



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

Hearing Date: Wednesday, March 13, 2024

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/RemoteAppearances>. 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. [23-12700](#)-B-13 **IN RE: ANTHONY/ALLYSON DETLEFSEN**
[LGT-1](#)

CONTINUED OBJECTION TO CONFIRMATION OF PLAN BY TRUSTEE
LILIAN G. TSANG
1-23-2024 [\[26\]](#)

STEVEN ALPERT/ATTY. FOR DBT.
RESPONSIVE PLEADING

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Conditionally overruled.

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 matter was originally set for hearing on February 14, 2024. Doc. #45.

The Chapter 13 Trustee ("Trustee") objects to confirmation of the Chapter 13 Plan filed by Anthony and Allyson Detlefsen (collectively "Debtors") on December 1, 2023, on the following basis:

1. Schedule I must be amended to disclose Debtors' G.I. Bill income. [11 U.S.C. § 1322(a)].
2. Debtors have failed to file motion to value the collateral of Pentagon Federal Credit Union ("Pentagon") for two loans in Class 2. Without a proper valuation, the plan is not feasible. [11 U.S.C. § 1325(a)(6)].

Doc. #26. On January 25, 2024, Debtor filed an Amended Schedule I which appears to resolve the first objection. Doc. #31. On that same day, Debtor filed two *Motions to Value Collateral* which purported to resolve the second objection. Docs. ##33,37. However, the court has denied both of those motions for procedural reasons and continued the hearing on the objection to March 13, 2023, at 9:30 a.m. Docs. ##45-47, 56. Undaunted, Debtors refiled their *Motions to Value Collateral* with the procedural deficiencies cured. Those motions are the subject of Items #2 and #3 below and are set for hearing by the court.

While the court is inclined to grant both valuation motions, there appear to be factual disputes as to the value of the collateral. Until the court determines the proper value of the collateral, the court cannot say definitively whether the plan is feasible or not. Accordingly, unless this Objections is withdrawn, this matter will be heard as scheduled, and the Trustee will have opportunity to advise the court as to whether the Debtors' amendments and the court's valuation decision resolve the Trustee's objections.

2. [23-12700](#)-B-13 **IN RE: ANTHONY/ALLYSON DETLEFSEN**
[RLG-3](#)

MOTION TO VALUE COLLATERAL OF PENTAGON FEDERAL CREDIT UNION
2-14-2024 [\[48\]](#)

ALLYSON DETLEFSEN/MV
STEVEN ALPERT/ATTY. FOR DBT.

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Granted.

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

Anthony Robert Detlefsen and Allyson Michelle Detlefsen ("Debtors") ask this court for an order valuing a 2017 Chevrolet Equinox LS 2WD ("Vehicle") at \$10,885.00 as of the filing. Doc. #48. The Vehicle is encumbered by a nonpurchase money security interest loan held by Pentagon Federal Credit Union ("Creditor"). *Id.* The Certificate of Service reflects that the motion was properly served on one of Creditor's officers. Doc. #51.

This motion was filed and served pursuant to Local Rule of Practice ("LBR") 9014-1(f)(2) and will proceed as scheduled. Although the motion and notice were filed 28 days prior to the hearing date, Debtors' *Notice* incorrectly identifies it as being brought pursuant to the 14-days' notice procedures set forth in LBR 9014-1(f)(2). Because this matter is inextricably linked to the Trustee's pending motion to dismiss this case (*See Item #1, above*), the court elects to overlook the procedural defect and treat this motion as one brought under LBR 9014-1(f)(2) rather than LBR 9014-1(f)(1).

Accordingly, no written opposition was required to be filed prior to the hearing date, and opposition may be presented at that time. Unless such opposition is presented at the hearing, the court intends to enter the respondents' defaults and GRANT the motion at least in part. 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.

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." "Replacement value" 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. § 1325(a)(*) (the hanging paragraph) states that 11 U.S.C. § 506 is not applicable to claims described in that paragraph if (1) the creditor has a purchase money security interest securing the debt that

is the subject of the claim, (2) the debt was incurred within 910 days preceding the filing of the petition, and (3) the collateral is a motor vehicle acquired for the personal use of the debtor.

According to the moving papers, the Vehicle was purchased in August of 2019, which is more than 910 days prior to the December 1, 2023, filing date. Doc. #48. The Debtors have refinanced the Vehicle since then, but that does not bring it back within the ambit of the hanging paragraph. *Id.* Accordingly, § 506 applies.

In its proof of claim, Creditor asserts that the value of the Vehicle is \$12,695.00. POC #19-1. The Debtors have submitted a Declaration in which they aver that the value of the Vehicle is \$10,885.00. Doc. #50. Debtors are competent to testify as to the value of the Vehicle, and in the absence of contrary evidence, the debtor's opinion of value may be conclusive. *Enewally v. Wash. Mut. Bank (In re Enewally)*, 368 F.3d 1165, 1173 (9th Cir. 2004). The total amount of the secured lien is \$18,109.23, and Creditor concedes that it is unsecured at least up to \$5,414.23. POC #19-1.

If this matter is not resolved prior to the hearing date, the court will consider the factual dispute raised by the Creditor and Debtors' opposing valuations and any evidence they bring in support of their respective valuations. Notably, Creditor's proof of claim contains an evaluation, and it is signed by a "Bankruptcy Specialist" in Creditor's employ. Since Creditor provides no evidence as to the qualifications of the person who opined on the value, the current state of the record does not support Creditor's valuation. Given Creditor's concession that the value of the Vehicle is no higher than \$12,695.00, the court is inclined to GRANT the motion.

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.

3. [23-12700](#)-B-13 **IN RE: ANTHONY/ALLYSON DETLEFSEN**
[RLG-4](#)

MOTION TO VALUE COLLATERAL OF PENTAGON FEDERAL CREDIT UNION
2-14-2024 [[52](#)]

ALLYSON DETLEFSEN/MV
STEVEN ALPERT/ATTY. FOR DBT.

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Granted.

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

Anthony Robert Detlefsen and Allyson Michelle Detlefsen ("Debtors") ask this court for an order valuing a 2019 Volkswagen Tiguan S 2WD 14 Turbo ("Vehicle") at \$16,300.00 as of filing. Doc. #52. The Vehicle is

encumbered by a nonpurchase money security interest loan held by Pentagon Federal Credit Union ("Creditor"). *Id.* The Certificate of Service reflects that the motion was properly served on one of Creditor's officers. Doc. #51.

This motion was filed and served pursuant to Local Rule of Practice ("LBR") 9014-1(f)(2) and will proceed as scheduled. Although the motion and notice were filed 28 days prior to the hearing date, Debtors' *Notice* incorrectly identifies it as being brought pursuant to the 14-days' notice procedures set forth in LBR 9014-1(f)(2). Because this matter is inextricably linked to the Trustee's pending motion to dismiss this case (*See Item #1, above*), the court elects to overlook the procedural defect and treat this motion as one brought under LBR 9014-1(f)(2) rather than LBR 9014-1(f)(1).

Accordingly, no written opposition was required to be filed prior to the hearing date, and opposition may be presented at that time.

Unless such opposition is presented at the hearing, the court intends to enter the respondents' defaults and GRANT the motion at least in part. 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.

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." "Replacement value" 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. § 1325(a)(*) (the hanging paragraph) states that 11 U.S.C. § 506 is not applicable to claims described in that paragraph if (1) the creditor has a purchase money security interest securing the debt that is the subject of the claim, (2) the debt was incurred within 910 days preceding the filing of the petition, and (3) the collateral is a motor vehicle acquired for the personal use of the debtor.

According to the moving papers, the Vehicle was purchased in October of 2020, which is more than 910 days prior to the December 1, 2023, filing date. Doc. #54. The Debtors have refinanced the Vehicle since then, but that does not bring it back within the ambit of the hanging paragraph. *Id.* Accordingly, § 506 applies.

In its proof of claim, Creditor asserts that the value of the Vehicle is \$18,500.00 POC #18-1. The Debtors have submitted a Declaration in which they aver that the value of the Vehicle is \$16,300.00. Doc. #54. Debtors are competent to testify as to the value of the Vehicle, and in the absence of contrary evidence, the debtor's opinion of value may be conclusive. *Enewally v. Wash. Mut. Bank (In re Enewally)*, 368 F.3d 1165, 1173 (9th Cir. 2004). The total amount of the secured lien is \$21,616.98, and Creditor concedes that it is unsecured at least up to \$3,316.98. POC #18-1.

If this matter is not resolved prior to the hearing date, the court will consider the factual dispute raised by the Creditor and Debtors' opposing valuations and any evidence they bring in support of their respective valuations. Notably, Creditor's proof of claim contains an evaluation, and it is signed by a "Bankruptcy Specialist" in Creditor's employ. Since Creditor provides no evidence as to the qualifications of the person who opined on the value, the current state of the record does not support Creditor's valuation. Given Creditor's concession that the value of the Vehicle is no higher than \$18,500.00, the court is inclined to GRANT the motion .

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.

4. [22-11410](#)-B-13 **IN RE: HOWARD/KIM CRAUSBY**
[LGT-1](#)

MOTION TO DISMISS CASE
2-6-2024 [\[131\]](#)

DAVID BOONE/ATTY. FOR DBT.

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

DISPOSITION: Granted as modified and case converted to Chapter 7.

ORDER: The court will issue an order.

The chapter 13 trustee asks the court to dismiss this case for unreasonable delay by Howard and Kim Crausby ("Debtors") that is prejudicial to creditors under 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. #23. Debtors did not oppose.

Unless trustee's motion is withdrawn before the hearing, the motion will be GRANTED AS MODIFIED, and the case CONVERTED TO CHAPTER 7 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 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)(6) for failure to complete the terms of the confirmed plan. Doc. #131. The Debtors are delinquent \$9,725 in payments under the Plan as of February 25, 2024. *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 determined that this case may have undisclosed income and funds from Debtors' 2018 Hyundai Sonata, 2018 Harley Ultra, funds in the checking account at the time of filing, and stocks that may be of benefit to the estate in a Chapter 7. Doc. #133. Trustee contends the non-exempt value of the assets exceeds \$12,000.00. *Id.*

Therefore, conversion, rather than dismissal, serves the interests of creditors and the estate.

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

5. [23-12715](#)-B-13 **IN RE: VICTOR ISLAS-ZAVALA AND LORENA GONZALEZ**
[TCS-2](#)

MOTION TO CONFIRM PLAN
2-7-2024 [[27](#)]

LORENA GONZALEZ/MV
TIMOTHY SPRINGER/ATTY. FOR DBT.
RESPONSIVE PLEADING

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

DISPOSITION: Continued to April 9, 2024, at 9:30 a.m.

ORDER: The court will issue an order.

Victor Islas-Zabala and Lorena Gonzales ("Debtors") move for an order confirming the *First Modified Chapter 13 Plan* dated February 7, 2024. Doc. #27. Debtors have not yet confirmed a plan. Chapter 13 trustee Lilian G. Tsang ("Trustee") timely objected to confirmation of the plan for the following reason(s):

1. The proposed Modified Plan moves a creditor from Class 4 to Class 1 without the submission of the required Class 1 Checklist to the Trustee. [11 U.S.C. §1325(a)(1)]
2. The proposed plan will take 69.23 months to fund. [11 U.S.C. § 1322(d)].
3. The proposed plan does not cure the current plan payment deficiency. [11 U.S.C. § 1325(a)(6)].

Doc. #53.

This motion to confirm plan will be CONTINUED to **April 9, 2024, at 9:30 a.m.** Unless this case is voluntarily converted to chapter 7, dismissed, or all objections to confirmation are withdrawn, the Debtor shall file and serve a written response to the objections no later than fourteen (14) days before the continued hearing date. The response shall specifically address each issue raised in the objection(s) to confirmation, state whether each issue is disputed or undisputed, and include admissible evidence to support the Debtor's position. Any replies shall be filed and served no later than seven (7) days prior to the hearing date.

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 seven (7) days before the continued hearing date. If the Debtor does not timely file a modified plan or a written response, the objection will be sustained on the grounds stated, and the motion will be denied without further hearing.

6. [23-12715](#)-B-13 **IN RE: VICTOR ISLAS-ZAVALA AND LORENA GONZALEZ**
[TCS-3](#)

MOTION TO VALUE COLLATERAL OF WESTLAKE
2-23-2024 [\[43\]](#)

LORENA GONZALEZ/MV
TIMOTHY SPRINGER/ATTY. FOR DBT.

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Granted.

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

Victor Islas-Zavala and Lorena Gonzales ("Debtors") ask this court for an order valuing a 2017 Jeep Patriot with 110,878 miles ("Vehicle") at \$8,559.00. Doc. #43. The Vehicle secures a debt owed to Westlake - C/O Peritus Portfolio Services II, LLC ("Creditor").

This motion will be GRANTED. 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."

11 U.S.C. § 1325(a)(*) (the hanging paragraph) states that 11 U.S.C. § 506 is not applicable to claims described in that paragraph if (1) the creditor has a purchase money security interest securing the debt that is the subject of the claim, (2) the debt was incurred within 910 days preceding the filing of the petition, and (3) the collateral is a motor vehicle acquired for the personal use of the debtor.

According to the moving papers, the Debtors purchased the Vehicle on January 10, 2021, which is more than 910 days preceding the petition December 5, 2023, filing date. Docs. ## 45, 46. The elements of § 1325(a)(*) are not met and § 506 is applicable.

In its proof of claim, Creditor asserts that the value of the Vehicle is \$11,300.00. POC #5-1. The Debtors have submitted a Declaration in which they aver that the value of the Vehicle is \$8,559.00. Doc. #43. Debtors are competent to testify as to the value of the Vehicle, and in the absence of contrary evidence, the debtor's opinion of value may be conclusive. *Enewally v. Wash. Mut. Bank (In re Enewally)*, 368 F.3d 1165, 1173 (9th Cir. 2004). The total amount of the secured lien is \$13,505.53, and Creditor concedes in the proof of claim that it is unsecured at least up to \$2,205.53. POC #5-1.

If this matter is not resolved prior to the hearing date, the court will consider the factual dispute raised by the Creditor and Debtors' opposing valuations and any evidence they bring in support of their respective valuations. The proof of claim is signed by a "Senior Bankruptcy Analyst." Attached to the claim is a market report from J.D. Power. Though the J.D. Power report may not be excluded hearsay (FRE 802 (17)), no foundation is provided by claimant as to the "Senior Bankruptcy Analyst's" knowledge of the quotation. But even if the court accepted the quotation, it does not carry more weight than the Debtor's valuation without additional contrary evidence. Given Creditor's concession that the value of the Vehicle is no higher than \$13,505.53, the court is inclined to GRANT the motion.

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.

7. [19-13422](#)-B-13 **IN RE: LINNEY WADE**
[MAZ-5](#)

MOTION TO INCUR DEBT
2-27-2024 [[110](#)]

LINNEY WADE/MV
MARK ZIMMERMAN/ATTY. FOR DBT.
OST 2/28/24

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.

Linney Wade ("Debtor") brings this motion to incur new debt for the purchase of real property. Doc. 110. Specifically, Debtor requests approval to purchase real property located at 630 West Cherry Court, Visalia, California 393277 ("the Property") for \$631,500.00 with an estimated monthly payment of \$4,805.00 payable to Golden Empire Mortgage Inc. ("the Mortgagee"). *Id.*

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 was filed in accordance with an order shortening time ("OST") to reduce the period of notice to permit the hearing to take place on March 13, 2024. Doc. #118. The order required Debtor to give notice to all parties on or before March 5, 2024. *Id.* Debtor appears to have complied with the OST by serving notice on all requisite parties on February 27, 2024. Docs. ##116,117.

If there is no opposition, the court is inclined to GRANT this motion.

Debtor asks the court for permission to borrow \$631,500.00 from Mortgagee at a rate of 6.750% to purchase the Property" under a 30-year mortgage. The loan will be secured by the Property under the terms outlined above. Debtor avers that he is current on all Chapter 13 plan payments, that he has recently completed all of his plan payments and is awaiting only the Chapter 13 Trustee's audit before discharge, that he has recently married, and that his wife's income will contribute to his monthly household expenses. Docs. ##110,112, 113. Debtor has also filed an amended *Schedule I-J* which includes his spouse's income in the determination of net monthly income and which shows that he can afford this monthly mortgage payment.

LBR 3015-1(h)(B) allows the debtor, with court approval, to finance the purchase of a residence if written consent of the chapter 13

trustee is filed with or as part of the motion. The trustee's approval is a certification to the court that: (i) all chapter 13 plan payments are current; (ii) the chapter 13 plan is not in default; (iii) the debtor has demonstrated an ability to pay all future plan payments, projected living expenses, and the new debt; (iv) the new debt is a single loan incurred to purchase a residence that is reasonably necessary for the maintenance or support of the debtor; (v) the only security for the new debt will be the residence purchased by debtor; and (vi) the monthly payment (the principal and interest payment on account of a the new debt plus all impounds, taxes, insurance, association fees, and bonds and other assessments) will not exceed the greater of the debtor's current such monthly payment or rental payment or \$2,500.00. LBR 3015-1(b) (1) (B).

If the trustee will not give consent, the debtors may still seek court approval under LBR 3015-1(h) (E) by filing and serving a motion on the notice required by Fed. R. Bankr. P. 2002 and LBR 9014-1. Since Debtors loan offer is only valid until April 29, 2024 (see Doc. #113 ("GEM Loan Approval"), Debtors filed a motion for an order shortening time to file this motion to incur debt on less than the 21 days' notice required by Fed. R. Bankr. P. 2002. Doc. #114. The court granted Debtors' request for an order shortening time, and Debtor appears to have complied with all the terms of that order in giving notice to parties in interest. Docs. ##116-18.

After review of the attached evidence, the court finds that Debtor will be able to make the monthly payment for the Property. Debtor is authorized, but not required, to incur further debt to purchase real property and a home located at 630 West Cherry Court, Visalia, California 393277 for \$631,500.00 with an estimated monthly payment of \$4,805.00.

Should the Debtors' budget prevent maintenance of current plan payment, Debtor shall continue making plan payments to the extent they are or will become due until the plan is modified.

8. [23-12623](#)-B-13 **IN RE: ERICKA GUTIERREZ GONZALEZ**
[LGT-1](#)

CONTINUED OBJECTION TO CONFIRMATION OF PLAN BY TRUSTEE
LILIAN G. TSANG
1-23-2024 [\[24\]](#)

MARK ZIMMERMAN/ATTY. FOR DBT.
RESPONSIVE PLEADING

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

DISPOSITION: Continued to March 27, 2024, at 9:30 a.m.

ORDER: The court will issue an order.

Victor Islas-Zabala and Lorena Gonzales ("Debtors") move for an order confirming the *First Modified Chapter 13 Plan* dated February 7, 2024.

Doc. #27. Debtors have not yet confirmed a plan. Chapter 13 trustee Lilian G. Tsang ("Trustee") timely objected to confirmation of the plan for the following reason(s):

1. The proposed Modified Plan moves a creditor ("Suttle and Hammer") from Class 4 to Class 1 without the submission of the required Class 1 Checklist to the Trustee. [11 U.S.C. § 1325(a)(1)]
2. The proposed plan will take 69.23 months to fund. [11 U.S.C. § 1322(d)].
3. The proposed plan does not cure the current plan payment deficiency. [11 U.S.C. § 1325(a)(6)].

Doc. #53. On February 27, 2024, Debtor filed a *Response* agreeing to increase monthly plan payments to \$896.46. Doc. #40. The *Response* also states that a hearing on Debtor's motion to avoid the Suttle and Hammer lien is set for March 27, 2024, at 9:30, and if the hearing goes favorably to Debtor, that creditor will be moved to Class 7 and paid 100% as an unsecured creditor. *Id.*

On March 5, 2024, the Trustee filed a Reply stating that (1) she agrees to the proposed plan payment increase, and (2) she requests that this matter be continued to March 27, 2024, at 9:30 a.m. to be heard in conjunction with the *Motion to Avoid Lien*. Doc. #42/

Accordingly, this motion to confirm plan will be CONTINUED to **March 27, 2024, at 9:30 a.m.** to be heard in conjunction with the *Motion to Avoid Lien*.

9. [20-13727](#)-B-13 **IN RE: ADOLFO/AURELIA HERNANDEZ**
[LGT-1](#)

MOTION TO DISMISS CASE
2-1-2024 [[133](#)]

SCOTT LYONS/ATTY. FOR DBT.
DISMISSED 2/21/24

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

DISPOSITION: Denied as moot.

ORDER: The court will issue an order.

On February 20, 2024, Debtors in the above-styled case filed a *Request for Voluntary Dismissal* of this case. Doc. #139. On February 21, 2024, the court entered an order granting voluntary dismissal. Doc. #141. Accordingly, the instant *Motion to Dismiss Case* is DENIED AS MOOT.

10. [19-13544](#)-B-13 **IN RE: RENE/ESPERANZA DE LUNA**
[LGT-1](#)

MOTION TO DISMISS CASE
2-7-2024 [[43](#)]

SCOTT LYONS/ATTY. FOR DBT.
RESPONSIVE PLEADING

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

DISPOSITION: Withdrawn.

No order is required.

On March 6, 2024, the Chapter 13 Trustee withdrew the instant *Motion to Dismiss*. See Doc. #53. Accordingly, this motion is WITHDRAWN.

11. [23-12047](#)-B-13 **IN RE: ADANAN/HUDA BATH**
[LGT-1](#)

MOTION TO DISMISS CASE
2-6-2024 [[78](#)]

PETER BUNTING/ATTY. FOR DBT.
RESPONSIVE PLEADING

After posting the original pre-hearing dispositions, the court has supplemented its intended ruling on this matter.

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

DISPOSITION: Withdrawn.

No order is required.

On March 12, 2024, the Trustee notified the court that the above-styled motion was withdrawn. Accordingly, this motion is WITHDRAWN.

12. [23-12857](#)-B-13 **IN RE: ASHLEY/JORDAN DAVIES**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES
2-26-2024 [[34](#)]

BENNY BARCO/ATTY. FOR DBT.
\$79.00 INSTALLMENT FILING FEE PAID 1/22/24

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

DISPOSITION: The OSC will be vacated.

ORDER: The court will issue an order.

The record shows that the installment fees now due have been paid. Accordingly, the order to show cause will be VACATED.

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. [24-10258](#)-B-13 **IN RE: SALATIEL/MARIA RUIZ**
[LGT-1](#)

MOTION TO DISMISS CASE
2-5-2024 [[8](#)]

DISMISSED 2/14/24

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

DISPOSITION: Denied as moot.

ORDER: The court will prepare the order.

On February 15, 2024, an Order of Dismissal was entered in this case due to the Debtors' failure to timely file required documents by the court's deadline. Accordingly, this motion to dismiss is DENIED AS MOOT.

14. [23-12260](#)-B-13 **IN RE: NAYELI LUNA**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES
2-13-2024 [[44](#)]

MARK ZIMMERMAN/ATTY. FOR DBT.
\$157.00 INSTALLMENT FILING FEE PAID 12/11/23
& \$78.00 PAID 1/9/24

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.

15. [21-12561](#)-B-13 **IN RE: AMANDA GROAH**
[LGT-1](#)

MOTION TO DISMISS CASE
1-22-2024 [[91](#)]

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

TENTATIVE RULING: This matter will be called as scheduled.

DISPOSITION: Granted or denied without prejudice.

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

Chapter 13 trustee Lilian G. Tsang ("Trustee") moves to dismiss this case for cause under 11 U.S.C. § 1307(c)(1) and (c)(6) for unreasonable delay by the debtor that is prejudicial to creditors and failure to make all payments due under the plan. Doc. #91. As of January 22, 2024, Amanda Roselle Groah ("Debtor") has failed to make all payments due under the plan and Debtor is delinquent \$2,367.00. Doc. #93. Before the hearing on this motion, an additional payment of \$2,369.00 will become due on February 25, 2024 for a total of \$4,736.00 due before the hearing.

Debtor timely filed written opposition. Doc. #97. Debtor states a payment in the amount of \$1,000.00 was made on February 21, 2024, and she will be able to catch up by April 2024. *Id.* Debtor claims she missed her Plan payments because she was caring for an ill relative, and she had to reduce her overtime hours. *Id.* The relative is "better now" and Debtor claims she can resume overtime. *Id.*

This matter will be called as scheduled to inquire whether Debtor has cured the delinquency. If so, this motion may be DENIED WITHOUT PREJUDICE. Otherwise, the motion may be GRANTED, and the case dismissed.

This motion was set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1) and will proceed as scheduled. The failure of the creditors, the U.S. Trustee, or any other party in interest except 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). Therefore, the defaults of the above-mentioned parties in interest except Debtor 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).

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) and (c)(6) for unreasonable delay that is prejudicial to creditors and failure to make all payments due under the plan.

Trustee has reviewed the schedules and determined that this case has a liquidation value of \$2,807.72 after trustee compensation. Doc. #93. This value consists of the non-exempt equity in Debtor's 2013 Ford Fusion. Since a *de minimis* amount of proceeds could be realized for the benefit of unsecured claims, dismissal, rather than conversion, better serves the interests of creditors and the estate.

As noted above, Debtor made payment in the amount of \$1,000.00 on February 21, 2024, and should be able to cure the remaining delinquency by April 2024.

This matter will be called as scheduled to inquire whether Debtor has cured the delinquency. If so, this motion may be DENIED WITHOUT PREJUDICE. Otherwise, the motion may be GRANTED, and the case dismissed.

16. [24-10161](#)-B-13 **IN RE: ERNESTO/ASHLEY ARELLANO**
[SL-1](#)

MOTION TO VALUE COLLATERAL OF NOBLE CREDIT UNION
2-2-2024 [9]

ASHLEY ARELLANO/MV
SCOTT LYONS/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 Moving Party will
 submit a proposed order.

Ernesto and Ashley Arellano ("Debtors") ask this court for an order valuing a 2020 Chevrolet Traverse ("Vehicle") at \$23,146.00 as of the filing date. Doc. #9. The Vehicle is encumbered by a purchase money security interest loan held by Noble Credit Union ("Creditor"). *Id.* The Certificate of Service reflects that the motion was properly served on one of Creditor's officers. Doc. #13.

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 chapter 13 trustee, 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 may be entered and the matter resolved without oral argument. 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). 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.

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

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." "Replacement value" 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. § 1325(a)(*) (the hanging paragraph) states that 11 U.S.C. § 506 is not applicable to claims described in that paragraph if (1) the creditor has a purchase money security interest securing the debt that is the subject of the claim, (2) the debt was incurred within 910 days

preceding the filing of the petition, and (3) the collateral is a motor vehicle acquired for the personal use of the debtor.

According to the moving papers, the Vehicle was purchased on May 8, 2020, which is more than 910 days prior to the January 24, 2024, filing date. Docs. ##1,11,12. Accordingly, § 506 applies.

In its proof of claim, Creditor asserts that the value of the Vehicle is **\$23,146.00**. POC #12-1. The Debtors have submitted a Declaration in which they aver that the value of the Vehicle is **\$23,146.00**. Doc. #11. Debtors are competent to testify as to the value of the Vehicle, and in the absence of contrary evidence, the debtor's opinion of value may be conclusive. *Enewally v. Wash. Mut. Bank (In re Enewally)*, 368 F.3d 1165, 1173 (9th Cir. 2004)

This jurisdiction's local rules require a motion to value collateral be noticed and set for a hearing before a plan can be confirmed if the plan reduces an allowed secured claim in class 2 based on collateral value. See Local Rule of Practice 3015-1(i). Because Debtors do not dispute the value asserted by Creditor, the declaration from Debtor Ashley Arellano is sufficient even though she is not qualified as an expert.

In light of the foregoing, this motion is GRANTED. 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.

17. [23-12271](#)-B-13 **IN RE: RODNEY TIMMONS**
[AMS-7](#)

MOTION TO CONFIRM PLAN
2-1-2024 [[71](#)]

RODNEY TIMMONS/MV
ADELE SCHNEIDEREIT/ATTY. FOR DBT.
RESPONSIVE PLEADING

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

DISPOSITION: Denied without prejudice.

ORDER: The court will enter the order.

Rodney Timmons ("Debtor") seeks an order confirming the *First Modified Chapter 13 Plan* dated December 19, 2023. Docs. ## 38, 71. No plan has been confirmed so far.

This motion will be DENIED WITHOUT PREJUDICE for failure to comply with the Local Rules of Practice ("LBR").

LBR 7005-1 requires service of pleadings and other documents in adversary proceedings, contested matters, and all other proceedings in

this district that are filed by attorneys, trustees, or other Registered Electronic Filing System Users to document their service of any such pleadings and/or documents by filing a certificate of service and using the *Official Certificate of Service Form*, EDC 007-005. That form can be found on the court's website at <https://www.caeb.uscourts.gov/CertificateOfServiceForm> (visited November 14, 2023). Movants did not employ the Official Form.

18. [23-12271](#)-B-13 **IN RE: RODNEY TIMMONS**
[LGT-1](#)

CONTINUED MOTION TO DISMISS CASE
1-9-2024 [[61](#)]

LILIAN TSANG/MV
ADELE SCHNEIDEREIT/ATTY. FOR DBT.

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Continued to a date determined at the hearing.

ORDER: The court will issue an order.

The Chapter 13 Trustee moves to dismiss this case for cause on the following grounds:

1. Unreasonable delay by the debtor that is prejudicial to creditors.
2. Failure to confirm a Chapter 13 Plan.
3. Debtor has failed to make payments due under the plan. As of January 09, 2024, payments are delinquent in the amount of \$1,096.00. While this motion is pending, further payments will come due. In addition to the delinquency amount, Debtor must also make the monthly plan payment of \$806.00 for January 25, 2024.

This matter was originally set to be heard on February 14, 2024, but the court continued it so that it could be heard in conjunction with the Debtor's *Motion for Confirmation* which purports to resolve the issues which gave rise the instant motion. The court denied that *Motion for Confirmation* on procedural grounds (see *Item #17, above*) and is inclined to continue the instant matter until April. Nevertheless, the court thinks it prudent to hear from the Trustee and Debtor about whether the changes proposed by Debtor will resolve the Trustee's concerns if the procedural defects can be cured.

19. [23-12278](#)-B-13 **IN RE: MATTHEW QUALLS**
[LGT-1](#)

MOTION TO DISMISS CASE
2-14-2024 [\[68\]](#)

LILIAN TSANG/MV
SUSAN SILVEIRA/ATTY. FOR DBT.
DISMISSED 2/20/24

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

DISPOSITION: Denied as moot.

ORDER: The court will issue an order.

On February 15, 2024, the Debtor filed an *Ex Parte Motion to Dismiss Pursuant to 11 U.S.C. § 1307(b)*. Doc. #74. The court granted that motion on February 20, 2024. Doc. #77. Accordingly, the instant *Motion to Dismiss Case* is DENIED AS MOOT.

20. [23-12478](#)-B-13 **IN RE: ZACARE BURRIS AND AMY RABAGO-BURRIS**
[FDA-1](#)

MOTION TO APPROVE STIPULATION FOR RELIEF FROM THE AUTOMATIC
STAY
2-21-2024 [\[57\]](#)

JOHN SOMERS/MV
STEPHEN LABIAK/ATTY. FOR DBT.
JOHN WASTE/ATTY. FOR MV.

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 with the stipulation attached as an exhibit and shall separately file the stipulation and docket it as a stipulation.

Creditor John Somers ("Movant") requests an order approving a joint stipulation ("Stipulation") entered into with Zacare Burris and Amy Rebecca Rabago-Burris ("Debtors") under Fed. R. Bankr. P. ("Rule") 4001(d). Doc. #57. The Stipulation also provides for waiver of the 14-day stay of Rule 4001(a)(3).

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.

The following facts are outlined in the Joint Stipulation and the Declaration accompanying the instant motion. Docs. ##57, 63. See also Doc. #60 (*Exhib. B*). Movant is Debtors' landlord pursuant to a commercial lease entered into on or about April 17, 2023, for an office/warehouse space located at 1635 South "O" Street, Suite A, Tulare, California, 93274 ("the Property"). *Id.* The lease term was for two (2) years with rent at \$1,300.00 per month, and the Debtors sought to use the space as a gymnasium for their personal training business. *Id.* The Debtors have no desire to continue the lease and have abandoned the Property since the Petition Date. *Id.* Movant seeks the return of the keys to the Property from Debtors and wishes to lease the now-abandoned Property to new tenants, to which Debtors consent. *Id.*

As a result, Movant and Debtors executed this Stipulation, which was filed as an Exhibit to this motion and also separately on the docket. See Doc. #60 (*Exhib. B*) and Doc. 63. Under the terms of the Stipulation, Movant and Debtors agree that Movant shall have relief from the automatic stay to acquire the keys to the Property and to rent the Property to a new prospective tenant. *ID.* Movant now requests approval of the Stipulation. Doc. #57.

Under Rule 4001(d)(1)(A)(iii), a party may file a motion for approval of an agreement to modify or terminate the stay provided in § 362. The motion contains the required contents outlined in Rule 4001(d)(1)(B) and was properly served on all creditors as required by Rule 4001(d)(1)(C). Pursuant to Rule 4001(d)(1), (2), and (3), a hearing was set on at least seven days' notice and the parties required to be served were given at least 14 days to file objections or may appear to object at the hearing.

Written opposition was not required and may be presented at the hearing. In the absence of opposition, this motion will be GRANTED, and the Stipulation approved. The court will also order the 14-day stay of Rule 4001(a)(3) waived because the parties have consented to stay relief.

21. [23-12478](#)-B-13 **IN RE: ZACARE BURRIS AND AMY RABAGO-BURRIS**
[SLL-2](#)

MOTION TO CONFIRM PLAN
2-1-2024 [\[41\]](#)

AMY RABAGO-BURRIS/MV
STEPHEN LABIAK/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.

Zacare Burris and Amy Rabago-Burris ("Debtors") seek an order confirming the *Second Modified Chapter 13 Plan* dated February 1, 2024 Doc. #41. No plan has been confirmed so far. The 60-month plan proposes the following terms:

1. Debtor's payment will be \$2,703.00 per month.
2. Outstanding Attorney's fees in the amount of \$8,500.00 to be paid through the plan pursuant to LBR 2016-1(c).
3. Secured creditors to be sorted into appropriate Classes and paid as follows:
 - a. Loan depo (Class 1, Mortgage-1558 E. Avila Dr., Tulare, CA). \$4,380.00 in mortgage rears 0% to be paid at \$73.00 per month. Post-petition mortgage payments to be made at \$1,757.90 per month.
4. A dividend of 0% to unsecured creditors.

Doc. #43.

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 chapter 13 trustee, 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 any non-responding parties in interest will be entered and the matter may be resolved without oral argument. 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). 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 only party to timely respond was the Chapter 13 Trustee, and that objection was withdrawn on February 14, 2024. Doc. #49. The defaults of all non-responding parties are entered.

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

22. [18-14481](#)-B-13 **IN RE: BETTY OCHOA**
[LGT-1](#)

MOTION TO DISMISS CASE
2-8-2024 [[69](#)]

LILIAN TSANG/MV
GLEN GATES/ATTY. FOR DBT.
RESPONSIVE PLEADING

TENTATIVE RULING: This matter will be called as scheduled.

DISPOSITION: Granted or denied without prejudice.

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

Chapter 13 trustee Lilian G. Tsang ("Trustee") moves to dismiss this case for cause under 11 U.S.C. § 1307(c)(1), (c)(6) for unreasonable delay by the debtor that is prejudicial to creditors and failure to make all payments due under the plan and termination of a confirmed plan by reason of the occurrence of a condition specified in the plan other than completion of payments under the plan 11 U.S.C. § 1307(c)(8). Doc. #69. As of February 8, 2024, Betty Carmen Ochoa ("Debtor") has failed to make all payments due under the plan and Debtor is delinquent \$504.61, with additional payments accruing. Doc. #71.

Debtor timely filed written opposition in which she proposes that, in lieu of dismissal, she be permitted to continuing making her ongoing monthly payments with a lump sum payment to cover any deficiency remaining at the time of plan completion. Doc. #76. In the court's view, such a proposal could only be affected through a modification of the plan, which Debtor has not sought.

This matter will be called as scheduled to inquire whether Debtor has cured the delinquency. If so, this motion may be DENIED WITHOUT PREJUDICE. Otherwise, the motion may be GRANTED, and the case dismissed.

This motion was set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1) and will proceed as scheduled. The failure of the creditors, the U.S. Trustee, or any other party in interest except 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). Therefore, the defaults of the above-mentioned parties in interest except Debtor 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).

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) and (c)(6) for unreasonable delay that is prejudicial to creditors and failure to make all payments due under the plan.

Trustee has reviewed the schedules and determined that Debtor has no equity in any of her real property, vehicles, or significant assets, all of which are over-encumbered or exempt. Doc. #69. Accordingly, in the Trustee's view, dismissal, rather than conversion, better serves the interests of creditors and the estate. *Id.*

23. [23-12585](#)-B-13 **IN RE: RONALD BARHAM**
[LGT-1](#)

CONTINUED OBJECTION TO CONFIRMATION OF PLAN BY TRUSTEE
LILIAN G. TSANG
1-25-2024 [\[20\]](#)

JONATHAN DOAN/ATTY. FOR DBT.

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

DISPOSITION: Denied as moot.

ORDER: The court will issue an order.

The Chapter 13 Trustee ("Trustee") objects to confirmation of Ronald Barham's ("Debtor's") Chapter 13 Plan dated December 6, 2023. Doc. #20. On February 12, 2024, Debtor filed his *Second Amended Plan*. Doc. #26. On February 22, 2024, Debtor filed his *Motion to Confirm Plan*. Doc. #32. Accordingly, the instant objection is OVERRULED AS MOOT.

24. [24-10286](#)-B-13 **IN RE: MONICA BURGESS**
[LGT-1](#)

MOTION TO DISMISS CASE
2-7-2024 [[9](#)]

DISMISSED 2/26/24

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 already entered on February 26, 2024. (Doc. #17). The motion will be DENIED AS MOOT.

25. [23-11793](#)-B-13 **IN RE: JONATHAN PRICE**
[LGT-1](#)

MOTION TO DISMISS CASE
2-6-2024 [[21](#)]

SCOTT LYONS/ATTY. FOR DBT.
RESPONSIVE PLEADING

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

DISPOSITION: Denied as moot.

ORDER: The court will prepare the order.

On February 6, 2024, the Chapter 13 Trustee filed this motion to dismiss the above-styled case for failure to make plan payments. Doc. #21. On February 20, 2024, the Debtor responded to the motion, averring that he would either cure the arrearage prior to the hearing date or, in the alternative, he would file a modified plan to address the delinquency. Doc. #27.

On February 29, 2024, Debtor filed his *First Modified Plan* and his motion for confirmation of same. Docs. ##30, 35. Accordingly, the instant motion to dismiss will be DENIED as moot.

26. [24-10098](#)-B-13 **IN RE: LIANZO/YOLANDA GONZALEZ**
[SKI-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
2-8-2024 [18]

AMERICREDIT FINANCIAL
SERVICES, INC./MV
TIMOTHY SPRINGER/ATTY. FOR DBT.
SHERYL ITH/ATTY. FOR MV.
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.

Americredit Financial Services, Inc. dba GM Financial ("Movant") seeks relief from the automatic stay under 11 U.S.C. § 362(d)(1) with respect to a 2022 Chevrolet Colorado ("Vehicle"). Doc. #18. Movant also requests waiver of the 14-day stay of Fed. R. Bankr. P. 4001(a)(3). Id.

Lianzo and Yolanda Gonzalez ("Debtors") filed non-opposition on February 15, 2024. Doc. #27. No other party in interest timely filed written opposition. This motion will be GRANTED.

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.

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).

After review of the included evidence, the court finds that "cause" exists to lift the stay because Debtors has failed to make one

payment. The Movant has produced evidence that Debtors are delinquent at least \$648.37. Docs. ##20, 23.

Accordingly, the motion will be granted pursuant to 11 U.S.C. § 362(d)(1) to permit the Movant to dispose of its collateral pursuant to applicable law and to use the proceeds from its disposition to satisfy its claim. No other relief is awarded. According to the Debtors' First Modified Chapter 13 Plan (Doc. #36), the Vehicle will be surrendered.

The 14-day stay of Fed. R. Bankr. P. 4001(a)(3) will be ordered waived because Debtors have failed to make one payment to Movant, failed to maintain insurance coverage, and the Vehicle is a depreciating asset.

11:00 AM

1. [19-15103](#)-B-7 **IN RE: NATHAN/AMY PERRY**
[20-1017](#)

PRE-TRIAL CONFERENCE RE: COMPLAINT
3-15-2020 [[1](#)]

RICHNER ET AL V. PERRY
RICHARD FREEMAN/ATTY. FOR PL.

After posting the original pre-hearing dispositions, the court has supplemented its intended ruling on this matter.

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

DISPOSITION: Continued to May 15, 2024 at 11:00 a.m.

ORDER: The court till prepare the order.

On March 11, 2024, counsel for the Plaintiffs/Petitioners in this matter filed an *Application for Continuance* requesting that this matter be continued for 60 days. The grounds submitted for continuance are (1) counsel has been ill with a prolonged viral flu and as a result of his extended illness has been unable to complete the Plaintiff's Pre-Trial Conference Statement, and (2) counsel avers that Debtor-Defendant Amy Perry has been adjudged guilty of felonious misapplication of funds as to six Plaintiffs, and ongoing matters in that criminal case will impact the instant proceedings. Counsel avers that he has attempted unsuccessfully to contact the self-represented Debtor to no avail.

The court finds that this Application is well-taken and should be GRANTED. Accordingly, this matter is hereby CONTINUED TO May 15, 2024, at 11:00 a.m. The Plaintiff's pre-trial statement shall be due April 19, 2024. Defendant's pre-trial statement is due May 3, 2024.