

UNITED STATES BANKRUPTCY COURT  
Eastern District of California  
Honorable René Lastreto II  
Hearing Date: Thursday, April 12, 2018  
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. If the parties stipulate to continue the hearing on the matter or agree to resolve the matter in a way inconsistent with the final ruling, then the court will consider vacating the final ruling only if the moving party notifies chambers before 4:00 p.m. (Pacific time) at least one business day before the hearing date: Department A-Kathy Torres (559)499-5860; Department B-Jennifer Dauer (559)499-5870. If a party has grounds to contest a final ruling under FRCP 60(a)(FRBP 9024) because of the court's error ["a clerical mistake (by the court) or a mistake arising from (the court's) oversight or omission"] the party shall notify chambers (contact information above) and any other party affected by the final ruling by 4:00 p.m. (Pacific time) one business day before the hearing.

**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. [17-10327](#)-B-12     **IN RE: EDWARD/LISA UMADA**  
[GMJ-2](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY AND/OR MOTION TO SELL  
3-8-2018    [[252](#)]

SCOTT THORBURN/MV  
PETER FEAR  
DAVID GILMORE/ATTY. FOR MV.  
RESPONSIVE PLEADING

TENTATIVE RULING:            This matter will proceed as scheduled.

DISPOSITION:                Denied without prejudice.

ORDER:                        The court will issue an order.

This motion is DENIED WITHOUT PREJUDICE.

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.

Independently, this motion is DENIED WITHOUT PREJUDICE for lack of proof. Relief from stay is permitted under 11 U.S.C. § 362(d)(1) for "cause" including lack of adequate protection of an interest in property claimed by the movant or; under 11 U.S.C. § 362(d)(2) if the debtor does not have equity in the property and the property is not necessary to an effective reorganization.

Movant has not established "cause." Movant and the debtors' co-own property but disagree on what to do with the proceeds from an eventual sale. Movant does not object to the sale but insists on 50% of the proceeds; the debtors disagree. Stay relief proceedings involve limited issues. The division of sales proceeds from co-owned property is beyond the limited issues decided in a stay relief motion. Johnson v. Righetti (In re Johnson), 756 F. 2d 738, 740 (9<sup>th</sup> Cir. 1985) (overruled on other grounds Travelers Cas. & Sur. Co. v. Pac. Gas & Elec. Co., 549 U.S. 443 (2007)). The motion does not raise adequate protection, equity or the other usual issues.

That said, movant does suggest that the stay should be modified so he can file an action in California Superior Court for partition of interests. However, the motion lacks any proof or argument why this court cannot expeditiously resolve these issues. No partition litigation was pending when the bankruptcy case was filed. There is no basis in the motion justifying stay relief such as comity with state courts; the unique expertise of a state court; or speedy adjudication.

The motion does not address the debtor's equity in the property at issue under 11 U.S.C. § 362(d)(2). That is movant's burden to prove in a stay relief motion. 11 U.S.C. § 362(g)(1). The necessity of the property to the debtor's reorganization is also not addressed.

The extent of movant's and debtors' interests in the property at issue and approval for the sale of the debtor's and co-owner's interests require adversary proceedings and are not decided by stay relief motions. See, 11 U.S.C. § 363(h); FRBP 7001(2), (3).

This motion is DENIED WITHOUT PREJUDICE.

2. [17-11591](#)-B-11     **IN RE: 5 C HOLDINGS, INC.**  
[APN-1](#)

CONTINUED MOTION FOR RELIEF FROM AUTOMATIC STAY AND/OR  
MOTION FOR ADEQUATE PROTECTION  
2-9-2018    [[251](#)]

SANTANDER CONSUMER USA,  
INC./MV  
LEONARD WELSH  
AUSTIN NAGEL/ATTY. FOR MV.

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

DISPOSITION:        Continued to April 30, 2018 at 10:30 a.m.

ORDER:                The court will issue an order.

Pursuant to 11 U.S.C. § 362(e)(1), the court is treating this as a request by debtor to continue the hearing period. The court finds compelling circumstances because first, the debtor's counsel has stated that payment have been made monthly to movant creditor, and second, debtor's counsel has made representations that the motion will be resolved before the next hearing. No further continuances will be allowed.

3. [17-11591](#)-B-11     **IN RE: 5 C HOLDINGS, INC.**  
[APN-2](#)

CONTINUED MOTION FOR RELIEF FROM AUTOMATIC STAY AND/OR  
MOTION FOR ADEQUATE PROTECTION  
2-9-2018    [[257](#)]

SANTANDER CONSUMER USA,  
INC./MV  
LEONARD WELSH  
AUSTIN NAGEL/ATTY. FOR MV.

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

DISPOSITION:        Continued to April 30, 2018 at 10:30 a.m.

ORDER:                The court will issue an order.

Pursuant to 11 U.S.C. § 362(e)(1), the court treats this as a request by debtor to continue the hearing period. The court finds compelling circumstances because first, the debtor's counsel has stated that payment have been made monthly to movant creditor; and second, debtor's counsel has made representations that the motion will be resolved before the next hearing. No further continuances will be allowed.

4. [17-13797](#)-B-9     **IN RE: TULARE LOCAL HEALTHCARE DISTRICT**  
[17-1095](#)     [OHS-1](#)

CONTINUED MOTION FOR REMAND  
1-24-2018    [[17](#)]

HEALTHCARE CONGLOMERATE  
ASSOCIATES, LLC V. TULARE  
HAGOP BEDOYAN/ATTY. FOR MV.  
RESPONSIVE PLEADING

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

DISPOSITION:        Continued to May 16, 2018 at 1:30 p.m.

ORDER:                The court will issue an order.

At the request of both parties, this motion is continued to May 16, 2018 at 1:30 p.m.

5. [17-13797](#)-B-9     **IN RE: TULARE LOCAL HEALTHCARE DISTRICT**  
[17-1095](#)     [OHS-2](#)

CONTINUED MOTION TO DISMISS COUNTERCLAIM AND/OR MOTION TO  
STRIKE  
1-29-2018    [[21](#)]

HEALTHCARE CONGLOMERATE  
ASSOCIATES, LLC V. TULARE  
MARC LEVINSON/ATTY. FOR MV.  
RESPONSIVE PLEADING

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

DISPOSITION:        Continued to May 16, 2018 at 1:30 p.m.

ORDER:                The court will issue an order.

At the request of both parties, this motion is continued to May 16,  
2018 at 1:30 p.m.

6. [17-13797](#)-B-9     **IN RE: TULARE LOCAL HEALTHCARE DISTRICT**  
[17-1095](#)     [OHS-3](#)

CONTINUED MOTION TO STRIKE  
1-29-2018    [[26](#)]

HEALTHCARE CONGLOMERATE  
ASSOCIATES, LLC V. TULARE  
HAGOP BEDOYAN/ATTY. FOR MV.  
RESPONSIVE PLEADING

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

DISPOSITION:        Continued to May 16, 2018 at 1:30 p.m.

ORDER:                The court will issue an order.

At the request of both parties, this motion is continued to May 16,  
2018 at 1:30 p.m.

7. [17-13797](#)-B-9      **IN RE: TULARE LOCAL HEALTHCARE DISTRICT**  
[DLM-2](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY  
3-13-2018    [[450](#)]

REBECCA ZULIM/MV  
RILEY WALTER  
DONALD MABRY/ATTY. FOR MV.  
RESPONSIVE PLEADING

TENTATIVE RULING:            This matter will proceed as scheduled.

DISPOSITION:                Conditionally granted.

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

This motion was filed and served pursuant to Local Rule of Practice ("LBR") 9014-1(f)(1) and will proceed as scheduled.

When a motion for relief from the automatic stay involves allowing the creditor to proceed or initiate non-bankruptcy court proceedings, a bankruptcy court must consider the "Curtis factors" in making its decision. In re Kronemyer, 405 B.R. 915, 921 (9th Cir. B.A.P. 2009). The relevant factors in this case include:

- (1) whether the relief will result in a partial or complete resolution of the issues;
- (2) the lack of any connection with or interference with the bankruptcy case;
- (3) whether the debtor's insurance carrier has assumed full financial responsibility for defending the litigation;
- (4) whether the litigation in another forum would prejudice the interests of other creditors, the creditors' committee and other interested parties;
- (5) the interests of judicial economy and the expeditious and economical determination of litigation for the parties;
- (6) whether the foreign proceedings have progressed to the point where the parties are prepared for trial; and
- (7) the impact of the stay on the parties and the "balance of hurt"

Relief from the stay may result in complete resolution of the issues, but the lawsuit has not yet been filed, and obviously not progressed to the point where the parties are prepared for trial. The issues claimed by movant may be related to this bankruptcy. The movants, in their reply (docket #470) have stated that they are "prepared to waive any right to payment from debtor in satisfaction of its deductible and agrees to be paid only from insurance proceeds - as a condition for obtaining relief from the stay."

There have already been several other relief from stay motions granted in this case, which can be distinguished from this motion because the previously granted motions stemmed from legal proceedings that had already begun and/or the creditors agreed to

not collect the amount of the deductible on debtor's insurance policy of any judgment they might receive. The claims and potential litigation at the heart of this motion may take years to resolve. Lastly, the "balance of hurt" weighs in favor of movant because denying this motion would mean movant would have to litigate in two separate courts when granting this motion would allow movant to litigate all claims against all parties in one court.

Based on other motions for relief from the automatic stay in this bankruptcy, the court may CONDITIONALLY GRANT this motion if movant does in fact agree to ONLY collect from insurance proceeds, AND to not collect the amount of the deductible of the insurance policy or policies on any judgment they might receive.

8. [17-13797](#)-B-9      **IN RE: TULARE LOCAL HEALTHCARE DISTRICT**  
[WW-31](#)

MOTION TO APPROVE STIPULATION FOR RELIEF FROM THE AUTOMATIC  
STAY  
3-29-2018    [[461](#)]

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.

Pursuant to Federal Rule of Bankruptcy Procedure 4001(d) the court approves the stipulation between the debtor and Joe O Dominguez, Mary Rose Dominguez, Cerene R. Olivera, Steven J. Zuiderweg, a minor, by and through his Guardian ad Litem, Amanda Zuiderweg. This motion is GRANTED.

1:30

1. [17-12900](#)-B-13     **IN RE: PAUL/TERESA YAMASHITA**  
[ALG-3](#)

OBJECTION TO CLAIM OF BH FINANCIAL SERVICES, INC., CLAIM  
NUMBER 8 AND/OR OBJECTION TO CLAIM OF BH FINANCIAL SERVICES,  
INC., CLAIM NUMBER 9  
3-9-2018    [[47](#)]

PAUL YAMASHITA/MV  
JANINE ESQUIVEL

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

DISPOSITION:        Overruled without prejudice.

ORDER:                The court will issue an order.

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

LBR 3007-1 is the local rule on objections to proofs of claim. In  
the Eastern District of California, objections to proofs of claim  
have different noticing requirements than do other contested  
matters. Objections must be noticed at least 30 days prior to the  
hearing (LBR 3007-1(b)(2)). Objections filed at least 44 days prior  
to the hearing require the respondent to file and serve written  
opposition at least 14 days prior to the hearing. LBR 3007-  
1(b)(1)(A). Objections filed on less than 44 days' notice do not  
require the respondent to file and serve written opposition, but may  
present opposition at the hearing. LBR 3007-1(b)(2).

This motion was filed on March 9, 2018 and set for hearing on April  
12, 2018. Docket #s 47 & 48. March 9, 2018 is 34 days before April  
12, 2018, therefore this hearing was set on less than 44 days'  
notice. The language in the notice stated that written opposition  
was required and must be filed at least 14 days preceding the date  
of the hearing, but that is incorrect. As stated above, LBR 3007-  
1(b)(2) requires that movant must inform the respondent that no  
written opposition is required. Docket #48. Because this motion was  
filed, served, and noticed on less than 44 days' notice, the  
language of LBR 3007-1(b)(2) needed to have been included in the  
notice. Because it was not, this motion is DENIED WITHOUT PREJUDICE.



2. [18-10302](#)-B-13     **IN RE: ANDREA AFFRUNTI**  
[CCH-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY NAVY FEDERAL CREDIT  
UNION  
3-21-2018    [[16](#)]

NAVY FEDERAL CREDIT UNION/MV  
MARK ZIMMERMAN  
CAMARAY CALLIER-HENDERSON/ATTY. FOR MV.

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

DISPOSITION:        Continued to May 10, 2018 at 1:30 p.m.

ORDER:                No appearance is necessary. The court will issue the  
order.

The trustee has not yet concluded the meeting of creditors and by prior order of the court, the trustee has another 7 days after completion of the creditors' meeting to file his objection to the plan. At the continued hearing, if the § 341 meeting has concluded and this objection has not been withdrawn, the court will call the matter and may set an evidentiary hearing or schedule further proceedings, if any are necessary.

3. [18-11003](#)-B-13     **IN RE: CARLOS LEAL**  
[TCS-1](#)

MOTION TO EXTEND AUTOMATIC STAY  
3-26-2018    [[7](#)]

CARLOS LEAL/MV  
TIMOTHY SPRINGER

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 court will issue  
the order.

This 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.

Under 11 U.S.C. § 362(c)(3)(A), the automatic stay under subsection (a) of this section with respect to any action taken with respect to a debt or property securing such debt or with respect to any lease shall terminate with respect to the debtor on the 30th day after the filing of the later case.

This case was filed on March 21, 2018 and the automatic stay will expire on April 20, 2018. 11 U.S.C. § 362(c)(3)(B) allows the court to extend the stay to any or all creditors, subject to any limitations the court may impose, after a notice and hearing where the debtor or a party in interest demonstrates that the filing of the later case is in good faith as to the creditors to be stayed.

Cases are presumptively filed in bad faith if any of the conditions contained in 11 U.S.C. § 362(c)(3)(C) exist. The presumption of bad faith may be rebutted by clear and convincing evidence. *Id.* 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*.

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

However, based on the moving papers and the record, and in the absence of opposition, the court is persuaded that the presumption has been rebutted, the debtors' petition was filed in good faith, and it intends to grant the motion to extend the automatic stay as to all creditors.

Debtor's previous bankruptcy case was dismissed for failure to make plan payments. He got behind in his payments because he switched jobs. Docket #9. He paid over \$7,000.00 to the trustee in the seven months prior to dismissal. *Id.* Debtor has been working for the same employer for eight months now, and his son is also assisting with the plan payment. *Id.*

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.

4. [17-14004](#)-B-13     **IN RE: XAVIER/ELIZABETH BERMUDEZ**  
[SAH-2](#)

MOTION TO VALUE COLLATERAL OF DEPARTMENT OF TREASURY -  
INTERNAL REVENUE SERVICE  
2-23-2018    [[30](#)]

XAVIER BERMUDEZ/MV  
SUSAN HEMB

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 has been 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.

This motion to value collateral will be GRANTED. No appearance is necessary.

There is no case or controversy. The creditor has filed a proof of secured claim (Claim 5), which values its collateral in the same amount as stated in the motion. In the Eastern District of California, the amount and classification of a claim is determined by the proof of claim and applicable non-bankruptcy law. The chapter 13 trustee objected to plan confirmation on grounds of the lack of an order valuing the secured claim of the IRS. Since the IRS does not oppose the valuation, the court will grant the motion. However the order is only effective upon plan confirmation.

5. [17-14004](#)-B-13     **IN RE: XAVIER/ELIZABETH BERMUDEZ**  
[SAH-3](#)

MOTION TO MODIFY PLAN  
2-23-2018    [[35](#)]

XAVIER BERMUDEZ/MV  
SUSAN HEMB  
RESPONSIVE PLEADING

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

DISPOSITION:        Continued to May 10, 2018 at 1:30 p.m.

ORDER:                The court will issue an order.

This motion will be set for a continued hearing on May 10, 2018 at 1:30 p.m. The court will issue an order. No appearance is necessary.

The trustee has filed a detailed objection to the debtor's fully noticed motion to confirm a chapter 13 plan. Unless this case is voluntarily converted to chapter 7 or dismissed or the trustee's opposition to confirmation has been withdrawn, the debtors shall file and serve a written response not later than April 26, 2018. 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. 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 May 3, 2018. If the debtors do not timely file a modified plan or a written response, the motion to confirm the plan will be denied on the grounds stated in the opposition without a further hearing.

6. [18-10014](#)-B-13     **IN RE: ALEXANDER RUIZ**  
[PBB-2](#)

CONTINUED MOTION TO CONFIRM PLAN  
2-1-2018    [[33](#)]

ALEXANDER RUIZ/MV  
PETER BUNTING  
RESPONSIVE PLEADING

TENTATIVE RULING:        This matter will proceed as scheduled.

DISPOSITION:        Granted.

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

This motion was filed and served pursuant to Local Rule of Practice ("LBR") 9014-1(f)(1) and will proceed as scheduled. Pursuant to the court's previous order, trustee has until 7 days after the § 341

meeting of creditors concludes to file opposition to debtor's plan. Docket #45. The meeting of creditors concluded on April 4, 2018. Therefore trustee has until April 11, 2018 to file opposition. Unless opposition is filed by the trustee prior to the hearing, the court intends to enter the respondents' defaults and grant the motion.

If opposition is not timely filed, this motion will be granted based on well-pled facts. This motion to confirm 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.

7. [17-12717](#)-B-13     **IN RE: DALJIT SINGH**  
[HWW-3](#)

AMENDED MOTION TO CONFIRM PLAN  
2-22-2018    [[131](#)]

DALJIT SINGH/MV  
HANK WALTH

TENTATIVE RULING:            This matter will proceed as scheduled.

DISPOSITION:                    To be determined at the hearing.

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

Trustee filed a timely detailed objection on March 19, 2018. Docket #145. The primary bases of the objection are that the plan does not provide the percentage that will be paid to the unsecured creditors and that debtor's disposable income requires that he pay 100% to unsecured creditors.

Debtor filed a timely response on April 5, 2018. Docket #153. First, debtor argues that regarding the objection based on the percentage amount, he complied with the previously received Order Confirming Plan from trustee. That order specified that the debtor must pay liquidation of \$38,000.000, but no language increasing the percentage was included. The amended plan includes the same language as the trustee's order. The debtor states that the OCP will specify a 20.8% dividend (the total amount of unsecured debt divided by the \$38,000.00 liquidation).

Second, debtor argues that his disposable income is now very different from what the trustee claimed in the objection. Trustee's objection was based on form 122C-2, which was filed on November 28, 2017. Debtor states that form 122C-2 was "based upon gross business income derived 6-months prior to case commencement" and that debtor is no longer operating that business, so his disposable income has changed dramatically. Docket #153.

Debtor correctly cites to a Supreme Court case that allows courts to adopt a "forward-looking approach" that takes into account changes to a debtor's income or expenses that are known or virtually certain at the time of confirmation. The court held that a court calculating "projected disposable income" should begin with the "presumption" that the figure yielded by the mechanical approach was correct, but that the figure could be rebutted by evidence of a substantial change in the debtor's circumstances. *Hamilton v. Lanning*, 130 S. Ct. 2464 (2010). But the court conditioned this on "unusual cases." *Id.* at 2475. Debtor has not provided any evidence to this court that this is an "unusual case" warranting this "forward-looking" approach, but it also begs the question: why didn't the debtor simply file an amended form 122C-2?

Third, Debtors' amended Schedules I and J were filed on March 19, 2018 (docket #147), the same day as trustee's objection. These amended schedules show a monthly net income of \$656.00.

The court will call this matter to allow the parties to explain to the court why this plan should be confirmed.

8. [17-12717](#)-B-13     **IN RE: DALJIT SINGH**  
[MHM-2](#)

CONTINUED MOTION TO DISMISS CASE  
1-30-2018    [[107](#)]

MICHAEL MEYER/MV  
HANK WALTH  
RESPONSIVE PLEADING

TENTATIVE RULING:            This matter will proceed as scheduled.

DISPOSITION:                 Granted if HWW-3, matter #7 above, is denied.  
Denied as moot if HWW-3 is granted.

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

This motion was continued to be heard in conjunction with debtor's motion to confirm plan, HWW-3, matter #7 above. This case was filed in July 2017 and no plan has been confirmed since that date. Creditors are not being paid due to the delay, and there have been multiple relief from stay motions filed by said creditors due to lack of a plan.

Unless debtor's motion to confirm plan is granted, the court intends to GRANT this motion to dismiss.

9. [16-12019](#)-B-13     **IN RE: MARIO/ESBEYDY MARTINEZ**  
[PLG-2](#)

MOTION TO MODIFY PLAN  
2-28-2018    [[42](#)]

MARIO MARTINEZ/MV  
RABIN POURNAZARIAN

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.

The motion will be granted without oral argument based on well-pled facts. 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.

10. [18-10121](#)-B-13     **IN RE: JOSE/MARTHA ACEVES**  
[MHM-2](#)

MOTION TO DISMISS CASE  
3-15-2018    [[30](#)]

MICHAEL MEYER/MV  
JANINE ESQUIVEL  
RESPONSIVE PLEADING

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

DISPOSITION:        Dropped from calendar.

NO ORDER REQUIRED:    Movant withdrew the motion.

11. [18-10222](#)-B-13     **IN RE: DOMINIC BURRIEL**  
[MHM-2](#)

MOTION TO DISMISS CASE  
3-9-2018    [[25](#)]

MICHAEL MEYER/MV  
PETER FEAR  
RESPONSIVE PLEADING

TENTATIVE RULING:        This matter will proceed as scheduled.

DISPOSITION:                Unless the trustee's motion is withdrawn at the hearing the court intends to grant the motion to dismiss on the grounds stated in the motion.

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

The chapter 13 trustee's motion to dismiss was fully noticed in compliance with the Local Rules of Practice. The debtor filed a timely response and indicated that all required documentation have been provided to the trustee with the exception of Form 941, which the debtor is working on. The trustee has not withdrawn his motion. If the trustee's motion is not withdrawn at the hearing, the court intends to grant the motion and dismiss the case on the grounds stated in the motion.

12. [17-14527](#)-B-13     **IN RE: GLORIA ALCALA**  
[MHM-4](#)

OBJECTION TO DEBTOR'S CLAIM OF EXEMPTIONS  
3-6-2018    [[67](#)]

MICHAEL MEYER/MV  
HAYK GRIGORYAN

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. Debtor filed an amended Schedule C (docket #82) on April 2, 2018.



13. [12-17532](#)-B-13     **IN RE: KUMPAI/ANTHIKA NAMMAVONGSA**  
[MHM-2](#)

MOTION TO DISMISS CASE  
3-8-2018    [[90](#)]

MICHAEL MEYER/MV  
JOEL WINTER

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

DISPOSITION:                    Dropped from calendar.

NO ORDER REQUIRED:            Movant withdrew the motion.

14. [17-10432](#)-B-13     **IN RE: BRANDON/LESLIE SMART**  
[TCS-3](#)

MOTION TO SELL  
3-14-2018    [[45](#)]

BRANDON SMART/MV  
TIMOTHY SPRINGER  
DISMISSED

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.

15. [17-11433](#)-B-13     **IN RE: JORGE ESPINO AND HEIDI GUTIERREZ**  
[PPR-1](#)

MOTION FOR ALLOWANCE OF LATE FILING OF PROOF OF CLAIM  
3-1-2018    [[31](#)]

SECOND CHANCE HOME LOANS  
LLC/MV  
SCOTT LYONS  
SYLVIA BLUME/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 has been 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.

This motion is GRANTED. Based upon the record and in the absence of opposition, pursuant to Federal Rule of Bankruptcy Procedure 3002 (c)(6), the court finds that the notice was insufficient under the circumstances to give the creditor a reasonable time to file a proof of claim because the notice was mailed to the wrong creditor. Docket #1, #3. Notice was sent to FCI Lender Services, Inc. instead of the secured creditor at the time of filing, Second Chance Home Loans LLC. Claim 8. That loan is serviced by Allied Servicing Corporation. Allied never received notice.

Notice was insufficient under these circumstances because the wrong creditor/servicer was notified, even though debtor had reasonable notice that their home loan servicer had changed prior to filing bankruptcy. Docket #33, exhibits B and C. Therefore, this motion is GRANTED.

16. [18-10233](#)-B-13     **IN RE: JOSE QUINTEROS**  
[MHM-2](#)

MOTION TO DISMISS CASE  
3-9-2018    [[23](#)]

MICHAEL MEYER/MV  
THOMAS GILLIS  
RESPONSIVE PLEADING

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

DISPOSITION:                    Dropped from calendar.

NO ORDER REQUIRED:            Movant withdrew the motion.

17. [18-11037](#)-B-13     **IN RE: JAMES/CHERYL CARRINGTON**  
[RSW-1](#)

MOTION TO EXTEND AUTOMATIC STAY  
3-28-2018    [\[9\]](#)

JAMES CARRINGTON/MV  
ROBERT WILLIAMS

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 court will issue the order.

This 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.

Under 11 U.S.C. § 362(c)(3)(A), the automatic stay under subsection (a) of this section with respect to any action taken with respect to a debt or property securing such debt or with respect to any lease shall terminate with respect to the debtor on the 30th day after the filing of the later case.

This case was filed on March 23, 2018 and the automatic stay will expire on April 22, 2018. 11 U.S.C. § 362(c)(3)(B) allows the court to extend the stay to any or all creditors, subject to any limitations the court may impose, after a notice and hearing where the debtor or a party in interest demonstrates that the filing of the later case is in good faith as to the creditors to be stayed.

Cases are presumptively filed in bad faith if any of the conditions contained in 11 U.S.C. § 362(c)(3)(C) exist. The presumption of bad faith may be rebutted by clear and convincing evidence. *Id.* 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*.

In this case the presumption of bad faith arises. The subsequently filed case is presumed to be filed in bad faith because the prior case was dismissed on the grounds that debtor failed to file documents as required by the bankruptcy code and the court without substantial excuse. 11 U.S.C. § 362(c)(3)(C)(i)(II)(aa).

However, based on the moving papers and the record, and in the absence of opposition, the court is persuaded that the presumption has been rebutted, the debtors' petition was filed in good faith, and it intends to grant the motion to extend the automatic stay as to all creditors.

Debtors filed the previous case because of a pending foreclosure sale on their residence. Docket #11. They filed their case without an attorney "upon bad advice" by someone trying to assist them. *Id.* The case was dismissed less than three weeks later for failure to timely file all the necessary documents. *Id.* In debtors' current case, they are represented by an attorney, have timely filed all necessary documents, and have sufficient income to make the plan payments. *Id.*

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.

18. [17-14339](#)-B-13     **IN RE: SHAWN WILLIAMS**  
[MHM-4](#)

MOTION TO DISMISS CASE  
3-5-2018    [[85](#)]

MICHAEL MEYER/MV  
NIMA VOKSHORI  
RESPONSIVE PLEADING

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

DISPOSITION:        Continued to April 26, 2018, at 1:30 p.m.

ORDER:                The court will issue an order.

The trustee's motion to dismiss will be continued to April 26, 2018, at 1:30 p.m., to be heard with the debtor's motion to confirm plan.

19. [17-14648](#)-B-13     **IN RE: FLIMON/LOURDES RAMIREZ**  
[MHM-3](#)

MOTION TO DISMISS CASE  
3-12-2018    [\[49\]](#)

MICHAEL MEYER/MV  
ERIC ESCAMILLA  
RESPONSIVE PLEADING

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

DISPOSITION:                    Dropped from calendar.

NO ORDER REQUIRED:            Movant withdrew the motion.

20. [17-14051](#)-B-13     **IN RE: KELLY HUFFMAN AND ELIA RODRIGUEZ**  
[FW-6](#)

MOTION TO VALUE COLLATERAL OF INTERNAL REVENUE SERVICE  
3-9-2018    [\[65\]](#)

KELLY HUFFMAN/MV  
PETER FEAR

TENTATIVE RULING:            This matter will proceed as scheduled.

DISPOSITION:                    Denied as moot.

ORDER:                            The court will issue an order.

This motion is DENIED AS MOOT based on the record before the court and the IRS's amended claim filed March 29, 2018.

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).

11 U.S.C. § 506 only pertains to claims of secured creditors. The proof of claim filed by the IRS in this case states that no amount of their claim is secured. See claim #3. The motion states that the IRS recorded a lien on the property listed in the motion on October 22, 2013. No evidence of this lien was attached with the motion, nor with the claim filed by the IRS. Because the IRS does not have in fact have any collateral to secure property in which the estate has an interest in, this motion is DENIED AS MOOT.

21. [17-14856](#)-B-13     **IN RE: BRIAN/KARI COLEMAN**  
[SL-2](#)

MOTION TO CONFIRM PLAN  
2-21-2018    [\[28\]](#)

BRIAN COLEMAN/MV  
SCOTT LYONS  
RESPONSIVE PLEADING

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

DISPOSITION:        Continued to May 17, 2018 at 1:30 p.m.

ORDER:                The court will issue an order.

This motion will be set for a continued hearing on May 17, 2018 at 1:30 p.m. The court will issue an order. No appearance is necessary.

Secured creditor ("Creditor") US Bank, N.A. has filed an objection to the debtors' fully noticed motion to confirm a chapter 13 plan. Unless this case is voluntarily converted to chapter 7 or dismissed or the Creditors' opposition to confirmation has been withdrawn, the debtors shall file and serve a written response not later than May 3, 2018. 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. 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 May 3, 2018. If the debtors do not timely file a modified plan or a written response, the motion to confirm the plan will be denied on the grounds stated in the opposition without a further hearing.

22. [17-11059](#)-B-13     **IN RE: SHANNON/LESLIE BAKER**  
[MHM-2](#)

CONTINUED MOTION TO DISMISS CASE  
2-6-2018    [\[126\]](#)

MICHAEL MEYER/MV  
SUSAN HEMB  
RESPONSIVE PLEADING

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 court will issue the order.

This motion was filed and served pursuant to Local Rule of Practice ("LBR") 9014-1(f)(1) and will proceed as scheduled.

The basis of this motion to dismiss was that Debtor was delinquent \$599.09 and debtor needed to make every payment that came due between the filing of this motion (February 8, 2018) and the hearing date (March 12, 2018). This matter was continued to April 12, 2018. Therefore, from the time the trustee filed the motion to the continued hearing date, debtor needed to have made two plan payments.

Unless the trustee withdraws this motion prior to the hearing, or the debtor presents evidence that the \$599.09 arrearage has been paid or will be cured through the modified plan, AND that debtor has timely made the February and March plan payments, the court intends to GRANT this motion.

23. [17-11059](#)-B-13     **IN RE: SHANNON/LESLIE BAKER**  
[SAH-6](#)

MOTION TO MODIFY PLAN  
2-26-2018    [[146](#)]

SHANNON BAKER/MV  
SUSAN HEMB

TENTATIVE RULING:            This matter will proceed as scheduled.

DISPOSITION:                    Granted if matter #22 above is denied. If matter #22 is granted, this motion will be denied as moot.

ORDER:                            The minutes of the hearing will be the court's findings and conclusions. Preparation of the order to be determined at the hearing.

The motion will be granted without oral argument based on well-pled facts. 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.

24. [17-14765](#)-B-13     **IN RE: MICAH/MARILOU GRAY**  
[MHM-3](#)

MOTION TO DISMISS CASE  
3-13-2018    [\[37\]](#)

MICHAEL MEYER/MV  
SCOTT LYONS

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

DISPOSITION:                    Dropped from calendar.

NO ORDER REQUIRED:            Movant withdrew the motion.

25. [18-10573](#)-B-13     **IN RE: CONSTANCE CUNNINGHA**  
[DWE-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY AND/OR MOTION FOR  
RELIEF FROM CO-DEBTOR STAY  
3-14-2018    [\[18\]](#)

WELLS FARGO BANK, N.A./MV  
DANE EXNOWSKI/ATTY. FOR MV.  
DISMISSED

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.

26. [17-10875](#)-B-13     **IN RE: GERALD STULLER AND BARBARA WIKINSON-**  
**STULLER**  
[APN-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY  
3-13-2018    [\[112\]](#)

FORD MOTOR CREDIT COMPANY/MV  
SCOTT SAGARIA  
AUSTIN NAGEL/ATTY. FOR MV.  
RESPONSIVE PLEADING

TENTATIVE RULING:            This matter will proceed as scheduled.

DISPOSITION:                    This matter will proceed as a scheduling  
conference.

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



The hearing on this motion will be called as scheduled and will proceed as a scheduling conference.

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 parties shall be prepared for the court to set an early evidentiary hearing.

The legal issues appear to include: whether the matter can be resolved by an order directing the chapter 13 trustee to pay any funds that remain after payment of all monthly dividends due on account of the fees, payments, expenses, and claims specified in § 5.02(a)(i) through (iv) of the plan, be paid directly to movant until movant's claim is paid in full.

27. [18-10181](#)-B-13     **IN RE: MIGUEL HERNANDEZ**  
[MHM-2](#)

MOTION TO DISMISS CASE  
3-15-2018    [\[24\]](#)

MICHAEL MEYER/MV  
NIMA VOKSHORI  
RESPONSIVE PLEADING

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

DISPOSITION:                    Dropped from calendar.

NO ORDER REQUIRED:            Movant withdrew the motion.

28. [17-12086](#)-B-13     **IN RE: JEFFREY/TARA MORGAN**  
[FW-1](#)

MOTION FOR COMPENSATION BY THE LAW OFFICE OF FEAR WADDELL,  
P.C. FOR GABRIEL J. WADDELL, DEBTORS ATTORNEY(S)  
3-9-2018    [\[31\]](#)

PETER FEAR

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 has been 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.

The Law Office of Fear Waddell, P.C. for Gabriel J. Waddell, debtors' attorney shall be awarded fees of \$6,246.00 and costs of \$430.20.

29. [18-10286](#)-B-13     **IN RE: JOHN/BOBBIE-ANN HEINRICH**  
[EAT-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY DITECH FINANCIAL LLC  
3-27-2018    [[26](#)]

DITECH FINANCIAL LLC/MV  
DARLENE VIGIL/ATTY. FOR MV.  
DISMISSED

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.

30. [18-10386](#)-B-13     **IN RE: ANGEL RODRIGUEZ**  
[AP-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY BANK OF AMERICA, N.A.  
3-27-2018    [[34](#)]

BANK OF AMERICA, N.A./MV  
SCOTT LYONS  
JAMIE HANAWALT/ATTY. FOR MV.

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

DISPOSITION:                    Continued to May 10, 2018 at 1:30 p.m.

ORDER:                            No appearance is necessary. The court will issue the order.

The trustee has not yet concluded the meeting of creditors and by prior order of the court, the trustee has another 7 days after completion of the creditors' meeting to file his objection to the plan. At the continued hearing, if the § 341 meeting has concluded and trustee's objection to this motion has not been withdrawn, the court will call the matter and may set an evidentiary hearing or schedule further proceedings, if any are necessary.

31. [18-10192](#)-B-13     **IN RE: ARTURO/GUADALUPE ARELLANO**  
[MHM-2](#)

MOTION TO DISMISS CASE  
3-9-2018    [[16](#)]

MICHAEL MEYER/MV  
THOMAS GILLIS  
RESPONSIVE PLEADING

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

DISPOSITION:                    Dropped from calendar.

NO ORDER REQUIRED:            Movant withdrew the motion.

32. [17-14594](#)-B-13     **IN RE: ISIDRO/ANGELA TORRES**  
[TOG-1](#)

MOTION TO CONFIRM PLAN  
2-21-2018    [[23](#)]

ISIDRO TORRES/MV  
THOMAS GILLIS  
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.

The motion will be granted without oral argument based on well-pled facts. This motion to confirm or modify a chapter 13 plan was fully noticed in compliance with the Local Rules of Practice. The trustee filed a detailed objection on March 19, 2018 (docket #32). The trustee stated that the plan could be confirmed with the following changes in the Order Confirming Plan: (1) Section 3.06 provides a monthly payment of \$0.00; therefore, the attorney of record has agreed to be paid pro-rata with all unsecured creditors, and (2) Unsecured creditors shall receive interest at the Federal Judgment Interest Rate of 1.62% per annum. Liquidation requires that Debtors pay 100% plus interest to their unsecured creditors. Based on debtor's reply, these changes are agreeable.

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