

UNITED STATES BANKRUPTCY COURT
Eastern District of California
Honorable René Lastreto II
Hearing Date: Wednesday, April 15, 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. [19-15406](#)-B-13 **IN RE: ANOFRE/MARIA OROSCO**
[MHM-1](#)

CONTINUED OBJECTION TO CONFIRMATION OF PLAN BY TRUSTEE MICHAEL H. MEYER
2-12-2020 [[17](#)]

ERIC ESCAMILLA/ATTY. FOR DBT.

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 plan on March 17, 2020. See EPE-1, doc. #37.

2. [20-10208](#)-B-13 **IN RE: LINDA TODD**
[MHM-2](#)

MOTION TO DISMISS CASE
3-6-2020 [[23](#)]

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, failing to make all payments due under the plan, and failing to provide necessary and requested documents to the trustee's office. Doc. #23. 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. Debtor has not opposed dismissal and Trustee has not recommended conversion. A review of the schedules does not show much if any non-exempt property that could be liquidated to pay unsecured creditors.

For the above reasons, this motion is GRANTED.

3. [19-14712](#)-B-13 **IN RE: GEREY LATT**
[WDO-4](#)

MOTION TO CONFIRM PLAN
3-10-2020 [\[73\]](#)

GEREY LATT/MV
WILLIAM OLCOTT/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.

The court notes movant's procedural error. LBR 9004-2(c)(1) requires that motions and other supporting documents, like a chapter 13 plan, shall be filed as separate documents. In this instance, the motion and plan were not filed separately. Failure to comply with this rule in the future will result in the application for relief being denied without prejudice.

4. [20-10628](#)-B-13 **IN RE: ANTONIO TELLEZ**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES
3-30-2020 [\[21\]](#)

MARK HANNON/ATTY. FOR DBT.

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

DISPOSITION: The OSC will be vacated.

ORDER: The court will issue an order.

The record shows that the installment fees were paid in full on April 8, 2020. Therefore, the OSC will be vacated.

5. [18-11136](#)-B-13 **IN RE: STEPHANIE HICKS**
[MJA-1](#)

MOTION FOR COMPENSATION BY THE LAW OFFICE OF ARNOLD LAW GROUP,
APC FOR MICHAEL J. ARNOLD, DEBTORS ATTORNEY(S)
2-13-2020 [\[21\]](#)

MICHAEL ARNOLD/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 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. Movant is awarded \$5,617.55 in fees and \$382.45 in costs.

6. [19-15037](#)-B-13 **IN RE: DENISE SOTO**
[EPE-2](#)

MOTION TO CONFIRM PLAN
3-3-2020 [\[41\]](#)

DENISE SOTO/MV
ERIC ESCAMILLA/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.

7. [20-10547](#)-B-13 **IN RE: CLAYTON/KIMBERLY WHITE**
[PBB-1](#)

MOTION TO CONFIRM PLAN
3-11-2020 [\[22\]](#)

CLAYTON WHITE/MV
PETER BUNTING/ATTY. FOR DBT.
RESPONSIVE PLEADING

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

DISPOSITION: Continued to May 13, 2020 at 9:30 a.m.

ORDER: The court will issue an order.

The chapter 13 trustee ("Trustee") 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, dismissed, or Trustee's opposition to confirmation is withdrawn, the debtors shall file and serve a written response not later than April 29, 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 debtors' position. Trustee shall file and serve a reply, if any, by May 6, 2020.

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 6, 2020. If the debtors do 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.

8. [19-14556](#)-B-13 **IN RE: NICOLAS/MARTHA NUNEZ**
[MHM-2](#)

CONTINUED MOTION TO DISMISS CASE
3-2-2020 [\[43\]](#)

MICHAEL MEYER/MV
MARK HANNON/ATTY. FOR DBT.

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

DISPOSITION: Denied as moot.

ORDER: The court will issue an order.

This motion is DENIED AS MOOT.

The grounds of this motion are that debtor has failed to confirm a chapter 13 plan. Doc. #43. The case was filed on October 31, 2019. Doc. #1. Debtor's motion to confirm plan (matter #9 below, MJH-1) is granted as the chapter 13 trustee withdrew his opposition. Therefore

the grounds of this motion are moot and the motion is denied as such.

9. [19-14556](#)-B-13 **IN RE: NICOLAS/MARTHA NUNEZ**
[MJH-1](#)

MOTION TO CONFIRM PLAN
3-11-2020 [\[47\]](#)

NICOLAS NUNEZ/MV
MARK HANNON/ATTY. FOR DBT.
RESPONSIVE PLEADING

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

DISPOSITION: Granted.

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

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

This motion is GRANTED. The chapter 13 trustee withdrew his opposition. Doc. #64. 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. [17-14157](#)-B-13 **IN RE: VICTOR ISLAS AND LORENA GONZALEZ**
[TCS-4](#)

MOTION TO DISGORGE FEES
3-13-2020 [\[133\]](#)

VICTOR ISLAS/MV
TIMOTHY SPRINGER/ATTY. FOR DBT.
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.

Based on the record, the factual issues appear to include: whether
the motion is timely, and; whether the motion is vague.

The legal issues appear to include: whether the fees may be
disgorged.

11. [19-15366](#)-B-13 **IN RE: ESTHER SERRANO**
[MHM-1](#)

CONTINUED OBJECTION TO CONFIRMATION OF PLAN BY TRUSTEE MICHAEL
H. MEYER
2-12-2020 [\[18\]](#)

MARK HANNON/ATTY. FOR DBT.
WITHDRAWN

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

DISPOSITION: Dropped from calendar.

NO ORDER REQUIRED: Movant withdrew the objection. Doc. #35.

12. [19-14176](#)-B-13 **IN RE: STEVEN WILSON**
[EPE-3](#)

CONTINUED MOTION TO CONFIRM PLAN
2-11-2020 [\[73\]](#)

STEVEN WILSON/MV
ERIC ESCAMILLA/ATTY. FOR DBT.
WITHDRAWN

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

DISPOSITION: Dropped from calendar.

NO ORDER REQUIRED: Movant withdrew the motion. Doc. #92.

13. [17-12086](#)-B-13 **IN RE: JEFFREY/TARA MORGAN**
[FW-3](#)

MOTION FOR COMPENSATION BY THE LAW OFFICE OF FEAR WADDELL,
P.C. FOR GABRIEL J. WADDELL, DEBTORS ATTORNEY(S)
2-28-2020 [\[42\]](#)

PETER FEAR/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 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. Movant is awarded \$2,445.00 in fees and \$244.74 in costs.

14. [20-10089](#)-B-13 **IN RE: SUSANA ANDRES**
[MHM-2](#)

MOTION TO DISMISS CASE
3-13-2020 [\[35\]](#)

MICHAEL MEYER/MV
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. #40.

15. [20-10489](#)-B-13 **IN RE: REYMUNDO GARZA**
[BDB-1](#)

MOTION TO VALUE COLLATERAL OF ONEMAIN FINANCIAL GROUP, LLC
3-17-2020 [\[21\]](#)

REYMUNDO GARZA/MV
BENNY BARCO/ATTY. FOR DBT.

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

DISPOSITION: Denied without prejudice.

ORDER: The court will issue the order.

The motion is DENIED WITHOUT PREJUDICE. 11 U.S.C. § 1325(a)(*) (the hanging paragraph) states that 11 U.S.C. § 506 is not applicable to claims described in that paragraph if (1) the creditor has a purchase money security interest securing the debt that is the subject of the claim, (2) the debt was incurred within 910 days preceding the filing of the petition, and (3) the collateral is a motor vehicle acquired for the personal use of the debtor.

11 U.S.C. § 506(a)(2) states that the value of personal property securing an allowed claim shall be determined based on the replacement value of such property as of the petition filing date. "Replacement value" means "the price a retail merchant would charge for property of that kind considering the age and condition of the property at the time value is determined."

Debtor asks the court for an order valuing a 2012 Harley Davidson FLHTCUTG Triglide Ultra Classic ("Vehicle") at \$19,120.00. Doc. #21. Debtor's declaration states that the Vehicle is not encumbered by a purchase-money security interest in favor of creditor Onemain Financial Group, LLC ("Creditor") and that "the claim was not incurred within 1-year of filing of the case." Doc. #23. The motion simultaneously states that the debtor was not incurred within one-year of the filing of the case and that the purchase date was over 910 days before the filing of the petition. Doc. #21.

Additionally, debtor's declaration uses the term "fair market value" and in paragraph 6 alludes to "replacement value."

Section 506 will not apply to motor vehicles if the debt was incurred within 910 days preceding the filing of the petition. The evidence contradicts statements made in the motion, and the court has only the declaration to consider.

A motorcycle is a motor vehicle. The declaration states that the debt was not incurred within one year of the filing of the case, but that is insufficient. Also, the debtor's valuation of the Vehicle is not consistent.

For those reasons, the motion is DENIED WITHOUT PREJUDICE.

16. [20-10489](#)-B-13 **IN RE: REYMUNDO GARZA**
[BDB-2](#)

MOTION TO VALUE COLLATERAL OF WELLS FARGO DEALER SERVICES, INC.
3-17-2020 [\[26\]](#)

REYMUNDO GARZA/MV
BENNY BARCO/ATTY. FOR DBT.

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

DISPOSITION: Denied without prejudice.

ORDER: The court will issue the order.

The motion is DENIED WITHOUT PREJUDICE. 11 U.S.C. § 1325(a)(*) (the hanging paragraph) states that 11 U.S.C. § 506 is not applicable to claims described in that paragraph if (1) the creditor has a purchase money security interest securing the debt that is the subject of the claim, (2) the debt was incurred within 910 days preceding the filing of the petition, and (3) the collateral is a motor vehicle acquired for the personal use of the debtor.

11 U.S.C. § 506(a)(2) states that the value of personal property securing an allowed claim shall be determined based on the replacement value of such property as of the petition filing date. "Replacement value" means "the price a retail merchant would charge for property of that kind considering the age and condition of the property at the time value is determined."

Debtor asks the court for an order valuing a 2016 Hyundai Veloster ("Vehicle") at \$13,025.00. Doc. #26. Debtor's declaration states that the Vehicle was purchased "on or about November 16, 2016." Doc. #28. That date is more than 910 days before the case was filed.

However, debtor's declaration uses the term "fair market value" and in paragraph 6 alludes to "replacement value." This is ambiguous and inconsistent. The statute is clear that the valuation must be the

"replacement value." The evidence presented does not meet that burden.

The motion is DENIED WITHOUT PREJUDICE.

17. [20-10592](#)-B-13 **IN RE: JUAN PATINO**
[JWC-2](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
4-1-2020 [\[30\]](#)

MHC FINANCIAL SERVICES/MV
ROBERT WILLIAMS/ATTY. FOR DBT.
JENNIFER CRASTZ/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, MHC Financial Services ("Movant"), seeks relief from the automatic stay under 11 U.S.C. § 362(d)(1) with respect to a 2015 Freightliner Revolution 125 Tractor ("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 debtor has no interest in the Vehicle other than a possessory interest. Debtor was not a party to the sale agreement at issue in this motion. Doc. #32. However debtor's schedules and proposed plan both include the Vehicle. Movant's claim is secured by the Vehicle. Debtor is the guarantor of a corporate debt but not the title holder.

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 the Vehicle is a depreciating asset and debtor's interest is only possessory.

18. [19-14193](#)-B-13 **IN RE: ELIZABETH VILLA**
[MHM-3](#)

OBJECTION TO DEBTOR'S CLAIM OF EXEMPTIONS
3-5-2020 [\[41\]](#)

MICHAEL MEYER/MV
ROBERT WILLIAMS/ATTY. FOR DBT.
WITHDRAWN

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

DISPOSITION: Dropped from calendar.

NO ORDER REQUIRED: Movant withdrew the objection. Doc. #78.

19. [20-10444](#)-B-13 **IN RE: DAVID/LATUNJIA JOHNSON**

CONTINUED ORDER TO SHOW CAUSE - FAILURE TO PAY FEES
3-13-2020 [\[18\]](#)

PATRICK KAVANAGH/ATTY. FOR DBT.

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

DISPOSITION: The OSC will be vacated.

NO ORDER REQUIRED. The OSC will be vacated.

The fee was paid on April 9, 2020.

11:00 AM

1. 20-01013-B-0 IN RE: YOON ET AL

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES
3-19-2020 [26]

YOON V. K.S. AVIATION, INC.
\$350.00 FILING FEE PAID 3/23/20

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

DISPOSITION: The OSC will be vacated.

NO ORDER REQUIRED. The OSC will be vacated.

The filing fee was paid on March 23, 2020 in its entirety.

2. 19-14045-B-7 IN RE: DAVID MARTIN
20-1010

STATUS CONFERENCE RE: COMPLAINT
2-11-2020 [1]

EDMONDS V. FARRIS
ANTHONY JOHNSTON/ATTY. FOR PL.

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

DISPOSITION: This matter will be continued to May 13, 2020 at 11:00 a.m.

ORDER: The court will issue the order.

It appears that Plaintiff timely and properly served the summons and complaint on defendant. The time for defendant to answer has expired.

Plaintiff shall make a request for an entry of default before the continued hearing. If the default is entered and Plaintiff files a motion for default judgment or dismissal before the continued hearing, the status conference will be dropped and the court will hear the motion when scheduled. If no motion for default and judgment or dismissal is filed prior to the continued hearing, the court will issue an order to show cause on why this case should not be dismissed for lack of prosecution.

3. [18-11651](#)-B-11 **IN RE: GREGORY TE VELDE**
[20-1001](#)

CONTINUED STATUS CONFERENCE RE: COMPLAINT
1-6-2020 [[1](#)]

SUGARMAN V. CRAWFORD ET AL
JOHN MACCONAGHY/ATTY. FOR PL.
RESPONSIVE PLEADING

NO RULING.

4. [19-14170](#)-B-7 **IN RE: JOHNNY GONZALES**
[20-1011](#)

STATUS CONFERENCE RE: NOTICE OF REMOVAL
2-18-2020 [[1](#)]

GONZALES V. MID VALLEY SERVICES, INC.
HAGOP BEDOYAN/ATTY. FOR PL.
DISMISSED WITH LEAVE TO AMEND

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.

Defendant's motion to dismiss was granted with leave to amend on
March 19, 2020. Doc. #18. Plaintiff had until April 2, 2020 to file
and serve an amended complaint. Plaintiff did not. Therefore the
adversary proceeding is dismissed and the case is closed.

5. [18-13678](#)-B-7 **IN RE: VERSA MARKETING, INC.**
[19-1032](#)

CONTINUED ORDER TO SHOW CAUSE REGARDING DISMISSAL OF ADVERSARY
PROCEEDING FOR FAILURE TO PROSECUTE
1-7-2020 [[52](#)]

VERSA MARKETING, INC. V. WEST
LIBERTY FOODS, LLC
RESPONSIVE PLEADING

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

DISPOSITION: Continued to May 12, 2020 at 1:30 p.m.

ORDER: The court will issue an order.

The litigation rights to this adversary proceeding are currently the
subject to a pending motion to sell, which has been continued until
May 12, 2020 at 1:30 p.m. See case no. 18-13678, doc. #560. This

order to show cause is also continued until May 12, 2020 at 1:30 p.m. After the continued motion to sell has been resolved, the court will determine whether further continuance or vacatur is necessary.

6. [17-13797](#)-B-9 **IN RE: TULARE LOCAL HEALTHCARE DISTRICT**
[WJH-27](#)

CONTINUED OBJECTION TO CLAIM OF TOGROL SALJOUGHY, M.D., CLAIM
NUMBER 84
1-10-2020 [[1844](#)]

TULARE LOCAL HEALTHCARE DISTRICT/MV
RILEY WALTER/ATTY. FOR DBT.
RESPONSIVE PLEADING

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Sustained.

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

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. Leatham is screened from considering this and any other matters 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 screen process involving Mr. Leatham. The court will inquire about this at the hearing.

This objection is SUSTAINED.

11 U.S.C. § 502(a) states that a claim or interest, evidenced by a proof filed under section 501, is deemed allowed, unless a party in interest objects.

Federal Rule of Bankruptcy Procedure 3001(f) states that a proof of claim executed and filed in accordance with these rules shall constitute prima facie evidence of the validity and amount of the claim. If a party objects to a proof of claim, the burden of proof is on the objecting party. Ludell v. Anchor Constr. Specialists, Inc., 233 F.3d 1035, 1039 (9th Cir. BAP 2000).

Debtor Tulare Local Healthcare District ("Debtor"), objects to claim no. 84 in the amount of \$25,000.00 and filed by Togrol Saljoughy, M.D. ("Claimant") because the claim is inconsistent with Debtor's financial records. Doc. #1844.

The Claimant opposed the objection by declaration, which outlined the terms of his employment agreement with Debtor. Doc. #1980. Claimant estimated number of patients he believes he treated, and therefore under the terms of the employment agreement, believes he

is entitled to \$25,000.00. Id. Debtor responded by declaration and submitted evidence that the Claimant was entitled to a claim of \$11,100.00 based upon a documented number of treated patients. Doc. #2010.

The initial hearing was held on February 26, 2020. This matter was continued to provide Claimant with additional time to respond or to resolve the matter. As of the date of this hearing, the Claimant has not filed any additional opposition nor rebutted Debtor's evidence that his claim should be limited to \$11,100.00.

Therefore, in the absence of any further opposition, this objection is sustained and claim no. 84 will be reduced to \$11,100.00.

7. [17-13797](#)-B-9 **IN RE: TULARE LOCAL HEALTHCARE DISTRICT**
[WJH-31](#)

CONTINUED OBJECTION TO CLAIM OF OLGA SALJOUGHY, F.N.P., CLAIM
NUMBER 105
1-13-2020 [\[1876\]](#)

TULARE LOCAL HEALTHCARE DISTRICT/MV
RILEY WALTER/ATTY. FOR DBT.
RESPONSIVE PLEADING

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Sustained.

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

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. Leatham is screened from considering this and any other matters 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 screen process involving Mr. Leatham. The court will inquire about this at the hearing.

This objection is SUSTAINED.

11 U.S.C. § 502(a) states that a claim or interest, evidenced by a proof filed under section 501, is deemed allowed, unless a party in interest objects.

Federal Rule of Bankruptcy Procedure 3001(f) states that a proof of claim executed and filed in accordance with these rules shall constitute prima facie evidence of the validity and amount of the claim. If a party objects to a proof of claim, the burden of proof is on the objecting party. Ludell v. Anchor Constr. Specialists, Inc., 233 F.3d 1035, 1039 (9th Cir. BAP 2000).

Debtor Tulare Local Healthcare District ("Debtor"), objects to claim no. 105 in the amount of \$10,086.79 and filed by Olga Saljoughy, F.N.P. ("Claimant"), on the basis that Claimant is not employed by Debtor and is an employee of Healthcare Conglomerate Associates, LLC ("HCCA"), which does business with Debtor. Doc. #1876, 1878.

The Claimant opposed the objection by declaration, which noted the average number of hours she works per week and the amount she makes per hour, providing an estimate upon which her claim of \$10,086.79 is based. Doc. #2003. Debtor responded by declaration further asserting that Claimant was an employee of HCCA, not Debtor. Doc. #2012.

The initial hearing was held on February 26, 2020. This matter was continued to provide Claimant with additional time to respond or to resolve the matter. As of the date of this hearing, the Claimant has not filed any additional opposition nor rebutted Debtor's evidence that the claim should be disallowed and reduced to zero because Claimant was not an employee of the Debtor.

Therefore, in the absence of any further opposition, this objection is sustained and claim no. 105 will be disallowed in its entirety and reduced to zero.

8. [17-13797](#)-B-9 **IN RE: TULARE LOCAL HEALTHCARE DISTRICT**
[19-1108](#)

CONTINUED STATUS CONFERENCE RE: COMPLAINT
10-7-2019 [1](#)

TULARE LOCAL HEALTHCARE DISTRICT V. MARTINEZ, MD
MICHAEL WILHELM/ATTY. FOR PL.
RESPONSIVE PLEADING

NO RULING.