dropped from calendar.

NO ORDER REQUIRED.

Movant withdrew the objection on February 21, 2024. Doc. #56.

9. [23-12071](#)-A-13 **IN RE: MARYLOU ROMERO**
[RSW-1](#)

CONTINUED MOTION TO CONFIRM PLAN
1-4-2024 [[24](#)]

MARYLOU ROMERO/MV
ROBERT WILLIAMS/ATTY. FOR DBT.
RESPONSIVE PLEADING

NO RULING.

10. [23-12583](#)-A-13 **IN RE: MIGUEL/ISELA RAMIREZ**
[LGT-1](#)

CONTINUED OBJECTION TO CONFIRMATION OF PLAN BY TRUSTEE LILIAN G. TSANG
1-5-2024 [[18](#)]

ROBERT WILLIAMS/ATTY. FOR DBT.
RESPONSIVE PLEADING

NO RULING.

11. [23-12583](#)-A-13 **IN RE: MIGUEL/ISELA RAMIREZ**
[RSW-1](#)

MOTION TO VALUE COLLATERAL OF DIVIDEND FINANCE, LLC
2-1-2024 [[24](#)]

ISELA RAMIREZ/MV
ROBERT WILLIAMS/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.

Miguel Angel Torres Ramirez and Isela Sandoval Ramirez (together, "Debtors"), the debtors in this chapter 13 case, move the court for an order valuing Debtors' personal property, specifically a water treatment system ("Property"), which is the collateral of Dividend Finance, LLC. ("Creditor"). Doc. #24; Decl. of Miguel Ramirez, Doc. #26.

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

Debtors assert the Property was purchased more than one year before the filing of this case, and Debtors currently owe Creditor \$8,490.00 on the loan. Doc. #24; Ramirez Decl., Doc. #26. However, Debtors believe that the Property is worth \$1,500.00, as compared to other water systems of the same age and

condition and ask the court for an order valuing the Property at \$1,500.00. Id. Debtors are competent to testify as to the value of the Property. Given the absence of contrary evidence, Debtors' opinion of value may be conclusive. Enewally v. Wash. Mut. Bank (In re Enewally), 368 F.3d 1165, 1173 (9th Cir. 2004).

The motion is GRANTED. Creditor's secured claim will be fixed at \$1,500.00. The proposed order shall specifically identify the collateral, and if applicable, the proof of claim to which it relates. The order will be effective upon confirmation of the chapter 13 plan.

12. [23-10684](#)-A-13 **IN RE: CHERYL MELIZA LOPEZ**
[LGT-1](#)

MOTION TO DISMISS CASE
2-5-2024 [\[50\]](#)

ROBERT WILLIAMS/ATTY. FOR DBT.
RESPONSIVE PLEADING

NO RULING.

1. [23-12917](#)-A-7 **IN RE: DAMIAN/KIMBERLY STONE**
[RS-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
2-22-2024 [[26](#)]

511 S. PARK VIEW, INC./MV
RICHARD STURDEVANT/ATTY. FOR MV.
DISMISSED 2/29/24

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

DISPOSITION: Denied as moot.

ORDER: The court will issue an order.

An order dismissing this case was entered on March 1, 2024. Doc. #33.
Therefore, this motion will be DENIED AS MOOT.

2. [23-12781](#)-A-7 **IN RE: NICHOLAS STONE**
[KEH-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
1-25-2024 [[12](#)]

BALBOA THRIFT & LOAN/MV
ROBERT WILLIAMS/ATTY. FOR DBT.
KEITH HERRON/ATTY. FOR MV.

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

DISPOSITION: Denied without prejudice.

ORDER: The court will issue an order.

Service of the motion and supporting papers does not comply with the Federal Rules of Bankruptcy Procedure ("Rule"). Rule 4001(a)(1) requires that a motion "for relief from an automatic stay provided by the Code . . . shall be made in accordance with Rule 9014[.]" Rule 9014 states that "[t]he motion shall be served in the manner provided for service of a summons and complaint by Rule 7004[.]" In this instance, Rule 7004(b)(1) requires service by first class mail on the chapter 7 trustee.

The certificate of service filed in connection with this motion shows that the chapter 7 trustee was only served electronically pursuant to Federal Rule of Civil Procedure 5 and Rules 7005 and 9036 Service. Doc. #17. Rule 9036(e) does not permit electronic service when any paper is required to be served in accordance with Rule 7004.

Because the chapter 7 trustee were served by first class mail as required by Rule 7004(b)(1), the motion was not served properly.

Accordingly, this motion is DENIED WITHOUT PREJUDICE for improper service.

10:30 AM

1. [21-12348](#)-A-11 **IN RE: JUAREZ BROTHERS INVESTMENTS, LLC**
[CAE-1](#)

CONTINUED STATUS CONFERENCE RE: CHAPTER 11 VOLUNTARY PETITION
10-5-2021 [[1](#)]

IGNACIO LAZO/ATTY. FOR DBT.

NO RULING.

11:30 AM

1. [23-12806](#)-A-7 **IN RE: SANDRA CORBIN**

PRO SE REAFFIRMATION AGREEMENT WITH TOYOTA MOTOR CREDIT CORPORATION
1-24-2024 [[24](#)]

NO RULING.