

UNITED STATES BANKRUPTCY COURT
Eastern District of California
Honorable René Lastreto II
Hearing Date: Thursday, March 21, 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. [19-10423](#)-B-12 **IN RE: KULWINDER SINGH AND BINDER KAUR**

STATUS CONFERENCE RE: CHAPTER 12 VOLUNTARY PETITION
2-6-2019 [[1](#)]

DAVID JOHNSTON

NO RULING.

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.

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

DISPOSITION: Continued to April 11, 2019 at 9:30 a.m.

NO ORDER REQUIRED: The court already issued an order. Doc. #1228.

3. [17-13797](#)-B-9 **IN RE: TULARE LOCAL HEALTHCARE DISTRICT**
[LPP-1](#)

CONTINUED MOTION FOR ADMINISTRATIVE EXPENSES
12-17-2018 [[941](#)]

OWENS AND MINOR, INC./MV
RILEY WALTER
MATTHEW LESNICK/ATTY. FOR MV.
RESPONSIVE PLEADING

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

DISPOSITION: Dropped from calendar.

NO ORDER REQUIRED: An order removing this motion has already been entered. Doc. #1213.

4. [17-13797](#)-B-9 **IN RE: TULARE LOCAL HEALTHCARE DISTRICT**
[WW-76](#)

MOTION TO REJECT LEASE OR EXECUTORY CONTRACT
3-7-2019 [\[1209\]](#)

TULARE LOCAL HEALTHCARE
DISTRICT/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 consistent with the ruling below.

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.

11 U.S.C. § 365(a) states that "subject to the court's approval, [the debtor in possession] may . . . reject any executory contract . . . of the debtor."

In evaluating a decision to reject an executory contract or unexpired lease in the Ninth Circuit, "the bankruptcy court should presume that the debtor-in-possession acted prudently, on an informed basis, in good faith, and in the honest belief that the action taken was in the best interests of the bankruptcy estate." Agarwal v. Pomona Valley Med. Group, Inc. (In re Pomona Valley Med. Group, Inc.), 476 F.3d 665, 670 (9th Cir. 2007) (citations omitted).

Unless opposition is presented at the hearing, the court finds that the presumption has not been rebutted, and therefore the debtor-in-possession's decision to reject is consistent with the business judgment rule and Ninth Circuit precedent.

The debtor-in-possession is authorized to reject the four agreements listed on page two of the motion. Doc. #1209. The agreements are service agreements, credit agreements, and deferred equipment agreements.

Any claim based on this motion shall be filed on or before June 19, 2019 provided notice of the order rejecting these contracts is served on the other parties to these contracts on or before March 28, 2019.

5. [17-13797](#)-B-9 **IN RE: TULARE LOCAL HEALTHCARE DISTRICT**
[WW-77](#)

CONTINUED MOTION TO ASSUME LEASE OR EXECUTORY CONTRACT
2-14-2019 [\[1103\]](#)

TULARE LOCAL HEALTHCARE
DISTRICT/MV
RILEY WALTER

NO RULING.

6. [17-13797](#)-B-9 **IN RE: TULARE LOCAL HEALTHCARE DISTRICT**
[WW-84](#)

MOTION TO ASSUME LEASE OR EXECUTORY CONTRACT
2-26-2019 [\[1160\]](#)

TULARE LOCAL HEALTHCARE
DISTRICT/MV
RILEY WALTER

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Granted in part and continued in part to April
11, 2019 at 9:30 a.m.

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.

11 U.S.C. § 365(a) states that "subject to the court's approval, [the debtor in possession] may assume . . . any executory contract . . . of the debtor."

In evaluating a decision to reject an executory contract or unexpired lease in the Ninth Circuit, "the bankruptcy court should presume that the debtor-in-possession acted prudently, on an informed basis, in good faith, and in the honest belief that the action taken was in the best interests of the bankruptcy estate." Agarwal v. Pomona Valley Med. Group, Inc. (In re Pomona Valley Med. Group, Inc.), 476 F.3d 665, 670 (9th Cir. 2007) (citations omitted).

Even though this motion is a motion to assume, not reject, the analysis is identical. "...[C]ourts are no more equipped to make subjective business decisions for...businesses..." *Id.* The presumption has not been rebutted, and therefore the court finds that the

debtor-in-possession's decision to assume is consistent with the business judgment rule and Ninth Circuit precedent.

Unless opposition is presented at the hearing, the court finds that the presumption has not been rebutted, and therefore the debtor-in-possession's decision to assume is consistent with the business judgment rule and Ninth Circuit precedent.

The debtor-in-possession is authorized to assume and assign the list of "Designated Contracts" in exhibit A, less the seven contracts listed in doc. #1222 ("Seven Contracts"), to Adventist Health, consisting of health insurance, patient insurance and other insurance contracts. Doc. #1164. This matter will be continued to April 11, 2019 at 9:30 a.m. to allow the debtor to address the Seven Contracts not assumed at this time.

The 14 day stay under Federal Rule of Bankruptcy Procedure 6006(d) is waived, and Debtor is authorized to pay the cure amounts, if any exist, under the Designated Contracts at the Closing Date.

7. [17-13797](#)-B-9 **IN RE: TULARE LOCAL HEALTHCARE DISTRICT**
[WW-85](#)

MOTION TO ASSUME LEASE OR EXECUTORY CONTRACT
2-26-2019 [\[1166\]](#)

TULARE LOCAL HEALTHCARE
DISTRICT/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.

11 U.S.C. § 365(a) states that "subject to the court's approval, [the debtor in possession] may assume . . . any executory contract . . . of the debtor."

In evaluating a decision to reject an executory contract or unexpired lease in the Ninth Circuit, "the bankruptcy court should presume that the debtor-in-possession acted prudently, on an informed basis, in good faith, and in the honest belief that the action taken was in the best interests of the bankruptcy estate."

Agarwal v. Pomona Valley Med. Group, Inc. (In re Pomona Valley Med. Group, Inc.), 476 F.3d 665, 670 (9th Cir. 2007) (citations omitted).

Even though this motion is a motion to assume, not reject, the analysis is identical. "...[C]ourts are no more equipped to make subjective business decisions for...businesses..." *Id.* The presumption has not been rebutted, and therefore the court finds that the debtor-in-possession's decision to assume is consistent with the business judgment rule and Ninth Circuit precedent.

Unless opposition is presented at the hearing, the court finds that the presumption has not been rebutted, and therefore the debtor-in-possession's decision to assume is consistent with the business judgment rule and Ninth Circuit precedent.

The debtor-in-possession is authorized to assume and assign the list of "Designated Contracts" in exhibit A to Adventist Health. The contracts consist of transfer agreements. Doc. #1170. The 14 day stay under Federal Rule of Bankruptcy Procedure 6006(d) is waived, and Debtor is authorized to pay the cure amounts, if any exist, under the Designated Contracts at the Closing Date.

8. [17-13797](#)-B-9 **IN RE: TULARE LOCAL HEALTHCARE DISTRICT**
[WW-86](#)

MOTION TO ASSUME LEASE OR EXECUTORY CONTRACT
2-26-2019 [\[1172\]](#)

TULARE LOCAL HEALTHCARE
DISTRICT/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.

11 U.S.C. § 365(a) states that "subject to the court's approval, [the debtor in possession] may assume . . . any executory contract . . . of the debtor."

In evaluating a decision to reject an executory contract or unexpired lease in the Ninth Circuit, "the bankruptcy court should presume that the debtor-in-possession acted prudently, on an

informed basis, in good faith, and in the honest belief that the action taken was in the best interests of the bankruptcy estate." Agarwal v. Pomona Valley Med. Group, Inc. (In re Pomona Valley Med. Group, Inc.), 476 F.3d 665, 670 (9th Cir. 2007) (citations omitted).

Even though this motion is a motion to assume, not reject, the analysis is identical. "...[C]ourts are no more equipped to make subjective business decisions for...businesses..." *Id.* The presumption has not been rebutted, and therefore the court finds that the debtor-in-possession's decision to assume is consistent with the business judgment rule and Ninth Circuit precedent.

Unless opposition is presented at the hearing, the court finds that the presumption has not been rebutted, and therefore the debtor-in-possession's decision to assume is consistent with the business judgment rule and Ninth Circuit precedent.

The debtor-in-possession is authorized to assume and assign the list of "Designated Contracts" in exhibit A, with the exception of the Hospital Council of Northern and Southern California and Tulare Nursing and Rehabilitation Center contracts, which debtor has stated that it intends to appear at the hearing and amend Sanford Haskins' declaration (doc. #1175) to remove said contracts, to Adventist Health. Doc. #1176. The 14 day stay under Federal Rule of Bankruptcy Procedure 6006(d) is waived, and Debtor is authorized to pay the cure amounts, if any exist, under the Designated Contracts at the Closing Date.

1:30 PM

1. [18-11201](#)-B-13 **IN RE: DOUGLAS PARKS**
[FW-5](#)

MOTION TO MODIFY PLAN
1-30-2019 [\[98\]](#)

DOUGLAS PARKS/MV
PETER FEAR
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 chapter 13 trustee withdrew his opposition on March 15, 2019. Doc. #113. The confirmation order shall include the docket control number of the motion and it shall reference the plan by the date it was filed.

2. [19-10003](#)-B-13 **IN RE: JAMES SUCHIL-SOTO**
[MHM-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY TRUSTEE MICHAEL H.
MEYER
2-26-2019 [[16](#)]

TIMOTHY SPRINGER

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

DISPOSITION: Dropped from calendar.

NO ORDER REQUIRED: Movant withdrew the objection. Doc. #29.

3. [19-10004](#)-B-13 **IN RE: GEORGE BAKER**
[RMP-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY REAL TIME RESOLUTIONS,
INC.
2-26-2019 [[44](#)]

REAL TIME RESOLUTIONS, INC./MV
JOEL WINTER
RENEE PARKER/ATTY. FOR MV.

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

DISPOSITION: Denied without prejudice.

ORDER: The court will issue an order.

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

The notice did not contain the language required under LBR 9014-
1(d)(3)(B)(iii). LBR 9014-1(d)(3)(B), which is about noticing
requirements, requires movants to notify respondents that they can
determine whether the matter has been resolved without oral argument
or if the court has issued a tentative ruling by checking the
Court's website at www.caeb.uscourts.gov after 4:00 p.m. the day
before the hearing.

4. [18-13105](#)-B-13 **IN RE: MATTHEW ESCALANTE**
[DMG-3](#)

MOTION FOR COMPENSATION FOR D. MAX GARDNER, DEBTORS
ATTORNEY(S)
2-22-2019 [\[60\]](#)

D. GARDNER

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. Movant is awarded \$4,888.00 in fees and \$171.00 in costs.

5. [19-10212](#)-B-13 **IN RE: BRANDON DE LA CRUZ**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES
2-27-2019 [\[19\]](#)

MARK ZIMMERMAN

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.

6. [19-10023](#)-B-13 **IN RE: LUIS GUTIERREZ JIMENEZ AND MIRANDA
GUTIERREZ
[AP-1](#)**

OBJECTION TO CONFIRMATION OF PLAN BY QUICKEN LOANS INC.
2-18-2019 [\[27\]](#)

QUICKEN LOANS INC./MV
NICHOLAS WAJDA
WENDY LOCKE/ATTY. FOR MV.

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Sustained in part and overruled in part.

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

This objection 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 sustain the objection in part and overrule the objection 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.

Creditor Quicken Loans Inc.'s ("Creditor") objection is that the plan does not account for the entire amount of the pre-petition arrearages that debtor owes to creditor and that the plan does not promptly cure Creditor's pre-petition arrears as required by 11 U.S.C. § 1322(b)(5). Doc. #27, claim #14. Creditor also claims the Plan is not feasible when considering the actual arrearage owed creditor and the post-petition payment.

The objection that the entire pre-petition claim is not provided for under the Plan is OVERRULED. Section 3.02 of the plan provides that it is the proof of claim, not the plan itself, that determines the amount that will be repaid under the plan. Doc. #12. Creditor's proof of claim, filed February 21, 2019, states a claimed arrearage of \$29,940.13. This claim is classified in class 1 - paid by the chapter 13 trustee. Plan section 3.07(b)(2) states that if a Class 1 creditor's proof of claim demands a higher or lower post-petition monthly payment, the plan payment shall be adjusted accordingly.

The objection that the Plan understates the amount of arrears and therefore should not be confirmed is OVERRULED. The plan states arrears of \$25,825.00. Doc. #12. Creditor's claim states arrears of \$29,940.13. Though plan section 3.02 provides that the proof of claim, and not the plan itself, that determines the amount that will be repaid, section 3.07(b)(2) requires that the payment be adjusted accordingly for a class 1 claim. Payments equal to satisfy the arrears and the post-petition payments will be made unless there is a sustained claim objection or other treatment of the creditor's claim.

The objection on feasibility grounds is SUSTAINED. The creditor claims the debtors' schedule I and J show the debtors cannot increase the monthly payment to satisfy the claimed arrearage or the post-petition payments. The debtors have the burden on all elements of confirmation. At this time, the debtor has not met that burden.

The objection is OVERRULED IN PART and SUSTAINED IN PART.

7. [19-10023](#)-B-13 **IN RE: LUIS GUTIERREZ JIMENEZ AND MIRANDA GUTIERREZ**
[AP-2](#)

OBJECTION TO CONFIRMATION OF PLAN BY BANK OF AMERICA, N.A.
2-19-2019 [\[31\]](#)

BANK OF AMERICA, N.A./MV
NICHOLAS WAJDA
WENDY LOCKE/ATTY. FOR MV.

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Overruled in part. Further hearing may be necessary.

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

This objection 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 overrule the objection. 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.

Creditor Bank of America ("Creditor") objects to plan confirmation because the plan was not proposed in good faith and is likely not feasible. Doc. #31. The good faith argument is based on two facts: the debtor did not list creditor's claim in the schedules; the plan does not "provide" for creditor's claim.

First the failure to "provide" for Creditor's claim in the Plan is not grounds to deny confirmation. 11 U.S.C. § 1322(a) specifies the mandatory provisions of a Plan. It requires only that the debtor adequately fund the plan with future earnings or other future income that is paid over to the trustee (§ 1322(a)(1)); provide for payment in full of priority claims (§§ 1322(a)(2) and (a)(4)), and provides the same treatment for each claim in a particular class (§ 1322(a)(3)). Nothing in that section compels a debtor to propose a Plan that provides for a secured claim.

Provisions relating to treatment of secured claims are in part permissive and mandatory if the debtor proposes to "provide" for the secured claim in the Plan. See §§ 1322(b), 1325(a)(5). But, the

options for treatment are relevant only if the Plan provides for the claim.

This Plan does not provide for Creditor's claim. Creditor's remedy is not denial of confirmation. Rather, it is asking for stay relief in an appropriate motion. The absence of treatment of the Creditor in the Plan is evidence that the collateral is not necessary for an effective reorganization of debtors' affairs.

Second, good faith is more problematic. 11 U.S.C. § 1325(a)(3) requires that the plan be proposed in good faith before the court can confirm a chapter 13 plan. In deciding whether a plan has been proposed in good faith, the court will look to the totality of the circumstances. Goeb v. Heid (In re Geob), 675 F.2d 1386, 1390 (9th Cir. 1982). Establishing good faith is the debtor's burden. In re Lavilla, 425 B.R. 572, 581-82 (Bankr. E.D. Cal. 2010) (citing In re Warren, 89 B.R. 87 (B.A.P. 9th Cir. 1988)) (superseded by statute on other grounds).

Debtors' plan and schedules fail to account for Creditor's purported claim of approximately \$36,731.55. Doc. #31, 33. The court notes the deadline to file a claim for this creditor is March 18, 2019. Doc. #21. This may be indicia of bad faith but the "totality of the circumstances" must be considered.

Unless opposition is presented, the plan as currently proposed may not be feasible anyway (see the earlier motion). Debtors Schedule J does not include Creditor's obligation, and therefore Debtors' disposable income may be overstated.

The court will address good faith at the hearing and determine if further hearing is necessary.

This objection is **OVERRULED IN PART**. Further hearing on the remaining ground of objection (Good faith) may be necessary.

8. [18-14834](#)-B-13 **IN RE: ALEX PENA**
[MHM-1](#)

MOTION TO DISMISS CASE
2-6-2019 [\[17\]](#)

MICHAEL MEYER/MV
TIMOTHY SPRINGER

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

DISPOSITION: Granted.

ORDER: The court will issue an order.

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

This matter was fully noticed in compliance with the Local Rules of Practice and there is no opposition. Accordingly, the respondent's default will be entered. Federal Rule of Civil Procedure 55, made applicable by Federal Rule of Bankruptcy Procedure 7055, governs default matters and is applicable to contested matters under Federal Rule of Bankruptcy Procedure 9014(c). Upon default, factual allegations will be taken as true (except those relating to amount of damages). *Televideo Systems, Inc. v. Heidenthal* (826 F.2d 915, 917 (9th Cir. 1987)). Constitutional due process requires that a plaintiff make a prima facie showing that they are entitled to the relief sought, which the movant has done here.

The record shows that the debtor has failed to confirm a Chapter 13 Plan. 11 U.S.C. § 1307(c). Accordingly, the case will be dismissed.

9. [18-14834](#)-B-13 **IN RE: ALEX PENA**
[TCS-1](#)

MOTION TO VALUE COLLATERAL OF SANTANDER CONSUMER USA
2-7-2019 [\[21\]](#)

ALEX PENA/MV
TIMOTHY SPRINGER

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

DISPOSITION: Denied as moot.

ORDER: The court will issue an order.

This motion is DENIED AS MOOT. The case is dismissed. See matter #9 above, MHM-2.

10. [19-10140](#)-B-13 **IN RE: KENNETH/PAULANNA INGLE**
[MHM-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY TRUSTEE MICHAEL H.
MEYER
2-26-2019 [\[16\]](#)

SCOTT LYONS

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

DISPOSITION: Continued to April 25, 2019 at 1:30 p.m.

ORDER: The court will issue an order.

The trustee has filed a detailed objection to the debtors' fully noticed motion to confirm a chapter 13 plan. Unless this case is voluntarily converted to chapter 7, dismissed, or the trustee's opposition to confirmation is withdrawn, the debtors shall file and serve a written response not later than April 11, 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 debtors' position. The trustee shall file and serve a reply, if any, by April 18, 2019.

If the debtors elect 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 April 18, 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.

11. [18-13846](#)-B-13 **IN RE: EDUARDO HURTADO-ORTIZ AND VERONICA HURTADO**
[MHM-4](#)

OBJECTION TO DEBTOR'S CLAIM OF EXEMPTIONS
2-6-2019 [\[49\]](#)

MICHAEL MEYER/MV
YELENA GUREVICH

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

DISPOSITION: Overruled as moot.

ORDER: The court will issue an order.

This objection is OVERRULED AS MOOT. Debtors filed an amended Schedule C after this objection was filed. See doc. #57.

12. [18-14352](#)-B-13 **IN RE: STEVEN CHAVEZ**
[SFR-3](#)

MOTION TO CONFIRM PLAN
2-14-2019 [\[54\]](#)

STEVEN CHAVEZ/MV
SHARLENE ROBERTS-CAUDLE
DISMISSED 2/15/19

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

DISPOSITION: Dropped from calendar.

NO ORDER REQUIRED: An order dismissing the case has already been entered. Doc. #63.

13. [18-14454](#)-B-13 **IN RE: ESEQUIEL/ROXANNE PEREZ**
[MAZ-1](#)

MOTION TO VALUE COLLATERAL OF SANTANDER
2-12-2019 [\[27\]](#)

ESEQUIEL PEREZ/MV
MARK ZIMMERMAN

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 2012 Ford Edge. 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 \$13,050.00. 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.

14. [18-14454](#)-B-13 **IN RE: ESEQUIEL/ROXANNE PEREZ**
[MAZ-2](#)

MOTION TO VALUE COLLATERAL OF U S BANK N.A.
2-12-2019 [\[32\]](#)

ESEQUIEL PEREZ/MV
MARK ZIMMERMAN

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 2015 Dodge Durango. 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 \$21,950.00. 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.

15. [19-10258](#)-B-13 **IN RE: NELDA MCNEALY**
[TGM-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY U.S. BANK NATIONAL
ASSOCIATION
2-12-2019 [[13](#)]

U.S. BANK NATIONAL
ASSOCIATION/MV
NICHOLAS WAJDA
TYNEIA MERRITT/ATTY. FOR MV.

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

DISPOSITION: Continued to April 11, 2019 at 1:30 p.m.

ORDER: The court will issue an order.

Pursuant to the stipulation entered into by movant and debtor (doc.
#26), this matter is continued to April 11, 2019 at 1:30 p.m.

16. [18-12260](#)-B-13 **IN RE: ALVINA FISCHER**
[JFL-1](#)

CONTINUED OBJECTION TO CONFIRMATION OF PLAN BY DITECH
FINANCIAL LLC
6-14-2018 [[8](#)]

DITECH FINANCIAL LLC/MV
RABIN POURNAZARIAN
JAMES LEWIN/ATTY. FOR MV.
RESPONSIVE PLEADING

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

DISPOSITION: Continued to May 16, 2019 at 1:30 p.m.

NO ORDER REQUIRED: The court already issued an order. Doc. #101.

17. [18-12260](#)-B-13 **IN RE: ALVINA FISCHER**
[PLG-1](#)

CONTINUED OBJECTION TO CLAIM OF DITECH FINANCIAL LLC, CLAIM
NUMBER 1
9-11-2018 [\[38\]](#)

ALVINA FISCHER/MV
RABIN POURNAZARIAN
RESPONSIVE PLEADING

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

DISPOSITION: Continued to May 16, 2019 at 1:30 p.m.

NO ORDER REQUIRED: The court already issued an order. Doc. #100.

18. [18-15084](#)-B-13 **IN RE: ROBERT SANFORD**
[MHM-3](#)

OBJECTION TO DEBTOR'S CLAIM OF EXEMPTIONS
2-6-2019 [\[24\]](#)

MICHAEL MEYER/MV
SCOTT LYONS

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

DISPOSITION: Overruled as moot.

ORDER: The court will issue an order.

This objection is OVERRULED AS MOOT. Debtors filed an amended
Schedule C after this objection was filed. See doc. #27.

19. [16-14099](#)-B-13 **IN RE: KATHERINE LIMATA**
[TCS-2](#)

MOTION TO MODIFY PLAN
2-6-2019 [\[33\]](#)

KATHERINE LIMATA/MV
TIMOTHY SPRINGER

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