

UNITED STATES BANKRUPTCY COURT  
Eastern District of California  
Honorable René Lastreto II  
Hearing Date: Thursday, May 31, 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**  
[FW-14](#)

MOTION FOR COMPENSATION BY THE LAW OFFICE OF FEAR WADDELL,  
P.C. FOR PETER A. SAUER, DEBTORS ATTORNEY(S)  
3-29-2018    [[279](#)]

PETER FEAR  
RESCHEDULED TO 6/26/18 PER ECF ORDER NO. 297

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

**DISPOSITION:**       Continued to August 23, 2018 at 9:30 a.m.

**ORDER:**                The court will issue the order.

Pursuant to a stipulation entered into between debtors, Citizens Business Bank as successor in interest to Valley Business Bank ("Creditor"), and Michael Meyer, the chapter 12 trustee, this matter will be continued to the above date. Any opposition to the motion shall be filed and served no later than August 9, 2018. The deadline for Creditor to file its motion to determine the claim amounts for Classes 7.1 and 8 shall be August 31, 2018. Trustee may continue to disburse the monthly amounts in accordance with the Plan before the full amount of the claims in these classes has been determined.

2. [18-11166](#)-B-11     **IN RE: JOSE/MARY VALADAO**  
[WW-5](#)

MOTION TO ASSUME LEASE OR EXECUTORY CONTRACT  
4-26-2018    [[62](#)]

JOSE VALADAO/MV  
RILEY WALTER  
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 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, except Lawley's Inc., 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. 11 U.S.C. § 365(a) states that "subject to the court's approval, [the debtor in possession] may assume...any...unexpired lease of the debtor." That right comes with limitations however. Subsection (b) requires that if there has been a default in the unexpired lease, the debtor-in-possession may not assume the lease if there has been a default, subject to other requirements that are not raised in this motion. The debtor-in-possession has declared, and no evidence rebutting that declaration has otherwise been presented, that the debtor-in-possession has not defaulted on the unexpired lease. Doc. #64.

In evaluating a decision to reject an executory contract or unexpired lease in the Ninth Circuit, "the bankruptcy court should presume that the debtor-in-possession acted prudently, on an informed basis, in good faith, and in the honest belief that the action taken was in the best interests of the bankruptcy estate." Agarwal v. Pomona Valley Med. Group, Inc. (In re Pomona Valley Med. Group, Inc.), 476 F.3d 665, 670 (9th Cir. 2007) (citations omitted).

Even though this motion is a motion to assume, not reject, the analysis is identical. "...[C]ourts are no more equipped to make subjective business decisions for...businesses..." *Id.* The presumption has not been rebutted, and so the court finds that the debtor-in-possession's decision to assume is consistent with the business judgment rule and Ninth Circuit precedent.

The court notes the response filed by creditor Lawley's, Inc. Doc. #97. Because creditor did not oppose this motion, no other party in interest has opposed the motion, the motion was filed on LBR 9014-1(f)(1) notice, and the debtor has met their statutory burden, the court sees no reason to deny this motion.

The debtor-in-possession is authorized to assume the unexpired lease with West Tulare Ag Holdings, LLC for the property located at 6305 Avenue 176, Tulare, CA.

3. [18-11385](#)-B-11      **IN RE: MOHAMMAD KHAN**

STATUS CONFERENCE RE: CHAPTER 11 VOLUNTARY PETITION  
4-10-2018    [[1](#)]

NO RULING.

4. [18-11385](#)-B-11      **IN RE: MOHAMMAD KHAN**  
[MJR-1](#)

FURTHER HEARING RE: MOTION FOR RELIEF FROM AUTOMATIC STAY  
4-23-2018    [[22](#)]

2614 SACRAMENTO STREET, LLC/MV  
MARK ROMEO/ATTY. FOR MV.

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

DISPOSITION:      Deemed as a request for an order confirming that the  
automatic stay has been terminated under  
§ 362(c)(3)(A).

ORDER:              The court will issue the order.

This motion was continued because debtor's son appeared at the originally scheduled hearing and advised the court of the debtor's motion to extend and continue (doc. #34), in opposition to the motion. Opposition, if any, was to be filed and served on or before May 24, 2018. Doc. #46. No written opposition was filed and served on or before that date. Regardless, the automatic stay was lifted May 10, 2018 pursuant to 11 U.S.C. § 362(c)(3)(A).

Debtor filed a previous chapter 13 bankruptcy case in the Eastern District of California on September 21, 2017 (Case No. 17-13630) which was dismissed on December 1, 2017 (Case No. 17-13630, doc. #37). Debtor filed this chapter 11 bankruptcy case on April 10, 2018. Doc. #1.

In cases where an individual debtor has already filed a chapter 13 case, and within one year after dismissal files for chapter 11 relief, the automatic stay expires after 30 days. 11 U.S.C. § 362(c)(3)(A). Under 11 U.S.C. § 362(c)(3)(B) however, the court may extend the automatic stay if notice and a hearing are completed before the expiration of the 30-day period only if the party in interest demonstrates that the filing of the latter case is in good faith as to the creditors to be stayed. The debtor did not request such a hearing and therefore the stay was lifted 30 days after the petition was filed, which was on May 10, 2018.

This motion will be DEEMED AS A REQUEST UNDER 11 U.S.C. § 362(j) FOR AN ORDER CONFIRMING THAT THE AUTOMATIC STAY HAS BEEN TERMINATED UNDER § 362(c)(3)(A).

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

MOTION FOR COMPENSATION BY THE LAW OFFICE OF KLEIN,  
DENATALE, GOLDNER, COOPER, ROSENLIB AND KIMBALL, LLP  
SPECIAL COUNSEL(S)  
5-2-2018    [[365](#)]

LEONARD WELSH

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

DISPOSITION:        Continued to June 14, 2018 at 9:30 a.m. Further  
evidence to be filed on or before June 7, 2018 as  
set forth below.

ORDER:                The court will issue the order.

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.

Debtor's special counsel, The Law Office of Klein, Denatale, Goldner, Cooper, Rosenlieb and Kimball, LLP, requests fees of \$9,735.50 and costs of \$47.84 for a total of \$9,783.34 for services rendered as debtor's special counsel from February 15, 2018 through April 19, 2018.

11 U.S.C. § 330(a)(1)(A) & (B) permits approval of "reasonable compensation for actual necessary services rendered by . . .[a] professional person" and "reimbursement for actual, necessary expenses." Movant's services included, without limitation: (1) Preparation of employment and fee applications, (2) Reviewed the proposed contract between the debtor and the High Speed Rail Authority, and (3) preparing to litigate and litigating a collection action and obtaining writs of attachment.

Applicant has the burden of proof. Here, there is no proof as to the result of the litigation or the amount alleged to be due from the defendant in the litigation. The debtor's schedules revealed nothing about this potential claim. Doc. #1. The disclosure statement references employment of a collection agency (doc. #246) and significant accounts receivable. *Id.* Without some information about the claim being prosecuted by special counsel, the court cannot evaluate the application.

The hearing will be continued to June 14, 2018 at 9:30 a.m.  
Applicant may augment the record by filing additional evidence on or before June 7, 2018.

6. [17-13797](#)-B-9      **IN RE: TULARE LOCAL HEALTHCARE DISTRICT**  
[WW-35](#)

CONTINUED MOTION TO APPROVE STIPULATION FOR RELIEF FROM THE  
AUTOMATIC STAY  
5-3-2018    [[511](#)]

TULARE LOCAL HEALTHCARE  
DISTRICT/MV  
RILEY WALTER

TENTATIVE RULING:            This matter will proceed as scheduled.

DISPOSITION:                Continued to June 14, 2018 at 9:30 a.m.

ORDER:                        The court will issue the order.

Pursuant to the "Notice of Intent to Continue Hearing..." (doc. #534),  
this matter will be continued to June 14, 2018 at 9:30 a.m.

7. [17-13797](#)-B-9      **IN RE: TULARE LOCAL HEALTHCARE DISTRICT**  
[WW-38](#)

MOTION TO APPROVE STIPULATION FOR RELIEF FROM THE AUTOMATIC  
STAY  
5-16-2018    [[520](#)]

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.

This motion is GRANTED. The stipulation between debtor and  
Firstsource Solutions, USA, LLC is approved.

1:30 PM

1. [18-10801](#)-B-13     **IN RE: AMBER OWENS**  
[MHM-2](#)

MOTION TO DISMISS CASE  
4-20-2018    [[21](#)]

MICHAEL MEYER/MV  
RICHARD STURDEVANT  
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 would be provided to the trustee and/or filed with the court. The debtor's response is not supported by evidence and no reason was given for failing to timely provide the trustee with all of the documentation required by 11 U.S.C. § 521(a)(3) and (4). 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.

2. [18-11201](#)-B-13     **IN RE: DOUGLAS PARKS**  
[FW-2](#)

MOTION TO VALUE COLLATERAL OF WHEELS FINANCIAL, LLC  
5-2-2018    [[25](#)]

DOUGLAS PARKS/MV  
PETER FEAR  
RESPONSIVE PLEADING

TENTATIVE RULING:            This matter will proceed as scheduled.

DISPOSITION:                    This matter will proceed as a scheduling conference.

ORDER:                            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: what is the replacement value of the 2007 Ford F-350?

3. [18-10302](#)-B-13     **IN RE: ANDREA AFFRONTI**  
[MAZ-1](#)

MOTION TO CONFIRM PLAN  
4-11-2018    [[29](#)]

ANDREA AFFRONTI/MV  
MARK ZIMMERMAN  
DISMISSED

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 case was dismissed on April 27, 2018. Doc. #45.

4. [16-11003](#)-B-13     **IN RE: ALFREDO GUTIERREZ AND CLAUDIA BECERRA**  
[AP-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY AND/OR MOTION FOR  
RELIEF FROM CO-DEBTOR STAY  
5-2-2018    [[42](#)]

QUICKEN LOANS, INC./MV  
TIMOTHY SPRINGER  
JAMIE HANAWALT/ATTY. FOR MV.

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

DISPOSITION:     Denied as moot.

ORDER:             The court will issue the order.

The movant, Quicken Loans, Inc. seeks relief from the automatic stay with respect to a piece of real property located at 637 College Avenue, Coalinga, CA 93210. The movant has produced evidence that the debtor has missed at least two payments and owes approximately \$90,394.45 on the note. The property is secured by a deed of trust. Doc. #44.



A plan was confirmed on August 12, 2016. Doc. #39. Movant's claim is in class 4 of the plan. Section 2.11 of the plan states that "[u]pon confirmation of the plan, all bankruptcy stays are modified to allow the holder of a Class 4 secured claim to exercise its rights against its collateral and any nondebtor in the event of a default under applicable law or contract." Therefore, there is no stay in effect as to movant, and this motion is DENIED AS MOOT.

5. [18-10504](#)-B-13     **IN RE: JUAN REYES**  
[YG-1](#)

MOTION TO VACATE DISMISSAL OF CASE  
5-14-2018    [\[49\]](#)

JUAN REYES/MV  
YELENA GUREVICH

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 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)(3) and an order shortening time (doc. #54) and will proceed as scheduled. Unless opposition is presented at the hearing, the court intends to enter the respondents' defaults and grant the motion. If opposition is presented at the hearing, the court will consider the opposition and whether further hearing is proper pursuant to LBR 9014-1(f)(2). The court will issue an order if a further hearing is necessary.

This motion is CONDITIONALLY GRANTED. Federal Rule of Civil Procedure 60(b), made applicable in bankruptcy proceedings by Federal Rule of Bankruptcy Procedure 9024, a court may relieve a party from a final judgment for mistake, inadvertence, surprise, or excusable neglect, inter alia.

In this case, two separate motions to dismiss were filed by the trustee. The first, doc. #28, MHM-2, was filed on the grounds that debtor did not provide the trustee several necessary documents. The second, doc. #32, MHM-3, was filed on the grounds that debtor was delinquent on plan payments. The second motion to dismiss, MHM-3, was withdrawn by the trustee on May 3, 2018. The first motion to dismiss, MHM-2, was not withdrawn by the trustee. Debtor responded to both motions in a timely opposition to MHM-3, which is procedurally incorrect. Debtor should have responded to the grounds in both motions to dismiss separately. Because MHM-2 was filed on at least 28 days' notice, and no written opposition was filed, the court could have granted the motion without a hearing, pursuant to LBR 9014-1(f)(1). However, the court issued a tentative ruling, allowing debtor's counsel to appear and provide the necessary documents to trustee, thereby giving the trustee reason to withdraw

the motion. Debtor's counsel did not make an appearance on the record, and Ms. Hazelton, counsel for the trustee, stated that the trustee's office had not received the necessary documents. The court therefore granted MHM-2.

Included in counsel's declaration are exhibits (which is a violation of LBR 9004-2(c)(1) and 9014-1(d)(4), which require that exhibits, inter alia, filed with a motion "shall be filed as separate documents"), which appear to be emails showing that the necessary documents were sent to "kdelgado@meyer13.com." Doc. #50. The court does not know if that is the correct email address, and if it is, why the trustee's office did not receive the documents, but the emails were sent on March 19, 2018, well before the time the motions to dismiss were set for hearing and before any opposition was to be filed. Debtor had ample time to ensure that the necessary documents were correctly sent to the trustee's office, and to ensure that the trustee's office was in receipt of the necessary documents.

Nevertheless, debtor's counsel, as admitted, "incorrectly interpreted" the withdrawal of one of trustee's motion to dismiss as a withdrawal of BOTH of trustee's motions to dismiss. Doc. #50. Counsel has also declared that they have all the necessary documents available to re-submit to the trustee. *Id.*

The court finds that counsel has admitted their mistake and finds their mistake to constitute "excusable neglect."

The dismissal of this case shall be vacated and the case shall be reinstated on the condition that at or before this hearing, debtor provide trustee all the necessary documents as requested in the previous hearing.

The court also notes that counsel failed to include necessary language in the Notice of Motion, as required by LBR 9014-1(d)(3)(B)(iii).

6. [17-12213](#)-B-13     **IN RE: RENE ELLER**  
[TCS-3](#)

MOTION TO MODIFY PLAN  
4-25-2018    [[58](#)]

RENE ELLER/MV  
TIMOTHY SPRINGER

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 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.

7. [18-10522](#)-B-13     **IN RE: LUIS BRAVO**  
[TOG-2](#)

CONTINUED MOTION TO CONFIRM PLAN  
4-4-2018    [[24](#)]

LUIS BRAVO/MV  
THOMAS GILLIS  
RESPONSIVE PLEADING

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

DISPOSITION:        Continued to July 19, 2018 at 1:30 p.m.

ORDER:                The court will issue an order.

The meeting of creditors was continued to July 10, 2018. This motion will be continued to July 19, 2018 at 1:30 p.m. to allow the trustee to object to confirmation.

8. [18-10432](#)-B-13     **IN RE: RUSSELL MARTINEZ**  
[TCS-1](#)

MOTION TO CONFIRM PLAN  
4-9-2018    [[23](#)]

RUSSELL MARTINEZ/MV  
TIMOTHY SPRINGER  
DISMISSED

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 case was dismissed on April 27, 2018. Doc. #37.

9. [13-15735](#)-B-13     **IN RE: YOLANDA RENTERIA**  
[FW-3](#)

MOTION FOR COMPENSATION BY THE LAW OFFICE OF FEAR WADDELL,  
P.C. FOR PETER L. FEAR, DEBTORS ATTORNEY(S)  
5-1-2018    [\[50\]](#)

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 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.

Movant shall be awarded fees of \$2,520.50 and costs of \$134.13.

10. [18-11836](#)-B-13     **IN RE: RUSSELL MARTINEZ**  
[TCS-1](#)

MOTION TO EXTEND AUTOMATIC STAY  
5-10-2018    [\[9\]](#)

RUSSELL MARTINEZ/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 May 5, 2018 and the automatic stay will expire on June 4, 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.

Debtor's previous bankruptcy case (filed on February 10, 2018 and dismissed on April 27, 2018) was dismissed for failure to appear at the § 341 meeting and for not providing his 2017 income tax information. Doc. #35. Debtor had a misunderstanding of the date of

the § 341 meeting and had not filed his 2017 taxes by the date of the meeting. Doc. #11. However, debtor's circumstances have now changed because he has filed his 2017 taxes, has provided them to his attorney, and intends to attend the § 341 meeting. *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.

11. [18-11338](#)-B-13      **IN RE: ISMAEL/MARIA PARAMO**  
[TOG-1](#)

MOTION TO VALUE COLLATERAL OF WESTLAKE FINANCIAL SERVICES  
4-26-2018    [\[13\]](#)

ISMAEL PARAMO/MV  
THOMAS GILLIS

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 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 granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument. Upon default, factual allegations will be taken as true (except those relating to amount of damages). Televideo Systems, Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires that a plaintiff make a prima facie showing that they are entitled to the relief sought, which the movant has done here.

The debtor is competent to testify as to the value of the 2013 Chevy Cruze. Given the absence of contrary evidence, the debtor's opinion of value may be conclusive. Enewally v. Washington Mutual Bank (In re Enewally), 368 F.3d 1165, 1173 (9th Cir. 2004). The respondent's secured claim will be fixed at \$9,351.00. The proposed order shall specifically identify the collateral, and if applicable, the proof of claim to which it relates. The order will be effective upon confirmation of the chapter 13 plan.

12. [17-14039](#)-B-13     **IN RE: PETER/ADRIANNA BISACCA**  
[MHM-2](#)

MOTION TO DISMISS CASE  
5-2-2018    [[62](#)]

MICHAEL MEYER/MV  
MARK ZIMMERMAN

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

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

ORDER:                The court will issue an order.

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

13. [18-10642](#)-B-13     **IN RE: PETER SOLORIO**  
[MHM-2](#)

MOTION TO DISMISS CASE  
4-20-2018    [[30](#)]

MICHAEL MEYER/MV  
YELENA GUREVICH  
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 late response. The only evidence was counsel's declaration (doc. #40). The declaration states counsel miscalendared the opposition deadline. The opposition was filed two days late. The trustee's motion asks for dismissal due to the debtor's failure to submit documents and failure to file the credit counseling certificate. Debtor's counsel claims all documents have been submitted or filed. The court notes an amended plan has been filed which proposes a higher monthly payment in month three. This case has been pending since February 26, 2018 (three months).

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.

14. [17-14051](#)-B-13     **IN RE: KELLY HUFFMAN AND ELIA RODRIGUEZ**  
[FW-7](#)

MOTION TO CONFIRM PLAN  
4-19-2018    [\[76\]](#)

KELLY HUFFMAN/MV  
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.

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.

15. [18-11563](#)-B-13     **IN RE: ALBA FELIX MORENO**  
[DRJ-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY  
5-2-2018    [\[11\]](#)

CHARLES ALLEN/MV  
DAVID JENKINS/ATTY. FOR MV.  
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 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)(1) and will proceed as scheduled. The court intends to GRANT the motion.

The movant, Charles C. Allen, Jr., seeks relief from the automatic stay with respect to a piece of real property located at 5067 W Fremont, Fresno, CA 93722. The movant has produced evidence that the debtor has no rights in the property and a trial date was set for an unlawful detainer action filed by movant on April 24, 2018, four days after debtor filed bankruptcy.

The court notes the opposition of the debtor, and finds that debtor's arguments do not support denying this motion.



First, debtor argues that the motion should be denied because the foreclosure sale was in violation of California law. Doc. #21. Debtor cites California Civil Code § 2923.5 in support. However, this code section is inapplicable to movant. Movant is neither a mortgagee, trustee, beneficiary, or authorized agent. Movant purchased the property at a foreclosure sale. Even if that section of the code was applicable, there is no post-foreclosure relief offered in that section. See Herrijon v. Ocwen Loan Servicing, LLC, 980 F.Supp.2d 1186, 1209 (E.D. Cal. 2013). If the debtor has claims against movant, she should assert them in the state court forum provided she amends her schedules and advises the trustee.

Second, debtor argues that the motion should be denied because debtor was entitled to a 90 day notice to vacate because debtor was a tenant. Doc. #12. But debtor was not a tenant. See doc. #14, exh.D, p.18, ¶¶21-23. Debtor was the allegedly the prior owner of the property. Even if debtor could be found to be a tenant, the law debtor cites in support, California Code of Civil Procedure § 1161(b) applies only to a "rental housing unit" occupied by a tenant of the former owner at the time of foreclosure, not a single family dwelling occupied by its former owner, like the instant situation.

If the debtor is correct that the state court action is procedurally flawed, that can be resolved by the Superior Court of California.

Additionally, when a motion for relief from the automatic stay involves allowing the creditor to proceed with 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 litigation in another forum would prejudice the interests of other creditors, the creditors' committee and other interested parties;
- (4) the interests of judicial economy and the expeditious and economical determination of litigation for the parties;
- (5) whether the foreign proceedings have progressed to the point where the parties are prepared for trial; and
- (6) 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 and the matter in the state courts is unrelated to this bankruptcy. The unlawful detainer action is not connected nor will interfere with the bankruptcy case. The interests of other creditors will not be prejudiced. The state court action has progressed to a point where the parties are prepared for trial. The interests of judicial economy and the "balance of hurt" weight in favor of granting this motion. Debtor has no interest in the property at issue in this motion.

This motion is GRANTED.

The 14-day stay of Fed. R. Bankr. P. 4001(a)(3) will be ordered waived due to the fact that a trial date was set prior to the debtor filing bankruptcy.

16. [17-14671](#)-B-13     **IN RE: ESTELA GARAY**  
[JHW-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY  
5-3-2018    [[46](#)]

SANTANDER CONSUMER USA INC./MV  
PETER BUNTING  
JENNIFER WANG/ATTY. FOR MV.  
RESPONSIVE PLEADINGS

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

DISPOSITION:        Granted.

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

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

The movant, Santander Consumer USA Inc., seeks relief from the automatic stay with respect to a 2015 Nissan Versa. The movant has produced evidence that the debtor has no equity in the vehicle and debtor owes movant approximately \$11,000.00. Debtor has already surrendered the vehicle. Doc. #51.

The court concludes that no evidence exists that it is necessary to a reorganization and the movant already has possession of the vehicle. Docket #51.

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.

Because the movant has not established that the value of its collateral exceeds the amount of its secured claim, the court awards no fees and costs in connection with the movant's secured claim as a result of the filing and prosecution of this motion. 11 U.S.C. § 506(b).

The 14-day stay of Fed. R. Bankr. P. 4001(a)(3) will be ordered waived due to the fact that the movant has possession of the vehicle and it is depreciating in value.

17. [17-14671](#)-B-13     **IN RE: ESTELA GARAY**  
[PBB-2](#)

CONTINUED MOTION TO CONFIRM PLAN  
3-21-2018    [[37](#)]

ESTELA GARAY/MV  
PETER BUNTING  
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 a chapter 13 plan was fully noticed in compliance with the Local Rules of Practice; the trustee withdrew their opposition on May 24, 2018. Doc. #58. No other parties in interests filed opposition and their defaults 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.

18. [17-14575](#)-B-13     **IN RE: PAUL/CARRIE COLVIN**  
[MAZ-4](#)

MOTION TO CONFIRM PLAN  
3-28-2018    [[76](#)]

PAUL COLVIN/MV  
MARK ZIMMERMAN

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.

19. [17-14575](#)-B-13     **IN RE: PAUL/CARRIE COLVIN**  
[MAZ-5](#)

MOTION TO VALUE COLLATERAL OF GM FINANCIAL  
3-28-2018    [\[82\]](#)

PAUL COLVIN/MV  
MARK ZIMMERMAN

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 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 granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument. Upon default, factual allegations will be taken as true (except those relating to amount of damages). Televideo Systems, Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires that a plaintiff make a prima facie showing that they are entitled to the relief sought, which the movant has done here.

The debtor is competent to testify as to the value of the 2013 Chevrolet Malibu. Given the absence of contrary evidence, the debtor's opinion of value may be conclusive. Enewally v. Washington Mutual Bank (In re Enewally), 368 F.3d 1165, 1173 (9th Cir. 2004). The respondent's secured claim will be fixed at \$10,500.00. The proposed order shall specifically identify the collateral, and if applicable, the proof of claim to which it relates. The order will be effective upon confirmation of the chapter 13 plan.

20. [18-11489](#)-B-13     **IN RE: GUILLERMO/ANDREA VILLEGAS**  
[TOG-1](#)

MOTION TO VALUE COLLATERAL OF TUSTIN COMMUNITY BANK  
4-28-2018    [[10](#)]

GUILLERMO VILLEGAS/MV  
THOMAS GILLIS  
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: the value  
of the 2012 Chrysler 200, as of the petition date.

The legal issues appear to include: the admissibility of the  
declaration of the debtor.

The court rules as follows on the evidentiary objections:

Evidentiary objections of Tustin Community Bank

1. Lack of personal knowledge:
  - a. OVERRULED - debtor's declaration states he owns the vehicle.
2. No foundation as to replacement value testimony:
  - a. OVERRULED - property owners are competent to testify as to value. The objection goes to weight of the evidence, not admissibility. See Enewally v. Washington Mutual Bank (In re Enewally), 368 F.3d 1165 (9th Cir. 2004).
3. Irrelevant:
  - a. OVERRULED - see above.

Evidentiary objections of debtor

1. "Blue Book" is hearsay:
  - a. OVERRULED - Federal Rule of Evidence 803(17).
2. Declarant is not an expert on valuation:
  - a. SUSTAINED. No foundation is provided as to declarant's qualification to render a valuation opinion.

21. [18-10192](#)-B-13     **IN RE: ARTURO/GUADALUPE ARELLANO**  
[TOG-1](#)

MOTION TO CONFIRM PLAN  
4-16-2018    [[31](#)]

ARTURO ARELLANO/MV  
THOMAS GILLIS

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.

22. [18-10894](#)-B-13     **IN RE: JUAN REBOLLERO**  
[MHM-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY MICHAEL H. MEYER  
5-7-2018    [[27](#)]

MICHAEL MEYER/MV  
THOMAS GILLIS  
RESPONSIVE PLEADING

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 May 21, 2018. Doc. #47. The hearing for confirmation of that amended plan is set for June 26, 2018. Doc. #48.

23. [18-10696](#)-B-13     **IN RE: DAVID/JENNIFER CASTRO**  
[MHM-2](#)

MOTION TO DISMISS CASE  
4-20-2018    [\[22\]](#)

MICHAEL MEYER/MV  
NICHOLAS ANIOTZBEHERE  
RESPONSIVE PLEADING

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

DISPOSITION:                    Dropped from calendar.

NO ORDER REQUIRED:            Movant withdrew the motion.

24. [18-10298](#)-B-13     **IN RE: RAYMOND/LINDA VARELA**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES  
5-7-2018    [\[18\]](#)

ERIC ESCAMILLA  
FINAL INSTALLMENT PAYMENT OF \$77.00 PAID 5/11/18

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

DISPOSITION:                    The OSC will be vacated.

ORDER:                            The OSC will be vacated.

Debtor paid the final installment of the fee on May 11, 2018.  
Therefore the order to show cause will be vacated.

25. [18-11865](#)-B-13     **IN RE: GERALD SANDERS**  
[EPE-1](#)

MOTION TO EXTEND AUTOMATIC STAY  
5-15-2018    [\[13\]](#)

GERALD SANDERS/MV  
ERIC ESCAMILLA  
OST

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 an order shortening time under LBR 9014-1(f)(3).

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 May 8, 2018 and the automatic stay will expire on June 7, 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.

Debtor filed a chapter 13 petition on November 24, 2017 (case no. 17-14502). That case was dismissed on February 16, 2018 for failure to timely provide necessary documents to the chapter 13 trustee.



Debtor now declares that he "now [has] the documents requested by the Chapter 13 Trustee and will be able to submit a Chapter 13 plan for this court's consideration." Doc. #15.

It appears that all the necessary documents as required under the "Notice of Incomplete Filing and Notice of Intent to Dismiss Case If Documents Are Not Timely Filed" (doc. #3) have been filed, including a chapter 13 plan.

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.