



**UNITED STATES BANKRUPTCY COURT
Eastern District of California**

**HONORABLE RENÉ LASTRETO II
Department B – Courtroom #13
Fresno, California**

Hearing Date: Wednesday, April 12, 2023

Unless otherwise ordered, all hearings before Judge Lastreto are simultaneously: (1) **IN PERSON** in Courtroom #13 (Fresno hearings only), (2) via **ZOOMGOV VIDEO**, (3) via **ZOOMGOV TELEPHONE**, and (4) via **COURTCALL**. You may choose any of these options unless otherwise ordered.

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INSTRUCTIONS FOR PRE-HEARING DISPOSITIONS

Each matter on this calendar will have one of three possible designations: No Ruling, Tentative Ruling, or Final Ruling. These instructions apply to those designations.

No Ruling: All parties will need to appear at the hearing unless otherwise ordered.

Tentative Ruling: If a matter has been designated as a tentative ruling it will be called, and all parties will need to appear at the hearing unless otherwise ordered. The court may continue the hearing on the matter, set a briefing schedule, or enter other orders appropriate for efficient and proper resolution of the matter. The original moving or objecting party shall give notice of the continued hearing date and the deadlines. The minutes of the hearing will be the court's findings and conclusions.

Final Ruling: Unless otherwise ordered, there will be no hearing on these matters. The final disposition of the matter is set forth in the ruling and it will appear in the minutes. The final ruling may or may not finally adjudicate the matter. If it is finally adjudicated, the minutes constitute the court's findings and conclusions.

Orders: Unless the court specifies in the tentative or final ruling that it will issue an order, the prevailing party shall lodge an order within 14 days of the final hearing on the matter.

Post-Publication Changes: The court endeavors to publish its rulings as soon as possible. However, calendar preparation is ongoing, and these rulings may be revised or updated at any time prior to 4:00 p.m. the day before the scheduled hearings. Please check at that time for any possible updates.

9:30 AM

1. [21-12613](#)-B-13 **IN RE: WILLIAM/STEPHANIE CROSS**
[FW-3](#)

MOTION TO MODIFY PLAN
2-21-2023 [\[55\]](#)

STEPHANIE CROSS/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.

William Ronald Cross and Stephanie Kaye Cross (collectively "Debtors") move for an order confirming the *Second Modified Chapter 13 Plan* dated February 21, 2023. Doc. #55. The 60-month plan proposes that Debtor will pay \$2,820 per month for 14 months (Dec. 2021 – Jan. 2023), and then \$2,150 per month for the remaining 46 months of the plan, with a 4% dividend to allowed, non-priority unsecured claims. Doc. #57. The plan also increases attorney fees and does not discharge unpaid attorney fees under *In re Johnson*, 344 B.R. 104 (B.A.P. 9th Cir. 2006). The attorney fee and Class 2 creditor Ford Motor Credit Comp dividends begin in month 15. *Id.* Debtors' *Amended Schedules I & J* indicate receipt of \$2,152.59 in monthly net income, which is sufficient to afford the proposed plan payment. Doc. #60.

In contrast, the operative *First Modified Chapter 13 Plan* dated December 8, 2021 provides for 60 monthly payments of \$2,820 with a 2% dividend to allowed, non-priority unsecured claims. No party in interest opposed.

This motion was set for hearing on 35 days' notice as required by Local Rule of Practice ("LBR") 3015-1(d)(2). The failure of the creditors, the chapter 13 trustee, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. *See Boone v. Burk (In re Eliapo)*, 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument. Upon default, factual allegations will be taken as true (except those relating to amounts of damages). *Televideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires that a plaintiff make a *prima facie* showing that

they are entitled to the relief sought, which the movant has done here.

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

2. [19-13422](#)-B-13 **IN RE: LINNEY WADE**
[MAZ-4](#)

MOTION TO MODIFY PLAN
3-2-2023 [\[87\]](#)

LINNEY WADE/MV
MARK ZIMMERMAN/ATTY. FOR DBT.
RESPONSIVE PLEADING

TENTATIVE RULING: This matter will be called as scheduled.

DISPOSITION: Granted.

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

Linney S. Wade ("Debtor") moves for an order confirming the *Second Modified Chapter 13 Plan* dated March 2, 2023. Doc. #87. The 60-month, 100% dividend plan proposes that Debtor has paid an aggregate of \$88,996.27 into the plan, and beginning March 2023, the plan payment will increase to \$2,093.15 until the end of the plan. Debtor's *Amended Schedules I & J* indicate receipt of \$2,093.15 in monthly net income, which appears to be sufficient to afford the proposed payment. Doc. #93.

In contrast, the operative *First Modified Chapter 13 Plan* dated December 17, 2021, confirmed March 16, 2022, provides that Debtor paid an aggregate of \$65,857.15 into the plan, and beginning January 2022, the payment will decrease to \$1877 until the end of the plan. Docs. #80; #83.

Chapter 13 trustee Michael H. Meyer ("Trustee") timely objected because the additional provisions contain incorrect aggregate values. Doc. #95. Trustee has received \$88,158.15 through February 28, 2023, so any order confirming plan should strike the incorrect amount and replace it with the correct amount through February 2023. *Id.*

Debtor responded to Trustee's objection, agreeing to replace the aggregate amount paid under the plan from \$88,996.27 to \$88,158.15. Doc. #97. It appears Debtor can resolve Trustee's objection in the order confirming plan.

No other parties in interest timely filed written opposition. This matter will be called as scheduled.

This motion was set for hearing on 35 days' notice as required by Local Rule of Practice ("LBR") 3015-1(d)(2). The failure of the creditors, 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). Therefore, the defaults of the above-mentioned parties in interest except Trustee are entered. Upon default, factual allegations will be taken as true (except those relating to amounts of damages). *Televideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917 (9th Cir. 1987). 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 matter will be called and proceed as scheduled to determine if the plan can be consensually confirmed. The court may GRANT this motion. If granted, the confirmation order shall include the docket control number of the motion, shall reference the plan by the date it was filed, and shall be approved as to form by Trustee.

3. [22-12043](#)-B-13 **IN RE: MIGUEL ELIZONDO**
[MHM-1](#)

CONTINUED MOTION TO DISMISS CASE
2-15-2023 [\[23\]](#)

MICHAEL MEYER/MV
SIMRAN HUNDAL/ATTY. FOR DBT.
RESPONSIVE PLEADING

NO RULING.

This motion was originally heard on March 15, 2023. Doc. #40.

Chapter 13 trustee Michael H. Meyer ("Trustee") moved to dismiss this case for "cause" for unreasonable delay by the debtor that is prejudicial to creditors [11 U.S.C. § 1307(c)(1)], failure to confirm a chapter 13 plan [§ 1307(c)], failure to provide all documents to Trustee, failure to cooperate with Trustee, and failure to commence making plan payments [§ 1307(c)(4)]. Doc. #23. Specifically, Debtor failed to provide (i) a Class 1 Checklist with most recent mortgage statement; (ii) evidence of payment to Class 1 Claims; (iii) a completed Domestic Support Obligation Checklist; (iv) an Authorization to Release Information; (v) documents relating to home energy costs, (vi) education expenses for dependent children under 18; (vii) deduction for special circumstances; (viii) a copy of original, valid picture ID, such as a driver's license; (ix) proof of Debtor's complete social security; (x) proof of assistance to 92 year-old

mother; (xi) a copy of Debtor's auto lease; (xii) a copy of Debtor's auto insurance bill; and (xiii) proof of contribution income from any third party.

Miguel Angel Elizondo ("Debtor") timely responded, indicating that an amended plan had been filed and set for hearing on April 12, 2023. Doc. #35. Debtor also said that all required documents were sent to Trustee on December 8 and 15, 2022, and January 4, 2023. Additionally, Debtor's Toyota lease statement, auto insurance declarations, and bank statements were sent on March 1, 2023. Doc. #36. Debtor contends no proof of cash assistance to his mother exists, which is documented in his declaration in support of plan confirmation. Debtor does not receive cash assistance from third parties.

This motion was continued to April 12, 2023 to be heard in connection with the Debtor's motion to confirm plan, which is the subject of matter #4 below. The court intends to grant the motion to confirm plan. Accordingly, this matter will be called as scheduled to inquire whether Debtor has provided all required documents to Trustee.

4. [22-12043](#)-B-13 **IN RE: MIGUEL ELIZONDO**
[SSH-1](#)

MOTION TO CONFIRM PLAN
2-17-2023 [\[27\]](#)

MIGUEL ELIZONDO/MV
SIMRAN HUNDAL/ATTY. FOR DBT.

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

TENTATIVE RULING: This matter will be called as scheduled.

DISPOSITION: Granted or denied as moot.

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

Miguel Angel Elizondo ("Debtor") moves for an order confirming the *First Amended Chapter 13 Plan* dated February 17, 2023. Doc. #27.

The 60-month, 100% dividend plan proposes that Debtor did not make any payments through month 2 but Debtor will pay \$1,846.00 in month 3, \$280.00 per month for months 4-9, \$800.00 per month for months 10-42, and \$1,553.00 per month for months 43-60. Doc. #33. By footnote, the plan indicates Debtor is paying a higher amount in month 3 to account for missing the first two plan payments, Debtor will be out on disability months 4-10, and Debtor's vehicle lease matures in month 42. *Id.*

Debtor's *Amended Schedules I & J* dated February 17, 2023 indicate receipt of \$800.10 in monthly net income, which appears to be sufficient to fund the proposed monthly plan payment. Doc. #30.

No party in interest timely filed written opposition.

This motion was set for hearing on 35 days' notice as required by Local Rule of Practice ("LBR") 3015-1(d)(1). The failure of the creditors, the chapter 13 trustee, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Therefore, the defaults of the above-mentioned parties in interest are entered. Upon default, factual allegations will be taken as true (except those relating to amounts of damages). *Televideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917 (9th Cir. 1987).

This matter will be called and proceed as scheduled because Debtor is facing dismissal of this case in matter #3 above for failure to provide required documents to the chapter 13 trustee and failure to confirm a plan. If the case is dismissed, then this motion will be DENIED AS MOOT. If the case is not dismissed, this motion will be GRANTED. If granted, the confirmation order shall include the docket control number of the motion and shall reference the plan by the date it was filed.

5. [18-11457](#)-B-13 **IN RE: GREGG/WENDY SCHOFIELD**
[MHM-2](#)

MOTION TO DISMISS CASE
3-8-2023 [[109](#)]

PETER BUNTING/ATTY. FOR DBT.

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

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

DISPOSITION: Withdrawn; taken off calendar.

NO ORDER REQUIRED.

Chapter 13 trustee Michael H. Meyer withdrew this motion on April 11, 2023. Doc. #113. Accordingly, this matter will be dropped and taken off calendar pursuant to the withdrawal.

6. [22-10760](#)-B-13 **IN RE: MATTHEW CRIPPEN**
[MHM-3](#)

CONTINUED MOTION TO DISMISS CASE
3-1-2023 [[67](#)]

TIMOTHY SPRINGER/ATTY. FOR DBT.
RESPONSIVE PLEADING

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Denied without prejudice.

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

This motion was originally heard on March 29, 2023. Doc. #85.

Chapter 13 trustee Michael H. Meyer ("Trustee") moved to dismiss this case for unreasonable delay by the debtors that is prejudicial to creditors and failure to confirm a chapter 13 plan and failure to make all payments due under the plan (11 U.S.C. § 1307(c)(4)). Doc. #67. Debtor is delinquent in the amount of \$17,155.50. *Id.*

Matthew Crippen ("Debtor") timely filed a response on March 6, 2023. Doc. #71.

Debtor filed a modified plan on March 6, 2023, which is set for hearing on April 12 2023 in matter #7 below. TCS-2. The court continued this motion to April 12, 2023 to be heard in connection with the plan confirmation hearing. Doc. #85.

The court intends to grant the motion to modify plan in matter #7 below. This matter will be called as scheduled to confirm Trustee's motion has been resolved. The court intends to DENY WITHOUT PREJUDICE this motion.

7. [22-10760](#)-B-13 **IN RE: MATTHEW CRIPPEN**
[TCS-2](#)

MOTION TO MODIFY PLAN
3-6-2023 [\[73\]](#)

MATTHEW CRIPPEN/MV
TIMOTHY SPRINGER/ATTY. FOR DBT.

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

TENTATIVE RULING: This matter will be called as scheduled.

DISPOSITION: Granted or denied as moot.

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

Matthew Lee Crippen ("Debtor") moves for an order confirming the *Third Modified Chapter 13 Plan* dated March 6, 2023. Doc. #73.

The 60-month, 100% dividend plan proposes that Debtor shall pay an aggregate of \$8,500.00 for months 1-9, and starting month 10, the monthly payment will be \$3,125.28. Doc. #78. Debtor's *Amended Schedules I & J* dated March 6, 2023 indicate receipt of \$3,125.33 in monthly net income, which is sufficient to afford the proposed plan payment.

In contrast, the operative *Chapter 13 Plan* dated May 3, 2022, confirmed August 12, 2022, provides that Debtor will make 60 monthly payments of \$2,660.00 with a 100% dividend to allowed, non-priority unsecured claims. Docs. #3; #30.

No party in interest timely filed written opposition.

This motion was set for hearing on 35 days' notice as required by Local Rule of Practice ("LBR") 3015-1(d)(1). The failure of the creditors, the chapter 13 trustee, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Therefore, the defaults of the above-mentioned parties in interest are entered. Upon default, factual allegations will be taken as true (except those relating to amounts of damages). *Televideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917 (9th Cir. 1987).

This matter will be called and proceed as scheduled because Debtor is facing dismissal of this case in matter #6 above for failure to make all payments due under the plan, and the Trustee has not withdrawn

that motion. MHM-3. If the case is dismissed, this motion will be DENIED AS MOOT. If the case is not dismissed, this motion will be GRANTED. If granted, the confirmation order shall include the docket control number of the motion and shall reference the plan by the date it was filed.

8. [21-12561](#)-B-13 **IN RE: AMANDA GROAH**
[MHM-1](#)

MOTION TO DISMISS CASE
3-8-2023 [\[28\]](#)

ROBERT WILLIAMS/ATTY. FOR DBT.
RESPONSIVE PLEADING

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Granted or denied without prejudice.

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

Chapter 13 trustee Michael H. Meyer ("Trustee") asks the court to dismiss this case under 11 U.S.C. § 1307(c)(1) and (c)(6) for unreasonable delay by debtor that is prejudicial to creditors and material default by the debtor with respect to a term of a confirmed plan. Doc #28.

Debtor timely responded on March 29, 2023, indicating that debtor will pay \$1,700.00 on March 31, 2023 and pay \$800.00 the week of April 2, 2023. Doc. #32.

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

This motion was set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of the creditors, the U.S. Trustee, or any other party in interest except Debtor to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Therefore, the defaults of the above-mentioned parties in interest except Debtor are entered. Upon default, factual allegations will be taken as true (except those relating to amounts of damages). *Televideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917 (9th Cir. 1987).

Trustee indicates Debtor is delinquent in the amount of \$1,999.12. Doc. #30. Before this hearing, another payment in the amount of

\$2,243.67 will also come due, for a total of \$4,242.79 due before the hearing. *Id.* Should Debtor make the payment of \$2,500.00 as stated in her response, the initial delinquency will be cured. However, it appears that there will still be a remaining delinquency for the March 25, 2023 plan payment.

Under 11 U.S.C. § 1307(c), the court may convert or dismiss a case, whichever is in the best interests of creditors and the estate, for cause. "A debtor's unjustified failure to expeditiously accomplish any task required either to propose or to confirm a chapter 13 plan may constitute cause for dismissal under § 1307(c)(1)." *Ellsworth v. Lifescape Med. Assocs., P.C. (In re Ellsworth)*, 455 B.R. 904, 915 (B.A.P. 9th Cir. 2011). There is "cause" for dismissal under 11 U.S.C. § 1307(c)(1) and (c)(6) for unreasonable delay and material default under a confirmed plan.

In addition, Trustee has reviewed the schedules and determined that this case has a liquidation value of \$2,807.72 after trustee compensation if the case were converted to chapter 7. Doc. #30. This amount is comprised of the value of Debtors' Pool table and accounts receivable. *Id.* The liquidation value of this case is *de minimis*. Therefore, dismissal, rather than conversion, serves the interests of creditors and the estate.

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

9. [22-12169](#)-B-13 **IN RE: ANDREW MURRIETA**
[MHM-2](#)

MOTION TO DISMISS CASE
3-3-2023 [\[22\]](#)

TIMOTHY SPRINGER/ATTY. FOR DBT.
RESPONSIVE PLEADING

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Granted or denied without prejudice.

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

Chapter 13 trustee Michael H. Meyer ("Trustee") asks the court to dismiss this case under 11 U.S.C. § 1307(c)(1) and (c)(4) for unreasonable delay by debtor that is prejudicial to creditors and failure to commence making plan payments. Doc. #22.

Andrew Jose Murrieta ("Debtor") timely responded, stating an *Amended Schedule J* was filed (Doc. #27) and debtor's plan payments will be brought current by the hearing date. Doc. #30.

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

This motion was set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of the creditors, the U.S. Trustee, or any other party in interest except Debtor to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Therefore, the defaults of the above-mentioned parties in interest except Debtor are entered. Upon default, factual allegations will be taken as true (except those relating to amounts of damages). *Televideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917 (9th Cir. 1987).

Trustee indicates Debtor has failed to cooperate with Trustee as required in 11 U.S.C. § 521(a)(3) & (4) because Debtor has failed to provide an *Amended Schedule J* to reflect actual household expenses. Doc. #24. Further, Debtor is delinquent in the amount of \$2,383.00, and before this hearing, another payment in that same amount will also come due, for a total delinquency of \$4,766.00 due before the hearing. *Id.*

In response, Debtor filed an *Amended Schedule J* on March 27, 2023 (Doc. #27) and indicates the delinquency will be cured before the hearing.

Under 11 U.S.C. § 1307(c), the court may convert or dismiss a case, whichever is in the best interests of creditors and the estate, for cause. "A debtor's unjustified failure to expeditiously accomplish any task required either to propose or to confirm a chapter 13 plan may constitute cause for dismissal under § 1307(c)(1)." *Ellsworth v. Lifescape Med. Assocs., P.C. (In re Ellsworth)*, 455 B.R. 904, 915 (B.A.P. 9th Cir. 2011). There is "cause" for dismissal under 11 U.S.C. § 1307(c)(1) and (c)(4) for unreasonable delay and failure to commence making plan payments.

In addition, Trustee has reviewed the schedules and determined that Debtor's assets are over encumbered and are of no benefit to the estate. Doc. #22. Because there is no equity to be realized for the benefit of the estate, dismissal is in the best interests of creditors and the estate.

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

10. [18-10192](#)-B-13 **IN RE: ARTURO/GUADALUPE ARELLANO**
[MHM-3](#)

MOTION TO DISMISS CASE
3-8-2023 [[42](#)]

THOMAS GILLIS/ATTY. FOR DBT.

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

DISPOSITION: Withdrawn; dropped from calendar.

NO ORDER REQUIRED.

Chapter 13 trustee Michael H. Meyer withdrew this motion on April 5, 2023. Doc. #46. Accordingly, this motion will be dropped and taken off calendar pursuant to the trustee's withdrawal.

11. [23-10198](#)-B-13 **IN RE: SHENA SIELERT**
[MHM-1](#)

OBJECTION TO DEBTOR'S CLAIM OF EXEMPTIONS
3-2-2023 [[17](#)]

MICHAEL MEYER/MV

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Sustained.

ORDER: The Objecting Party shall submit a proposed order after hearing.

Chapter 13 trustee Michael H. Meyer ("Trustee") objects to Shena Janelle Sielert's ("Debtor") claim of exemptions under both Cal. Code Civ. Proc. ("CCP") §§ 703.140(b) and 704. Doc. #17.

Debtor did not respond.

This matter will be called and proceed as scheduled because Debtor is *pro se*. The court intends to SUSTAIN this objection.

This objection 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 sustaining of the objection. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Therefore, the defaults of the above-mentioned parties in interest are entered. Upon default, factual allegations will be taken as true (except those relating to amounts of

damages). *Televideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917 (9th Cir. 1987).

Federal Rule of Bankruptcy Procedure 4003(b) allows a party in interest to file an objection to a claim of exemption within 30 days after the § 341 Meeting of Creditors is held or within 30 days after any amendment to *Schedule C* is filed, whichever is later.

Debtor filed chapter 13 bankruptcy on February 1, 2023. Doc. #1. The first § 341(a) meeting of creditors was held on March 21, 2023 and was continued to May 2, 2023. Docket generally. Trustee timely filed this objection on March 2, 2023. Doc. #17.

Debtor exempted residential real property located at 55640 Quail Hollow, North Fork, CA 93643 ("Property"), valued at \$350,000, in an unspecified amount under CCP § 704.730 equal to "100% of fair market value, up to any applicable statutory limit." *Scheds. A/B, C*, Doc. #10. Debtor also exempted (a) a vehicle in the amount of \$2,500.00 under CCP § 704.010, (b) household goods in the amount of \$500.00 under CCP § 704.020, (c) electronics in the amount of \$500.00 under CCP § 704.020, (d) clothing in the amount of \$500.00 under CCP § 704.020, and (e) a 2021 tax refund in the amount of \$5,693.00 under CCP § 703.140(b)(5).

First, Trustee objects because Debtor claimed exemptions under both CCP §§ 703.140(b) and 704. CCP § 703.140(a) requires a debtor to elect between the exemptions specified in §§ 703.140(b) or 704, but not both. Doc. #17. So, Debtor will need to amend the exemptions and claim either the §§ 703 or 704 exemptions, but not both.

Second, Trustee objects because Debtor does not state a dollar amount for the exemption in Property. CCP § 704.730 provides:

(a) The amount of the homestead exemption is the greater of the following:

(1) The countywide median sale price for a single-family home in the calendar year prior to the calendar year in which the judgment debtor claims the exemption, not to exceed six hundred thousand dollars (\$600,000).

(2) Three hundred thousand dollars (\$300,000).

(b) The amounts specified in this section shall adjust annually for inflation, beginning on January 1, 2022, based on the change in the annual California Consumer Price Index for All Urban Consumers for the prior fiscal year, published by the Department of Industrial Relations.

CCP § 704.730. On January 1, 2022, this exemption was automatically updated to increase the minimum exemption to \$312,600.00, and the maximum countywide median sale price for a single-family home exemption to \$625,200.00 based on the change in the annual Consumer

Price Index (4.2%). The exemption increased again on January 1, 2023 based on a 7.3% annual average CPI to \$335,419.80 for the minimum exemption, and \$670,839.60 for maximum exemption depending on the countywide median sale price.

It is unclear whether Debtor is claiming the minimum statutory exemption in the Property under CCP § 704.730(a)(2) or a higher exemption under subsection (a)(1) based on the Madera County median sale price for a single-family home in 2022. Therefore, *Schedule C* must be amended to list a specific dollar amount for the exemption in Property under CCP § 704.730(a)(1) or (a)(2).

The Eastern District of California Bankruptcy Court in *In re Pashenee*, 531 B.R. 834, 837 (Bankr. E.D. Cal. 2015) held that "the debtor, as the exemption claimant, bears the burden of proof which requires her to establish by a preponderance of the evidence that [the property] claimed as exempt in Schedule C is exempt under [relevant California law] and the extent to which that exemption applies."

Based on the record, Debtor has failed to establish by a preponderance of the evidence that Debtor is entitled to exempt assets under both CCP §§ 703 and 704 or entitled to exempt Property in unspecified amounts equal to "100% of fair market value[s], up to any applicable statutory limit." This matter will be called as scheduled because Debtor is *pro se*, but the court is inclined to SUSTAIN this objection.

11:00 AM

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

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

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

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

DISPOSITION: Continued to June 28, 2023 at 11:00 a.m.

ORDER: The court will issue an order.

The court is in receipt of the plaintiffs' *Updated Status Conference Statement* dated April 4, 2023. Doc. #87.

This status conference will be CONTINUED to June 28, 2023 at 11:00 a.m. and proceed as a scheduling conference. The parties shall exchange initial disclosures not later than May 12, 2023. Plaintiff shall provide a status report with a proposed schedule not later than 7 days before the scheduling conference.

2. [22-10128](#)-B-7 **IN RE: SEQUOYAH KIDWELL**
[23-1009](#) [CAE-1](#)

STATUS CONFERENCE RE: COMPLAINT
2-6-2023 [[1](#)]

KIDWELL V. ALLISON ET AL

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

DISPOSITION: Continued to May 3, 2023 at 11:00 a.m.

ORDER: The court will issue an order.

On March 14, 2023, the court issued an order to show cause why this case should not be dismissed for lack of subject matter jurisdiction. Doc. #24. On March 21, 2023, the defendants filed a motion to dismiss. Docs. ##33-35. Both are set for hearing on May 3, 2023.

Accordingly, this status conference will be CONTINUED to May 3, 2023 at 11:00 a.m. to be heard in connection with the motion to dismiss and order to show cause.

3. [17-13832](#)-B-13 **IN RE: DAVID BISHOP AND TIESHA GILL**
[23-1011](#) [CAE-1](#)

STATUS CONFERENCE RE: COMPLAINT
2-7-2023 [[1](#)]

BISHOP ET AL V. COMMUNITY
MEDICAL CENTERS, INC.
GABRIEL WADDELL/ATTY. FOR PL.

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

DISPOSITION: Continued to May 31, 2023 at 11:00 a.m.

ORDER: The court will issue an order.

This status conference will be CONTINUED to May 31, 2023 at 11:00 a.m. Since the deadline for the defendant to file a response to the complaint has expired under Fed. R. Bankr. P. 7012, the plaintiffs are directed to seek entry of default.

4. [13-11337](#)-B-13 **IN RE: GREGORY/KARAN CARVER**
[22-1001](#) [CAE-1](#)

CONTINUED STATUS CONFERENCE RE: COMPLAINT
1-6-2022 [[1](#)]

CARVER ET AL V. SETERUS INC. ET AL
NANCY KLEPAC/ATTY. FOR PL.
RESPONSIVE PLEADING

NO RULING.

The court is in receipt of *Gregory Funding LLC's Unilateral Status Conference Statement* dated April 5, 2023. Doc. #124. This status conference will be called and proceed as scheduled.

5. [22-11540](#)-B-11 **IN RE: VALLEY TRANSPORTATION, INC.**
[22-1025](#) [CAE-1](#)

CONTINUED STATUS CONFERENCE RE: COMPLAINT
10-24-2022 [[1](#)]

VALLEY TRANSPORTATION, INC. V. MENDOZA
RILEY WALTER/ATTY. FOR PL.
RESPONSIVE PLEADING

NO RULING.

The court is in receipt of *Plaintiff's Adversary Proceeding Status Report* dated April 5, 2023. Doc. #63. This status conference will be called and proceed as scheduled.

6. [18-11651](#)-B-11 **IN RE: GREGORY TE VELDE**
[23-1012](#) [CAE-1](#)

STATUS CONFERENCE RE: COMPLAINT
2-9-2023 [[1](#)]

SUGARMAN V. UNITED STATES
TRUSTEE PROGRAM, BY AND
RILEY WALTER/ATTY. FOR PL.

NO RULING.

The court is in receipt of the parties' *Joint Status Report* dated March 17, 2023. Doc. #6. The parties' request a 180-day continuance while service of this adversary proceeding is held in abeyance pending review of rulings by other courts on the issues raised in the complaint.

This matter will be called and proceed as scheduled to inquire whether the plaintiff intends to request an extension of time for service of the complaint and summons under Fed. R. Civ. P. 4(m) (Fed. R. Bankr. P. 7004(a)(1)).