

UNITED STATES BANKRUPTCY COURT  
Eastern District of California  
Honorable René Lastreto II  
Hearing Date: Wednesday, April 1, 2020  
Place: Department B - Courtroom #13  
Fresno, California

*Pursuant to District Court General Order 612, no persons are permitted to appear in court unless authorized by order of the court. All appearances of parties and attorneys shall be telephonic through CourtCall, which advises the court that it is waiving the fee for the use of its service by pro se (not represented by an attorney) parties through April 30, 2020. The contact information for CourtCall to arrange for a phone appearance is: (866) 582-6878.*

**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. [19-14102](#)-B-13     **IN RE: DANIEL/CANDY CASTILLO**  
[APN-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY  
2-28-2020    [\[21\]](#)

TOYOTA MOTOR CREDIT CORPORATION/MV  
MARK ZIMMERMAN/ATTY. FOR DBT.  
AUSTIN NAGEL/ATTY. FOR MV.

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

DISPOSITION:        Granted.

ORDER:                The Moving Party shall submit a proposed order in conformance with the ruling below.

This motion was set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of the creditors, the debtor, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014- 1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument. Upon default, factual allegations will be taken as true (except those relating to amount of damages). Televideo Systems, Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires that a plaintiff make a prima facie showing that they are entitled to the relief sought, which the movant has done here.

The movant, Toyota Motor Credit Corporation ("Movant"), seeks relief from the automatic stay under 11 U.S.C. § 362(d)(1) with respect to a 2018 Toyota Camry ("Vehicle").

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 have failed to make at least four post-petition payments. The entire balance is currently due in the amount of \$21,931.98. Doc. #23, 25.

The court notes that section 3.11 of the plan gave this creditor stay relief upon confirmation. The movant's declaration references a purchase and a lease. The exhibit is clearly a lease. One justification for stay relief is the lack of the debtors' interest in this vehicle. This debt was classified in the Plan as Class 4. No attorney's fees will be awarded movant related to this motion.

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 and attorney's fees are expressly denied.

2. [20-10104](#)-B-13     **IN RE: MARGARET GRAVELLE**  
[MHM-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY TRUSTEE MICHAEL H. MEYER  
3-6-2020     [\[15\]](#)

THOMAS MOORE/ATTY. FOR DBT.

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

DISPOSITION:     Continued to April 29, 2020 at 9:30 a.m.

ORDER:     The court will issue an order.

The chapter 13 trustee ("Trustee") has filed an objection to the debtor's plan for confirmation. Unless this case is voluntarily converted to chapter 7, dismissed, or Trustee's opposition to confirmation is withdrawn, the debtor shall file and serve a written response not later than April 15, 2020. The response shall specifically address each issue raised in the opposition to confirmation, state whether the issue is disputed or undisputed, and include admissible evidence to support the debtor's position. Trustee shall file and serve a reply, if any, by April 22, 2020.

If the debtor elects to withdraw this plan and file a modified plan in lieu of filing a response, then a confirmable modified plan shall be filed, served, and set for hearing, not later than April 22, 2020. 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.

3. [19-14905](#)-B-13     **IN RE: GILBERT/CHRISTINE PADILLA**  
[EPE-2](#)

MOTION TO CONFIRM PLAN  
2-13-2020    [\[35\]](#)

GILBERT PADILLA/MV  
ERIC ESCAMILLA/ATTY. FOR DBT.  
DISMISSED 3/18/20

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. #57.

4. [20-10208](#)-B-13     **IN RE: LINDA TODD**  
[MHM-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY TRUSTEE MICHAEL H. MEYER  
3-6-2020    [\[20\]](#)

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

DISPOSITION:                    Continued to April 29, 2020 at 9:30 a.m.

ORDER:                            The court will issue an order.

The chapter 13 trustee ("Trustee") has filed an objection to the debtor's plan for confirmation. Unless this case is voluntarily converted to chapter 7, dismissed, or Trustee's opposition to confirmation is withdrawn, the debtor shall file and serve a written response not later than April 15, 2020. The response shall specifically address each issue raised in the opposition to confirmation, state whether the issue is disputed or undisputed, and include admissible evidence to support the debtor's position. Trustee shall file and serve a reply, if any, by April 22, 2020.

If the debtor elects to withdraw this plan and file a modified plan in lieu of filing a response, then a confirmable modified plan shall be filed, served, and set for hearing, not later than April 22, 2020. 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.

5. [19-14712](#)-B-13     **IN RE: GEREMY LATTA**  
[WDO-2](#)

CONTINUED MOTION TO CONFIRM PLAN  
1-9-2020    [\[34\]](#)

GEREMY LATTA/MV  
WILLIAM OLCOTT/ATTY. FOR DBT.  
PLAN WITHDRAWN

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

DISPOSITION:                    Dropped from calendar.

NO ORDER REQUIRED:            Movant withdrew the motion. Doc. #70.

6. [19-15313](#)-B-13     **IN RE: JENNIFER PAYAN**  
[MHM-2](#)

CONTINUED MOTION TO DISMISS CASE  
2-10-2020    [\[13\]](#)

MICHAEL MEYER/MV  
NEIL SCHWARTZ/ATTY. FOR DBT.  
RESPONSIVE PLEADING

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

DISPOSITION:                    Dropped from calendar.

NO ORDER REQUIRED:            Movant withdrew the motion. Doc. #52.

7. [20-10314](#)-B-13     **IN RE: SERGIO MADRID AND ELIZABETH MAGANA**  
[MHM-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY TRUSTEE MICHAEL H. MEYER  
3-5-2020    [\[17\]](#)

MARK HANNON/ATTY. FOR DBT.

NO RULING.

8. [20-10015](#)-B-13     **IN RE: JANICE HIXON**  
[MHM-2](#)

MOTION TO DISMISS CASE  
2-27-2020    [\[34\]](#)

MICHAEL MEYER/MV  
RESPONSIVE PLEADING

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

DISPOSITION:     Continued to April 29, 2020 at 9:30 a.m.

ORDER:             The court will issue an order.

Pursuant to the debtor's request (doc. #43) this matter is continued to April 29, 2020 at 9:30 a.m. Debtor "has provided some of the requested material to the Chapter 13 trustee." Id. Debtor is recovering from a surgery and staying in a nursing facility in Bakersfield. Id. Debtor has provided a doctor's note confirming her status. Id.

9. [18-10916](#)-B-13     **IN RE: LAURA SILVA**  
[SL-1](#)

MOTION FOR COMPENSATION FOR STEPHEN L. LABIAK, DEBTORS ATTORNEY  
2-20-2020    [\[27\]](#)

STEPHEN LABIAK/ATTY. FOR DBT.

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").

LBR 9014-1(f)(1)(B) states that Motions filed on at least 28 days' notice require the movant to notify the respondent or respondents that any opposition to motions filed on at least 28 days' notice must be in writing and must be filed with the court at least fourteen (14) days preceding the date or continued date of the hearing.

This motion was filed and served on February 20, 2020 and set for hearing on April 1, 2020. Doc. #27, 28. April 1, 2020 is 41 days after February 20, 2020, and therefore this hearing was set on 28 days' notice under LBR 9014-1(f)(1). The notice stated that written opposition was not required and may be presented on the date of the hearing. Doc. #28. That is incorrect. Because the hearing was set on 28 days' notice, the notice should have stated that written opposition was required. Because this motion was filed, served, and

noticed on more than 28 days' notice, the language of LBR 9014-1(f)(1)(B) needed to have been included in the notice.

10. [19-15117](#)-B-13     **IN RE: RAYMOND CASUGA**  
[DRJ-2](#)

MOTION TO CONFIRM PLAN  
2-7-2020    [\[23\]](#)

RAYMOND CASUGA/MV  
DAVID JENKINS/ATTY. FOR DBT.  
RESPONSIVE PLEADING

NO RULING.

The chapter 13 trustee ("Trustee") has filed an objection to the debtor's fully noticed motion to confirm a chapter 13 plan. Doc. #41. The continued § 341 meeting concluded on March 3, 2020. Debtor timely responded to Trustee's objection. Doc. #52, 53. Debtor's response states that the "proposed plan complies with the statutory requirements of confirmation in that it pays non-priority unsecured creditors at least as much as they would receive in a Chapter 7 case and the payments add up to not less than the Debtor's disposable income for the plan period." Doc. #52.

This matter will be called to allow Trustee to respond to debtor's response. The court may continue the matter as a scheduling conference.

11. [19-12622](#)-B-13     **IN RE: JULIE MARTINEZ**  
[FW-3](#)

MOTION TO MODIFY PLAN  
2-12-2020    [\[40\]](#)

JULIE MARTINEZ/MV  
GABRIEL WADDELL/ATTY. FOR DBT.

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

DISPOSITION:        Granted.

ORDER:                The Moving Party shall submit a proposed order in conformance with the ruling below.

This motion was set for hearing on 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.

12. [20-10126](#)-B-13     **IN RE: PHILIP SNOWBERGER**  
[MHM-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY TRUSTEE MICHAEL H. MEYER  
3-6-2020    [\[22\]](#)

RICHARD STURDEVANT/ATTY. FOR DBT.

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

DISPOSITION:                    Dropped from calendar.

NO ORDER REQUIRED:            The debtor voluntarily dismissed the case.  
Doc. #25.

13. [20-10340](#)-B-13     **IN RE: ARTURO CHAVEZ AND MAYRA MORENO**  
[MHM-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY TRUSTEE MICHAEL H. MEYER  
3-5-2020    [\[18\]](#)

MARK HANNON/ATTY. FOR DBT.

NO RULING.



14. [20-10740](#)-B-13     **IN RE: GUILLERMO DE LA ISLA**  
[JBC-1](#)

MOTION TO IMPOSE AUTOMATIC STAY  
3-17-2020    [\[11\]](#)

GUILLERMO DE LA ISLA/MV  
JAMES CANALEZ/ATTY. FOR DBT.

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

DISPOSITION:                    Dropped from calendar.

NO ORDER REQUIRED:            This matter will be heard on March 31, 2020.  
   See doc. #16, 17.

15. [19-11942](#)-B-13     **IN RE: CEIARA SPARKS**  
[SL-1](#)

MOTION TO INCUR DEBT  
3-13-2020    [\[19\]](#)

CEIARA SPARKS/MV  
SCOTT LYONS/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.

This motion is GRANTED. Debtor asks the court for permission to borrow \$54,124.56 to purchase a used 2015 GMC Yukon XL ("Vehicle") from Keller Motors Inc. Doc. #19, 21. The loan will be secured by the Vehicle. Id. Debtor will make a down payment of \$4,000.00 (from her checking account) and obtain financing resulting in a monthly payment of \$751.73. Doc. #22. Debtor's current vehicles require repairs that are not worth performing on such old vehicles. Doc. #22.

After review of the attached evidence and unless opposition is presented at the hearing, the court finds that debtor can make the monthly payment for the Vehicle. Debtor is authorized, but not required, to incur further debt in order to purchase the Vehicle.

Should the debtor's budget prevent maintenance of current plan payment, debtor shall continue making plan payments until the plan is modified.

16. [20-10844](#)-B-13     **IN RE: JACOB MCCOY-BARBA**  
[ETW-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY  
3-11-2020    [[11](#)]

NEAL HORN/MV  
EDWARD WEBER/ATTY. FOR MV.

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. #18.

17. [19-15245](#)-B-13     **IN RE: RITA AGCAOILI**  
[MHM-1](#)

MOTION TO DISMISS CASE  
2-26-2020    [[20](#)]

MICHAEL MEYER/MV  
PATRICK KAVANAGH/ATTY. FOR DBT.  
RESPONSIVE PLEADING

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

DISPOSITION:                    Dropped from calendar.

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

18. [20-10152](#)-B-13     **IN RE: RANDY/EUFEMIA BROWN**  
[JCW-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY JPMORGAN CHASE BANK,  
NATIONAL ASSOCIATION  
3-10-2020    [\[19\]](#)

JPMORGAN CHASE BANK, NATIONAL ASSOCIATION/MV  
MARK ZIMMERMAN/ATTY. FOR DBT.  
JENNIFER WONG/ATTY. FOR MV.  
RESPONSIVE PLEADING

TENTATIVE RULING:            This matter will proceed as scheduled.

DISPOSITION:                  Overruled.

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

This objection is OVERRULED. Constitutional due process requires that the movant make a *prima facie* showing that they are entitled to the relief sought. Here, the moving papers do not present "sufficient factual matter, accepted as true, to 'state a claim to relief that is plausible on its face.'" In re Tracht Gut, LLC, 503 B.R. 804, 811 (9th Cir. BAP, 2014), citing Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009), and Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 570 (2007).

Creditor JPMorgan Chase Bank, National Association ("Creditor") objects to plan confirmation on the grounds that this case was filed in bad faith. Doc. #29. Creditor states that because this is debtors' third case within the last 12 months there is a presumption of bad faith and opposes its' claim being classified in Class 1. Id.

Debtors timely opposed, stating that they have made the plan payment due for February 2020 and "recognize the importance of making their Plan payments on time so that this case is not dismissed." Doc. #23.

The "bad faith" Creditor references to, in the view of the court, is limited to 11 U.S.C. § 362(c)(4). 11 U.S.C. § 1325(a)(3) requires the debtor to show that the "plan has been proposed in good faith and not by any means forbidden by law." The court is satisfied that debtor has proposed the plan in good faith. See doc. #24.

This objection is not made under that § 1325(a)(3). No motion to impose the stay was made under § 362(c)(4). The stay is not in effect. Creditor's objection is made with no legal support or argument the court can consider.

The § 341 meeting of creditors concluded nearly a month ago. There is no motion to dismiss pending. Creditor has other remedies available to it. The objection is OVERRULED.

19. [19-13554](#)-B-13     **IN RE: GEORGE FONSECA**  
[CAS-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY  
2-24-2020    [\[55\]](#)

EXETER FINANCE, LLC/MV  
THOMAS MOORE/ATTY. FOR DBT.  
CHERYL SKIGIN/ATTY. FOR MV.  
CASE DISMISSED 3/11/20

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

DISPOSITION:                    Denied as moot.

NO ORDER REQUIRED:            An order dismissing the case has already been  
entered. Doc. #78.

20. [19-13554](#)-B-13     **IN RE: GEORGE FONSECA**  
[TAM-1](#)

CONTINUED MOTION TO CONFIRM PLAN  
1-9-2020    [\[43\]](#)

GEORGE FONSECA/MV  
THOMAS MOORE/ATTY. FOR DBT.  
CASE DISMISSED 3/11/20

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. #78.

21. [17-14157](#)-B-13     **IN RE: VICTOR ISLAS AND LORENA GONZALEZ**  
[TCS-3](#)

MOTION TO MODIFY PLAN  
2-14-2020    [\[116\]](#)

VICTOR ISLAS/MV  
TIMOTHY SPRINGER/ATTY. FOR DBT.  
THOMAS GILLIS/ATTY. FOR MV.  
PLAN WITHDRAWN

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

DISPOSITION:                    Dropped from calendar.

NO ORDER REQUIRED:            Movant withdrew the motion. Doc. #131.

22. [20-10360](#)-B-13     **IN RE: ELESIA EVANS**  
[MHM-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY TRUSTEE MICHAEL H. MEYER  
3-6-2020    [\[18\]](#)

MARK ZIMMERMAN/ATTY. FOR DBT.

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

DISPOSITION:     Continued to April 29, 2020 at 9:30 a.m.

ORDER:             The court will issue an order.

The chapter 13 trustee ("Trustee") has filed an objection to the debtor's plan for confirmation. Unless this case is voluntarily converted to chapter 7, dismissed, or Trustee's opposition to confirmation is withdrawn, the debtor shall file and serve a written response not later than April 15, 2020. The response shall specifically address each issue raised in the opposition to confirmation, state whether the issue is disputed or undisputed, and include admissible evidence to support the debtor's position. Trustee shall file and serve a reply, if any, by April 22, 2020.

If the debtor elects to withdraw this plan and file a modified plan in lieu of filing a response, then a confirmable modified plan shall be filed, served, and set for hearing, not later than April 22, 2020. 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.

23. [20-10263](#)-B-13     **IN RE: MANUELA MATA**  
[MHM-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY TRUSTEE MICHAEL H. MEYER  
3-6-2020    [\[30\]](#)

BENNY BARCO/ATTY. FOR DBT.

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

DISPOSITION:     Continued to April 29, 2020 at 9:30 a.m.

ORDER:             The court will issue an order.

The chapter 13 trustee ("Trustee") has filed an objection to the debtor's plan for confirmation. Unless this case is voluntarily converted to chapter 7, dismissed, or Trustee's opposition to confirmation is withdrawn, the debtor shall file and serve a written response not later than April 15, 2020. The response shall specifically address each issue raised in the opposition to confirmation, state whether the issue is disputed or undisputed, and include admissible evidence to support the debtor's position. Trustee shall file and serve a reply, if any, by April 22, 2020.

If the debtor elects to withdraw this plan and file a modified plan in lieu of filing a response, then a confirmable modified plan shall be filed, served, and set for hearing, not later than April 22, 2020. 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.

24. [20-10265](#)-B-13     **IN RE: ERICA GOMEZ**  
[MHM-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY TRUSTEE MICHAEL H. MEYER  
3-5-2020    [\[18\]](#)

MARK HANNON/ATTY. FOR DBT.

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. #25.

25. [19-15374](#)-B-13     **IN RE: WILEY ANGLIN**  
[MHM-2](#)

MOTION TO DISMISS CASE  
2-28-2020    [\[25\]](#)

MICHAEL MEYER/MV

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

DISPOSITION:                    Granted.

ORDER:                            The court will issue the order.

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.

This motion is GRANTED. The chapter 13 trustee ("Trustee") requests dismissal for unreasonable delay by the debtor that is prejudicial to creditors for failing to appear at the § 341 meeting, for failing to, inter alia, provide necessary and requested documents to the trustee's office. Doc. #25. Debtor did not oppose.

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).

The court finds that dismissal would be in the best interests of creditors and the estate. Trustee has not asked for conversion.

For the above reasons, this motion is GRANTED.

26. [20-10592](#)-B-13     **IN RE: JUAN PATINO**  
[JWC-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY  
3-17-2020    [\[12\]](#)

MHC FINANCIAL SERVICES/MV  
ROBERT WILLIAMS/ATTY. FOR DBT.  
JENNIFER CRASTZ/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](http://www.caeb.uscourts.gov) after 4:00 p.m. the day before the hearing.

27. [19-14193](#)-B-13     **IN RE: ELIZABETH VILLA**  
[AP-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY AND/OR MOTION FOR RELIEF  
FROM CO-DEBTOR STAY  
3-5-2020    [\[44\]](#)

JPMORGAN CHASE BANK, N.A./MV  
ROBERT WILLIAMS/ATTY. FOR DBT.  
WENDY LOCKE/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  
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.

The movant, JPMorgan Chase Bank, N.A. ("Movant"), seeks relief from the automatic stay under 11 U.S.C. § 362(d)(1) with respect to a 2018 Subaru XV Crosstrek ("Vehicle"). Doc. #44.

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 debtor has failed to make at least four post-petition payments. The movant has produced evidence that debtor is delinquent at least \$1,955.10, with the entire balance of \$23,859.78 due. Doc. #47. Debtor filed non-opposition. Doc. #48.

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.

The 14-day stay of Fed. R. Bankr. P. 4001(a)(3) will be ordered waived because debtor has failed to make at least four post-petition payments and the Vehicle is a depreciating asset.



28. [19-14193](#)-B-13     **IN RE: ELIZABETH VILLA**  
[MHM-2](#)

MOTION TO DISMISS CASE  
3-2-2020    [\[35\]](#)

MICHAEL MEYER/MV  
ROBERT WILLIAMS/ATTY. FOR DBT.  
RESPONSIVE PLEADING

TENTATIVE RULING:            This matter will proceed as scheduled.

DISPOSITION:                    Continued to May 13, 2020 at 9:30 a.m. The  
   court sets June 24, 2020 as a bar date by  
   which a chapter 13 plan must be confirmed or  
   the case will be dismissed.

ORDER:                            The court will issue an order.

The chapter 13 trustee ("Trustee") asks the court to dismiss the case under 11 U.S.C. § 1307(c) for undue delay that is prejudicial to creditors for failure to confirm a chapter 13 plan. Doc. #25. The case was filed on October 3, 2019. Debtor's motion to confirm a chapter 13 plan (matter #29 below, RSW-1) is continued to May 13, 2020 to respond to Trustee's objection to confirmation.

Pursuant to § 1324(b), the court will set June 24, 2020 as a bar date by which a chapter 13 plan must be confirmed or the case will be dismissed on Trustee's declaration.

29. [19-14193](#)-B-13     **IN RE: ELIZABETH VILLA**  
[RSW-1](#)

MOTION TO CONFIRM PLAN  
3-10-2020    [\[52\]](#)

ELIZABETH VILLA/MV  
ROBERT WILLIAMS/ATTY. FOR DBT.  
OST 3/10/19, RESPONSIVE PLEADING

TENTATIVE RULING:            This matter will proceed as scheduled.

DISPOSITION:                    Continued to May 13, 2020 at 9:30 a.m. The  
   court sets June 24, 2020 as a bar date by  
   which a chapter 13 plan must be confirmed or  
   the case will be dismissed.

ORDER:                            The court will issue an order.

The chapter 13 trustee ("Trustee") has filed an objection to the debtor's motion to confirm a chapter 13 plan, which was filed, served, and set for hearing on shortened time. See doc. #60.

Trustee opposes the plan because the plan does not provide for all of debtor's projected disposable income to be applied to unsecured creditors under the plan pursuant to 11 U.S.C. § 1325(b). Doc. #64.

Trustee's objection does not appear to be complicated and may be corrected in the order confirming plan.

This matter will be called to allow the debtor to respond to Trustee's opposition.

Pursuant to § 1324(b), the court will set June 24, 2020 as a bar date by which a chapter 13 plan must be confirmed or the case will be dismissed on Trustee's declaration.

30. [20-10095](#)-B-13     **IN RE: SHANNON SIMPSON**  
[LKW-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY  
3-4-2020    [\[38\]](#)

DAN COOK, INC./MV  
JEFFREY MEISNER/ATTY. FOR DBT.  
LEONARD WELSH/ATTY. FOR MV.

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

DISPOSITION:     Granted.

ORDER:             The Moving Party shall submit a proposed order in conformance with the ruling below.

This motion was set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of the creditors, the debtor, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument. Upon default, factual allegations will be taken as true (except those relating to amount of damages). Televideo Systems, Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires that a plaintiff make a prima facie showing that they are entitled to the relief sought, which the movant has done here.

The movant, Dan Cook, Inc. dba Equity 1 Loans, seeks relief from the automatic stay under 11 U.S.C. §§ 362(d)(1) & (2). Doc. #38.

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).

11 U.S.C. § 362(d)(2) allows the court to grant relief from the stay if the debtor does not have an equity in such property and such property is not necessary to an effective reorganization.

Here, the debtor is the settlor, beneficiary, and trustee of the 5101 Hunter No. 20 Trust ("Trust"), dated August 8, 2011. Doc. #43, Ex. A. The Trust is the owner of the real property described as Lot 20 of Tract 4291 in Bakersfield, CA ("Property"). Doc. 40. The Property is secured by two loans from movant with original amounts of \$36,000.00 and \$17,518.38. Doc. #36; 43, Ex. C, D.

The debtor's beneficial and equitable interest in the Trust became property of the estate under 11 U.S.C. 541(a). The Trust is "self-settled" and therefore property of the estate. See In re Cutter, 398 B.R. 6, 20 (B.A.P. 9th Cir. 2008), aff'd, 468 F.App'x 657 (2011); In re Witwer, 148 B.R. 930, 937 (Bankr. C. D. Cal. 1992), aff'd, 163 B.R. 614 (B.A.P. 9th Cir. 1994) ["A crucial factor in deciding whether the Plan meets the California spendthrift requirements is the Debtor's degree of control over the trust."]; Ehrenberg v. S. Cal. Permanente Med. Group (In re Moses), 167 F.3d 470, 473 (9th Cir. 1999) ["California law does not allow a participant with excessive control over his or her trust to shield that trust with an anti-alienation provision lacking true substance."]. The debtor's schedule A/B does not include the real property as an asset of the debtor or the debtor's interest in the trust as an asset, schedule D does not include any debts owed to movant, and the plan does not include any payment to movant. Doc. #1.

After review of the included evidence, the court finds that "cause" exists to lift the stay because debtor has failed to make at least four pre-petition and two post-petition payments. The movant has produced evidence that debtor is delinquent at least \$4,260.89. Doc. #42. Additionally, the court finds that the debtor does have some equity in the property but the property does not appear to be necessary to an effective reorganization. The property does not appear to be debtor's residence, nor has debtor listed the property in her schedules or chapter 13 plan. See doc. #13. Movant values the property at \$75,481.00 and debtor owes \$60,084.35. Id.

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.

The 14-day stay of Fed. R. Bankr. P. 4001(a)(3) will be ordered waived because debtor has failed to make at least six payments to movant.

31. [20-10095](#)-B-13     **IN RE: SHANNON SIMPSON**  
[MHM-2](#)

MOTION TO DISMISS CASE  
2-27-2020    [\[25\]](#)

MICHAEL MEYER/MV  
JEFFREY MEISNER/ATTY. FOR DBT.

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

DISPOSITION:     Granted.

ORDER:             The court will issue the order.

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.

This motion is GRANTED. 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.

11 U.S.C. § 1307(e) states that upon failure to file a tax return under section 1308, on request of a party in interest and after notice and a hearing, the court shall dismiss a case or convert a case under this chapter to a case under chapter 7 of this title, whichever is in the best interests of creditors and the estate.

Here, the trustee has requested dismissal for unreasonable delay by the debtor that is prejudicial to creditors for failing to appear at the § 341 meeting and for failing to provide necessary and requested documents to the trustee's office. Doc. #25. The trustee also contends that the debtor failed to file complete and accurate Schedule H. Doc. #26. Debtor did not oppose.

The court finds that dismissal would be in the best interests of creditors and the estate. The debtor failed to appear at the scheduled § 341 meeting of creditors, failed to file tax returns for the years 2018 and 2019, and did not file complete and accurate Schedule H.

For the above reasons, this motion is GRANTED.

32. [20-10299](#)-B-13     **IN RE: MANUEL DICOCHEA**  
[MHM-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY TRUSTEE MICHAEL H. MEYER  
3-5-2020    [[15](#)]

MARK HANNON/ATTY. FOR DBT.

NO RULING.

**11:00 AM**

1. [19-15302](#)-B-7     **IN RE: LONELL GOODMAN**  
[20-1005](#)

STATUS CONFERENCE RE: COMPLAINT  
1-30-2020    [\[1\]](#)

GOODMAN, JR. V. BEST SERVICE COMPANY, INC.  
TIMOTHY SPRINGER/ATTY. FOR PL.

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

DISPOSITION:        Continued to June 10, 2020 at 11:00 a.m.

ORDER:                The court will issue an order.

The complaint and a reissued summons were served on defendant on March 17, 2020. Doc. #8. The matter is continued to June 10, 2020 at 11:00 a.m. to allow defendant time to Answer and exchange initial disclosures.

2. [11-63503](#)-B-7     **IN RE: FRANK/ALICIA ITALIANE**  
[12-1053](#)

CONTINUED STATUS CONFERENCE RE: AMENDED COMPLAINT  
10-18-2012    [\[21\]](#)

JEFFREY CATANZARITE FAMILY LIMITED PARTNERSHIP ET V. LANE  
HAMID RAFATJOO/ATTY. FOR PL.

NO RULING.

3. [18-14315](#)-B-7     **IN RE: BRANDON/SANDRA CAUDEL**  
[19-1011](#)

CONTINUED PRE-TRIAL CONFERENCE RE: AMENDED COMPLAINT  
12-23-2019    [\[64\]](#)

HARDCASTLE SPECIALTIES, INC. V. CAUDEL ET AL  
VIVIANO AGUILAR/ATTY. FOR PL.  
RESPONSIVE PLEADING

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

DISPOSITION:        Dropped from calendar.

ORDER:                The court will issue the order.

The adversary proceeding is dismissed on plaintiff's motion, BBR-2, matter #4 below.

4. [18-14315](#)-B-7     **IN RE: BRANDON/SANDRA CAUDEL**  
[19-1011](#)     [BBR-2](#)

MOTION TO DISMISS ADVERSARY PROCEEDING/NOTICE OF REMOVAL  
2-27-2020     [\[77\]](#)

HARDCASTLE SPECIALTIES, INC. V. CAUDEL ET AL  
VIVIANO AGUILAR/ATTY. FOR MV.

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

DISPOSITION:     Granted.

ORDER:             The Moving Party shall submit a proposed order in  
conformance with the ruling below.

This motion was set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of the creditors, the debtor, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument. Upon default, factual allegations will be taken as true (except those relating to amount of damages). Televideo Systems, Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires that a plaintiff make a prima facie showing that they are entitled to the relief sought, which the movant has done here.

This motion is GRANTED. Plaintiffs move to dismiss this action without prejudice pursuant to Federal Rule of Bankruptcy Procedure 7041, which incorporates Federal Rule of Civil Procedure 41. Doc. #78. The action was determine dischargeability for a debt pursuant to 11 U.S.C. §§ 523(a)(2), (6) and 727(a)(2) and (7). Doc. #64.

Fed. R. Bankr. P. 7041 states that adversary proceedings except for complaints "objecting to the debtor's discharge shall not be dismissed at the plaintiff's instance without notice to the trustee, the United States trustee, and such other persons as the court may direct, and only on order of the court containing terms and conditions with the court deems proper."

Plaintiff states that "the Debtors have not promised anything to Plaintiff in exchange for the dismissal" and cannot foresee any prejudice to the U.S. Trustee or any other party in interest. Doc. #78. Indeed, no party in interest has opposed the granting of this motion. The motion to dismiss was served on the United States Trustee and the chapter 7 trustee. Doc. #81, 82.

Therefore the adversary proceeding is dismissed without prejudice.

5. [19-11635](#)-B-7     **IN RE: KARL/JULLETTA FICK**  
[20-1004](#)

STATUS CONFERENCE RE: COMPLAINT  
1-24-2020    [[1](#)]

FICK ET AL V. UNITED STATES OF  
AMERICA, DEPARTMENT OF DAVID JENKINS/ATTY. FOR PL.  
RESPONSIVE PLEADING

NO RULING.

6. [19-13048](#)-B-7     **IN RE: CRAIG BREWER**  
[19-1103](#)

CONTINUED STATUS CONFERENCE RE: COMPLAINT  
10-2-2019    [[1](#)]

MACLOVIO V. BREWER  
DENIS DELJA/ATTY. FOR PL.  
RESPONSIVE PLEADING

NO RULING.

7. [17-13797](#)-B-9     **IN RE: TULARE LOCAL HEALTHCARE DISTRICT**  
[19-1127](#)

CONTINUED STATUS CONFERENCE RE: COMPLAINT  
11-20-2019    [[1](#)]

TULARE LOCAL HEALTHCARE DISTRICT V. GUPTA-KUMAR  
MICHAEL WILHELM/ATTY. FOR PL.  
DISMISSED 3/18/20

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. #13.



8. [17-13797](#)-B-9     **IN RE: TULARE LOCAL HEALTHCARE DISTRICT**  
[20-1006](#)

STATUS CONFERENCE RE: COMPLAINT  
2-5-2020    [\[1\]](#)

TULARE LOCAL HEALTHCARE DISTRICT V. IMAGE STREAM  
RILEY WALTER/ATTY. FOR PL.

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

DISPOSITION:        Continued to May 28, 2020 at 11:00 a.m.

ORDER:                The court will issue an order.

The parties have stipulated to allow defendant to respond to the amended complaint by April 6, 2020. Doc. #7. Joint or unilateral status reports shall be served and filed not later than May 21, 2020.

The parties are advised that the Judicial Law Clerk for this Department, Mr. Leatham, has accepted a position with the Wanger, Jones, Helsley law firm. Mr. Riley Walter of that firm is counsel for the plaintiff District. Mr. Leatham is screened from considering this and any other matter involving that firm until he is no longer employed by the court. The parties are urged to consult with their clients and determine whether they will ask the court to recuse from this matter notwithstanding the screening process involving Mr. Leatham. The status reports ordered shall address that issue and be considered at the next hearing.