

UNITED STATES BANKRUPTCY COURT
Eastern District of California
Honorable René Lastreto II
Hearing Date: Wednesday, March 29, 2017
Place: Department B – Courtroom #13
Fresno, California

INSTRUCTIONS FOR PRE-HEARING DISPOSITIONS

1. The following rulings are tentative. The tentative ruling will not become the final ruling until the matter is called at the scheduled hearing. **Pre-disposed matters will generally be called, and the rulings placed on the record at the end of the calendar.** Any party who desires to be heard with regard to a pre-disposed matter may appear at the hearing. If the party wishes to contest the tentative ruling, he/she shall notify the opposing party/counsel of his/her intention to appear. **If no disposition is set forth below, the hearing will take place as scheduled.**

2. Submission of Orders:

Unless the tentative ruling expressly states that the court will prepare an order, then the tentative ruling will only appear in the minutes. If any party desires an order, then the appropriate form of order, which conforms to the tentative ruling, must be submitted to the court. When the debtor(s) discharge has been entered, proposed orders for relief from stay must reflect that the motion is denied as to the debtor(s) and granted only as to the trustee. Entry of discharge normally is indicated on the calendar.

3. Matters Resolved Without Opposition:

If the tentative ruling states that no opposition was filed, and the moving party is aware of any reason, such as a settlement, why a response may not have been filed, the moving party must advise Vicky McKinney, the Calendar Clerk, at (559) 499-5825 by 4:00 p.m. the day before the scheduled hearing.

4. Matters Resolved by Stipulation:

If the parties resolve a matter by stipulation after the tentative ruling has been posted, but **before the formal order is entered on the docket**, the **moving party** may appear at the hearing and advise the court of the settlement or withdraw the motion. Alternatively, the parties may submit a stipulation and order to modify the tentative ruling together with the proposed order resolving the matter.

5. Resubmittal of Denied Matters:

If the moving party decides to re-file a matter that is denied without prejudice for any reason set forth below, the moving party must file and serve a new set of pleadings with a new docket control number. It may not simply re-notice the original motion.

THE COURT ENDEAVORS TO PUBLISH ITS PREDISPOSITIONS AS SOON AS POSSIBLE, HOWEVER CALENDAR PREPARATION IS ONGOING AND THESE PREDISPOSITIONS 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 A.M.

1. [15-10039](#)-B-12 ANGELA PIMENTEL
DRJ-5

MOTION FOR COMPENSATION FOR
DAVID R. JENKINS, DEBTORS
ATTORNEY(S)
2-13-17 [[128](#)]

DAVID JENKINS/Atty. for dbt.

The motion will be continued to April 13, 2017, at 9:30 a.m., for submission of the client's consent to this application for attorney fees. Respondent's defaults will be entered. The court will enter an order. No appearance is necessary.

In lieu of filing the client's consent, applicant may submit a proposed order that has been signed by the client. If the court signs the proposed order, then the matter will be dropped from the calendar on the continued date.

2. [15-10039](#)-B-12 ANGELA PIMENTEL
[16-1086](#)
PIMENTEL V. KENNEDY
DAVID JENKINS/Atty. for pl.
RESPONSIVE PLEADING

CONTINUED STATUS CONFERENCE RE:
COMPLAINT
8-25-16 [[1](#)]

This matter will be continued to April 13, 2017, at 9:30 a.m., to be heard with the continued motion for compensation, DRJ-5.

3. 17-11028-B-11 PACE DIVERSIFIED
BBR-2 CORPORATION
PACE DIVERSIFIED
CORPORATION/MV
T. BELDEN/Atty. for dbt.
OST 3/24/17

MOTION TO USE CASH COLLATERAL
3-24-17 [11]

This matter will proceed as scheduled.

1:30 P.M.

1. <u>17-10201</u> -B-13 KEVIN/ALISSA MCFARLAND	MOTION TO VALUE COLLATERAL OF
DRJ-2	LOGIX FEDERAL CREDIT UNION
KEVIN MCFARLAND/MV	2-23-17 [11]
DAVID JENKINS/Atty. for dbt.	

The motion will be granted without oral argument based on well-pled facts. The moving party shall submit a proposed order consistent with this ruling. No appearance is necessary.

This matter was fully noticed in compliance with the Local Rules of Practice and there is no opposition. 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. Accordingly, the respondents' defaults will be entered.

The debtor is competent to testify as to the value of the 2011 Dodge Grand Caravan. 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 \$8,350. 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.

2. [17-10201](#)-B-13 KEVIN/ALISSA MCFARLAND
DRJ-3
KEVIN MCFARLAND/MV
DAVID JENKINS/Atty. for dbt.
RESPONSIVE PLEADING

MOTION TO VALUE COLLATERAL OF
MATADORS COMMUNITY CREDIT UNION
2-23-17 [[15](#)]

Based on the respondent's opposition, this matter will be continued to April 27, 2017, at 1:30 p.m., for a scheduling conference. The court will issue an order. No appearance is necessary.

This matter is now deemed to be a contested matter. Pursuant to Federal Rule of Bankruptcy Procedure 9014(c), the federal rules of discovery apply to contested matters. The debtors shall make the subject property available for inspection on reasonable notice. The parties shall immediately commence formal discovery, exchange appraisals, meet and confer, set deposition dates if necessary, and be prepared for the court to set an early evidentiary hearing if the matter is not resolved by the continued hearing date.

If the parties request referral to the Bankruptcy Dispute Resolution Process, the court will enter an order so referring provided all rules pertaining to the referral are followed.

3. [16-13307](#)-B-13 JENNIFER NERNEY
MHM-1
MICHAEL MEYER/MV
PATRICK KAVANAGH/Atty. for dbt.
AMENDED NOTICE OF HEARING

MOTION TO DISMISS CASE
2-22-17 [[29](#)]

The trustee's motion has been withdrawn. No appearance is necessary.

4. [17-10310](#)-B-13 TERRI BREST-TAYLOR

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
3-7-17 [[15](#)]

This matter will be called as scheduled. If the installment payments due March 2, 2017, in the amount of \$79, have not been paid by the time of the hearing, the case will be dismissed. If the installment payments now due are fully paid by the time of the hearing, the OSC will be vacated.

If the OSC is vacated, the court will modify the order permitting the payment of filing fees in installments to provide that if future installments are not received by the due date, the case will be dismissed without further notice or hearing.

5. [16-10014](#)-B-13 BRENT SCHAIBLE
DRJ-4
BRENT SCHAIBLE/MV

MOTION TO COMPROMISE
CONTROVERSY/APPROVE SETTLEMENT
AGREEMENT AND/OR MOTION TO PAY
2-21-17 [[41](#)]

DAVID JENKINS/Atty. for dbt.

The motion will be granted without oral argument based upon well-pled facts. The moving party shall submit a proposed order in conformance with the ruling. No appearance is necessary.

This matter was fully noticed in compliance with the Local Rules of Practice and there is no opposition. 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. Accordingly, the respondents' defaults will be entered.

It appears from the moving papers that the debtor-in-possession has considered the standards of *Protective Committee for Independent Stockholders of TMT Trailer Ferry, Inc. V. Anderson*, 390 U.S. 414 (1968), and that the compromise with the medical providers and the settlement with the defendants in the state court litigation pursuant to FRBP 9019 is a reasonable exercise of the debtor's business judgment. The order should be limited to the claims compromised as described in the motion.

6. [16-14414](#)-B-13 GERARDO REYES
TOG-2
GERARDO REYES/MV
THOMAS GILLIS/Atty. for dbt.
RESPONSIVE PLEADING,
NON-OPPOSITION

MOTION TO CONFIRM PLAN
2-7-17 [[34](#)]

Pursuant to the trustee's opposition and the debtor's agreement, this motion will be continued to April 13, 2017, at 1:30 p.m. The court will enter an order. No appearance is necessary.

7. [16-13415](#)-B-13 JUAN/ETELVINA PEDROZA
MHM-2
MICHAEL MEYER/MV
THOMAS GILLIS/Atty. for dbt.
RESPONSIVE PLEADING

CONTINUED MOTION TO DISMISS
CASE
1-9-17 [[38](#)]

This matter was continued to be heard with the debtors' motion to confirm a chapter 13 plan and will proceed as scheduled.

8. [16-13415](#)-B-13 JUAN/ETELVINA PEDROZA MOTION TO CONFIRM PLAN
TOG-2 2-9-17 [[51](#)]
JUAN PEDROZA/MV
THOMAS GILLIS/Atty. for dbt.
RESPONSIVE PLEADING

This matter will proceed as scheduled. If the plan is not confirmed then the court intends to enter a bar date by which time a plan must be confirmed or the case will be dismissed.

9. [14-10121](#)-B-13 GREGORY/ERIKA IRELAND CONTINUED MOTION FOR
FW-4 DETERMINATION THAT SPECIFIC
GREGORY IRELAND/MV INSURANCE PROCEEDS ARE NOT
PROPERTY OF THE BANKRUPTCY
ESTATE, MOTION FOR
AUTHORIZATION TO USE PROCEEDS
2-1-17 [[113](#)]

PETER FEAR/Atty. for dbt.
RESPONSIVE PLEADING

This matter will proceed as scheduled.

10. [17-10028](#)-B-13 MANSOUR/PHEBE TOPALIAN MOTION TO DISMISS CASE
MHM-1 2-16-17 [[30](#)]
MICHAEL MEYER/MV
BENNY BARCO/Atty. for dbt.

The trustee's motion has been withdrawn. No appearance is necessary.

11. [11-63142](#)-B-13 ALFONSO MARQUEZ AND MARIA MOTION TO DISMISS CASE
MHM-4 ALVARADO 2-27-17 [[168](#)]
MICHAEL MEYER/MV
THOMAS GILLIS/Atty. for dbt.
RESPONSIVE PLEADING

This matter will proceed as scheduled.

12. [13-15149](#)-B-13 DENVER/BRENDA LATHAM MOTION TO MODIFY PLAN
DMG-2 2-22-17 [[46](#)]
DENVER LATHAM/MV
D. GARDNER/Atty. for dbt.

This motion will be continued to April 13, 2017, at 1:30 p.m., for submission of evidence that the plan satisfies the §1325(a) elements for confirmation which is made applicable to post-confirmation modification by §1329(b)(1). This evidence shall be served and submitted on or before April 6, 2016. The court will enter an order. No appearance is necessary.

13. [17-10150](#)-B-13 SUSANA GONZALEZ
SL-1
SUSANA GONZALEZ/MV
SCOTT LYONS/Atty. for dbt.

MOTION TO VALUE COLLATERAL OF
CHASE AUTO FINANCE CORPORATION
3-3-17 [[14](#)]

This matter will proceed as scheduled.

14. [11-12856](#)-B-13 JACK/AMELIA WISEMAN
AP-1
WELLS FARGO BANK, N.A./MV
SCOTT LYONS/Atty. for dbt.
JAMIE HANAWALT/Atty. for mv.
RESPONSIVE PLEADING

CONTINUED MOTION FOR RELIEF
FROM AUTOMATIC STAY
1-3-17 [[64](#)]

This matter will proceed as scheduled.

15. [15-14864](#)-B-13 LINDA SEE
FW-3

MOTION FOR COMPENSATION BY THE
LAW OFFICE OF FEAR WADDELL,
P.C. FOR GABRIEL J. WADDELL,
DEBTORS ATTORNEY(S)
2-8-17 [[48](#)]

PETER FEAR/Atty. for dbt.

The motion will be granted without oral argument based upon well-pled facts. The moving party shall submit a proposed order consistent with this ruling. No appearance is necessary.

This matter was fully noticed in compliance with the Local Rules of Practice and there is no opposition. 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. Accordingly, the respondents' defaults will be entered.

The court notes that the costs requested to be approved in the motion and the notice are less than the fees itemized in the motion; costs are approved in the amount of \$202.94.

16. [16-14365](#)-B-13 ESTEBAN ARIAS AND SOFIA MOTION TO CONFIRM PLAN
TOG-2 HERNANDEZ 2-9-17 [[42](#)]
ESTEBAN ARIAS/MV
THOMAS GILLIS/Atty. for dbt.
WITHDRAWN

This motion has been withdrawn. No appearance is necessary.

17. [17-10765](#)-B-13 RICHARD/VERONICA ESPINOZA MOTION TO IMPOSE AUTOMATIC STAY
TCS-1 3-10-17 [[9](#)]
RICHARD ESPINOZA/MV
TIMOTHY SPRINGER/Atty. for dbt.

This matter will be called as scheduled. Unless opposition is presented at the hearing, the court intends to grant the motion.

The Motion to Impose the Automatic Stay was properly set for hearing on the notice required by LBR 9014-1(f)(2). Consequently, the creditors, the trustee, the U.S. Trustee, and any other parties in interest were not required to file a written response or opposition to the motion. If any of these potential respondents appear at the hearing and offer opposition to the motion, the court will set a briefing schedule and a final hearing unless there is no need to develop the record further. If no opposition is offered at the hearing, the court will take up the merits of the motion.

Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter.

Courts consider many factors - including those used to determine good faith under §§ 1307 and 1325(a) - but the two basic issues to determine good faith under 11 U.S.C. § 362(c)(4) are:

1. Why was the previous plan filed?
 2. What has changed so that the present plan is likely to succeed?
- In re Elliot-Cook*, 357 B.R. 811, 814-15 (Bankr. N.D. Cal.2006)

In this case the presumption of bad faith arises. 11 U.S.C. §362(c)(4)(A)(i) provides that for purposes of subparagraph (B), a case is presumptively filed in bad faith as to all creditors, if more than 1 previous case under any of chapters 7, 11, and 13 in which the individual was a debtor was pending within the preceding 1-year period, which is the case here. In addition, the subsequently filed case is presumed to be filed in bad faith if Debtor failed to perform the terms of a plan confirmed by the court. 11 U.S.C. §362(c)(3)(C)(i)(II)(cc). The prior case was dismissed because the debtor failed to make the payments required under the plan. In addition, in the 2016 case the debtors' failure to appear at their §341 meeting of creditors appears to be a separate ground for dismissal.

The party with the burden of proof may rebut the presumption of bad faith by clear and convincing evidence. §362(c)(3)(c). This evidence standard has been defined, in *Singh v. Holder*, 649 F.3d 1161, 1165, n. 7 (9th Cir. 2011), as "between a preponderance of the evidence and proof beyond a reasonable doubt." It may further be defined as a level of proof that will produce in the mind of the fact finder a firm belief or conviction that the allegations sought to be established are true; it is "evidence so clear, direct and weighty and convincing as to enable the fact finder to come to a clear conviction, without hesitancy, of the truth of the precise facts of the case." *In re Castaneda*, 342 B.R. 90, (Bankr. S.D. Cal. 2006), citations omitted.

The debtors' declaration is particularly weak, however based on the motion it appears that the debtors require the protection of the automatic stay to protect their home. In addition, the plan proposes to pay unsecured creditors 100% on their claims. Therefore, based on the moving papers and the record, and in the absence of opposition, the court is persuaded that the presumption has been rebutted and that the debtors' petition was filed in good faith, and it intends to grant the motion to impose the automatic stay. The debtors' vehicle repair issues, which appear to have created the payment problem, are said to have been resolved. The motion will be granted and the automatic stay imposed for all purposes as to all parties who received notice, unless terminated by further order of this court.

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.

18. [12-18670](#)-B-13 ESTEBAN/GUADALUPE OROZCO MOTION TO MODIFY PLAN
JDM-4 2-13-17 [[62](#)]
ESTEBAN OROZCO/MV
JAMES MILLER/Atty. for dbt.
RESPONSIVE PLEADING

This matter will proceed as scheduled.

This matter was fully noticed in compliance with the Local Rules of Practice and only the trustee filed an opposition and the defaults of other respondents will be entered.

19. [16-14675](#)-B-13 LAURO/TAMMY GONZALEZ
PBB-1
LAURO GONZALEZ/MV

MOTION TO AVOID LIEN OF
JONATHAN NEIL & ASSOCIATES,
INC.
3-1-17 [[19](#)]

PETER BUNTING/Atty. for dbt.

The motion will be granted without oral argument based upon well-pled facts. The moving party shall submit a proposed order. No appearance is necessary.

This matter was fully noticed in compliance with the Local Rules of Practice and there is no opposition. 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. Accordingly, the respondents' defaults will be entered. It appears from the evidence submitted and the record that the debtors are entitled to avoid this lien that impairs an exemption to which they would otherwise have been entitled.

20. [17-10875](#)-B-13 GERALD STULLER AND
MJD-1 BARBARA WIKINSON-STULLER
GERALD STULLER/MV
SCOTT SAGARIA/Atty. for dbt.

MOTION TO EXTEND AUTOMATIC STAY
3-15-17 [[8](#)]

This matter will be called as scheduled. Unless opposition is presented at the hearing, the court intends to grant the motion.

The Motion to Extend the Automatic Stay was properly set for hearing on the notice required by LBR 9014-1(f)(2). Consequently, the creditors, the trustee, the U.S. Trustee, and any other parties in interest were not required to file a written response or opposition to the motion. If any of these potential respondents appear at the hearing and offer opposition to the motion, the court will set a briefing schedule and a final hearing unless there is no need to develop the record further. If no opposition is offered at the hearing, the court will take up the merits of the motion.

Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter.

Courts consider many factors - including those used to determine good faith under §§ 1307 and 1325(a) - but the two basic issues to determine good faith under 11 U.S.C. § 362(c)(3) are:

1. Why was the previous plan filed?
 2. What has changed so that the present plan is likely to succeed?
- In re Elliot-Cook*, 357 B.R. 811, 814-15 (Bankr. N.D. Cal.2006)

In this case the presumption of bad faith arises. The subsequently filed case is presumed to be filed in bad faith if Debtor failed to perform the terms of a plan confirmed by the court. 11 U.S.C. §362(c)(3)(C)(i)(II)(cc). The prior case was dismissed because the debtor failed to make the payments required under the plan.

The party with the burden of proof may rebut the presumption of bad faith by clear and convincing evidence. §362(c)(3)(c). This evidence standard has been defined, in *Singh v. Holder*, 649 F.3d 1161, 1165, n. 7 (9th Cir. 2011), as "between a preponderance of the evidence and proof beyond a reasonable doubt." It may further be defined as a level of proof that will produce in the mind of the fact finder a firm belief or conviction that the allegations sought to be established are true; it is "evidence so clear, direct and weighty and convincing as to enable the fact finder to come to a clear conviction, without hesitancy, of the truth of the precise facts of the case." *In re Castaneda*, 342 B.R. 90, (Bankr. S.D. Cal. 2006), citations omitted.

It appears the debtors' payment issues resulted from medical problems that are unlikely to reoccur. Therefore, based on the moving papers and the record, and in the absence of opposition, the court is persuaded that the presumption has been rebutted and that the debtors' petition was filed in good faith, and it intends to grant the motion to impose the automatic stay. The motion will be granted and the automatic stay extended for all purposes as to all parties who received notice, unless terminated by further order of this court.

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.

21. [13-10487](#)-B-13 DON/MARLA BOLDEN
JDM-2
DON BOLDEN/MV
JAMES MILLER/Atty. for dbt.

MOTION TO MODIFY PLAN
1-31-17 [[60](#)]

The motion will be granted without oral argument based on well-pled facts. No appearance is necessary. The movant shall submit a proposed order as specified below.

This motion to confirm or modify a chapter 13 plan was fully noticed in compliance with the Local Rules of Practice; there is no opposition and the respondents' default will be entered. The confirmation order shall include the docket control number of the motion and it shall reference the plan by the date it was filed.

22. [17-10793](#)-B-13 PEDRO VELASQUEZ
SL-1
PEDRO VELASQUEZ/MV
SCOTT LYONS/Atty. for dbt.

MOTION TO EXTEND AUTOMATIC STAY
3-15-17 [[9](#)]

This matter will be called as scheduled. Unless opposition is presented at the hearing, the court intends to grant the motion.

The Motion to Extend the Automatic Stay was properly set for hearing on the notice required by LBR 9014-1(f)(2). Consequently, the creditors, the trustee, the U.S. Trustee, and any other parties in interest were not required to file a written response or opposition to the motion. If any of these potential respondents appear at the hearing and offer opposition to the motion, the court will set a briefing schedule and a final hearing unless there is no need to develop the record further. If no opposition is offered at the hearing, the court will take up the merits of the motion.

Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter.

Courts consider many factors - including those used to determine good faith under §§ 1307 and 1325(a) - but the two basic issues to determine good faith under 11 U.S.C. § 362(c)(3) are:

1. Why was the previous plan filed?
 2. What has changed so that the present plan is likely to succeed?
- In re Elliot-Cook*, 357 B.R. 811, 814-15 (Bankr. N.D. Cal.2006)

In this case the presumption of bad faith arises. The subsequently filed case is presumed to be filed in bad faith if Debtor failed to perform the terms of a plan confirmed by the court. 11 U.S.C. §362(c)(3)(C)(i)(II)(cc). The prior case was dismissed because the debtor failed to make the payments required under the plan.

The party with the burden of proof may rebut the presumption of bad faith by clear and convincing evidence. §362(c)(3)(c). This evidence standard has been defined, in *Singh v. Holder*, 649 F.3d 1161, 1165, n. 7 (9th Cir. 2011), as "between a preponderance of the evidence and proof beyond a reasonable doubt." It may further be defined as a level of proof that will produce in the mind of the fact finder a firm belief or conviction that the allegations sought to be established are true; it is "evidence so clear, direct and weighty and convincing as to enable the fact finder to come to a clear conviction, without hesitancy, of the truth of the precise facts of the case." *In re Castaneda*, 342 B.R. 90, (Bankr. S.D. Cal. 2006), citations omitted.

It appears the debtors' payment issues resulted from a decrease in employment, however debtor has additional employment at this time and potential full time employment in the future. Therefore, based on the moving papers and the record, and in the absence of opposition, the court is persuaded that the presumption has been rebutted and that the debtors' petition was filed in good faith, and it intends to grant the motion to impose the automatic stay. The motion will be granted and the automatic stay extended for all purposes as to all parties who received notice, unless terminated by further order of this court.

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.

23. [16-14694](#)-B-13 MARICELA JIMENEZ
MHM-1
MICHAEL MEYER/MV
THOMAS GILLIS/Atty. for dbt.
RESPONSIVE PLEADING

MOTION TO DISMISS CASE
2-22-17 [[25](#)]

This matter will be continued to April 27, 2013, at 1:30 p.m., to be heard with the motion to confirm a modified plan. The court will enter an order. No appearance is necessary.

24. [16-14694](#)-B-13 MARICELA JIMENEZ
TOG-1
MARICELA JIMENEZ/MV
THOMAS GILLIS/Atty. for dbt.
RESPONSIVE PLEADING

MOTION TO CONFIRM PLAN
2-13-17 [[17](#)]

Pursuant to the trustee's opposition and the debtor's agreement, this motion will be continued to April 27, 2017, at 1:30 p.m. The court will enter an order. No appearance is necessary.

25. [15-14597](#)-B-13 JAIME GONZALEZ
MJA-2
JAIME GONZALEZ/MV
MICHAEL ARNOLD/Atty. for dbt.

MOTION TO MODIFY PLAN
2-13-17 [[68](#)]

The motion will be granted without oral argument based on well-pled facts. No appearance is necessary. The movant shall submit a proposed order as specified below.

This motion to confirm or modify a chapter 13 plan was fully noticed in compliance with the Local Rules of Practice; there is no opposition and the respondents' default will be entered. The confirmation order shall include the docket control number of the motion and it shall reference the plan by the date it was filed.

26. [15-14597](#)-B-13 JAIME GONZALEZ
MJA-3

MOTION FOR COMPENSATION BY THE
LAW OFFICE OF ARNOLD LAW GROUP
FOR MICHAEL J. ARNOLD, DEBTORS
ATTORNEY(S)
2-13-17 [[74](#)]

MICHAEL ARNOLD/Atty. for dbt.

The motion will be granted without oral argument based upon well-pled facts. The moving party shall submit a proposed order. No appearance is necessary.

This matter was fully noticed in compliance with the Local Rules of Practice and there is no opposition. 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. Accordingly, the respondents' defaults will be entered.

27. [16-10299](#)-B-13 KARINA PIMENTEL
RCO-2
PRIMARY RESIDENTIAL MORTGAGE,
INC./MV
PHILLIP GILLET/Atty. for dbt.
JASON KOLBE/Atty. for mv.
DISMISSED

MOTION FOR RELIEF FROM
AUTOMATIC STAY
1-26-17 [[59](#)]

The record shows that this case has already been dismissed. No appearance is necessary.