

UNITED STATES BANKRUPTCY COURT  
Eastern District of California  
Honorable René Lastreto II  
Hearing Date: Wednesday, June 29, 2022  
Place: Department B – Courtroom #13  
Fresno, California

*The court resumed in-person courtroom proceedings in Fresno ONLY on June 28, 2021. Parties may still appear telephonically provided that they comply with the court's telephonic appearance procedures. For more information click [here](#).*

**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.

**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. [19-10721](#)-B-13     **IN RE: JOSE LEON**  
[MHM-1](#)

MOTION TO CONVERT CASE FROM CHAPTER 13 TO CHAPTER 7  
6-1-2022    [\[19\]](#)

STEPHEN LABIAK/ATTY. FOR DBT.  
RESPONSIVE PLEADING

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

DISPOSITION:        Continued to July 27, 2022 at 9:30 a.m.

ORDER:                The court will issue an order.

Chapter 13 trustee Michael H. Meyer ("Trustee") moves for an order converting this case to chapter 7 for cause under 11 U.S.C. § 1307(c) because Debtor failed to disclose pre-petition claims and receipt of a combined \$45,000 in post-petition settlement proceeds. Doc. #19. Trustee alleges bad faith and claims that the best interests of creditors and the estate favor conversion over dismissal. *Id.*

Jose Luis Leon ("Debtor") timely filed opposition. Docs. #25; #32. The first response was filed by Debtor's new attorney, Stephen L. Labiak, and the second was filed by Debtor's other new attorney, Justin D. Harris. *Id.* Since Mr. Harris did not know that Debtor had also retained Mr. Labiak, Mr. Harris withdrew the second response on June 15, 2022. Docs. #40; #42.

Additionally, Debtor filed two motions to voluntarily dismiss under 11 U.S.C. § 1307(b). Docs. #27; #31. The second motion was withdrawn by Mr. Harris. Doc. #38.

In the first response, Debtor asks Trustee's motion to be denied based on the pending motion to dismiss. Doc. #25. In the alternative, Debtor asks to continue Trustee's motion to July 27, 2022. *Id.*

On June 21, 2022, the court issued an order setting Debtor's motion to dismiss for hearing on July 27, 2022 and directing Debtor to show cause why the court should not enjoin Debtor from filing a petition for relief under any chapter of the Bankruptcy Code in this District for a period of two years without first obtaining the written permission of the Chief Bankruptcy Judge of the Eastern District of California. Doc. #44.

Accordingly, Trustee's motion to convert will be CONTINUED to July 27, 2022 at 9:30 a.m. to be heard concurrently with Debtor's motion to dismiss.

2. [17-11433](#)-B-13     **IN RE: JORGE ESPINO AND HEIDI GUTIERREZ**  
[MHM-2](#)

MOTION TO DISMISS CASE  
5-27-2022    [\[38\]](#)

MICHAEL MEYER/MV  
SCOTT LYONS/ATTY. FOR DBT.

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

DISPOSITION:     Granted.

ORDER:             The court will issue an order.

Chapter 13 trustee Michael H. Meyer ("Trustee") moves to dismiss this case for cause under 11 U.S.C. § 1307(c)(6) for material default by the debtors with respect to a term of a confirmed plan and (c)(8) for termination of a confirmed plan by reason of the occurrence of a condition specified in the plan other than completion of plan payments. Doc. #38.

Jorge Santiago Espino and Heidi Gutierrez ("Debtors") did not oppose.

Unless the Trustee's motion is withdrawn before the hearing, the motion will be GRANTED, and the case dismissed without oral argument for cause shown.

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 Debtors, 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.

Debtors filed chapter 13 bankruptcy on April 17, 2017. Doc. #1. The *Chapter 13 Plan* dated April 17, 2017 proposes that Debtors shall pay 60 monthly payments of \$917.07 per month with a 0% dividend to allowed, non-priority unsecured claims. Doc. #5; #22. Month 60 was April 2022. Doc. #40. As of May 27, 2022, the total claims filed required an aggregate payment of \$107,278.77, but Debtors have only

paid \$55,025.06. *Id.* The remaining claims plus compensation that need to be paid under the plan total \$52,253.71. Trustee warned Debtors by letter dated October 12, 2021 that the plan ceased being feasible due to the claim filed by the Class 2 Mortgage Creditor, Second Chance Home Loans. See Doc. #41, *Ex. A*. Since then, no action was taken to cure the plan's lack of feasibility.

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 here under 11 U.S.C. § 1307(c)(6) for material default with respect to a confirmed plan and (c)(8) for termination of a confirmed plan by reason of the occurrence of a condition specified in the plan other than completion of plan payments.

The record shows that the Debtors' plan term ended April 2022. Due to claims exceeding those anticipated by the plan, Debtors needed to amend the plan to pay the full amount of Claim 8 filed by Class 2 creditor Second Chance Home Loans. Trustee informed Debtors of that claim in October 2021 and that the plan was no longer feasible, but no subsequent action was taken by Debtors. Accordingly, the plan terminated without completion when the plan term expired without paying \$52,253.71 required under the plan.

Additionally, Trustee has reviewed Debtors' *Schedules A/B and D*, which show that Debtors' significant assets, a vehicle and real property, are over encumbered and exempted. Doc. #31. There is no equity that could be realized for the benefit of the estate, so dismissal, rather than conversion to chapter 7, is in the best interests of creditors and the estate.

Accordingly, the motion will be GRANTED, and the case dismissed.

3. [17-14039](#)-B-13     **IN RE: PETER/ADRIANNA BISACCA**  
[MAZ-4](#)

MOTION TO MODIFY PLAN  
5-19-2022    [\[103\]](#)

ADRIANNA BISACCA/MV  
MARK ZIMMERMAN/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.

Peter A. Bisacca and Adrianna Bisacca ("Debtors") seek an order confirming the *Fourth Modified Chapter 13 Plan* dated May 19, 2022 ("Plan"). Doc. #103. The Plan retains a monthly payment of \$930.18 for the remainder of the 60-month plan and provides for a 39.967% dividend to allowed, non-priority unsecured claims. Doc. #105. This is a reduction from a 100% dividend under the operative *Second Modified Chapter 13 Plan* dated May 17, 2018 and confirmed July 10, 2018. Docs. #72; #81. Debtors' *Amended Schedules I and J* indicate that they receive \$930.18 in monthly net income, which is sufficient to afford the monthly plan payment. Doc. #109. 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)(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 it shall reference the plan by the date it was filed.

4. [21-10143](#)-B-13      **IN RE: GUILLERMO/ELA ALVARADO**  
[RSW-3](#)

MOTION TO REFINANCE  
6-8-2022    [\[58\]](#)

ELA ALVARADO/MV  
ROBERT WILLIAMS/ATTY. FOR DBT.  
RESPONSIVE PLEADING

NO RULING.

Guillermo Alvarado and Ela Melissa Alvarado ("Debtors") request authority to enter into a home mortgage refinance with NEXA Mortgage, LLC ("NEXA"). Doc. #58.

Though not required, chapter 13 trustee Michael H. Meyer ("Trustee") filed a response. Doc. #65. Trustee declined to execute a consent to Debtor's motion after reviewing an estimated closing disclosure ("Closing Disclosure") that was not included with the exhibits. See Doc. #67, *Ex. A*. Trustee says that Debtors have failed to disclose what they plan to do with approximately \$22,173.75 received from escrow. Doc. #66.

Written opposition was not required and may be presented at the 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. 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.

Debtors filed chapter 13 bankruptcy on January 25, 2021. Doc. #1. The *First Modified Chapter 13 Plan* dated June 29, 2021 was confirmed on August 10, 2021. Docs. #37; #42.

NEXA has offered Debtors a home loan refinance for their residence at 9103 Five Burroughs Drive, Bakersfield, CA 93311 ("Property"). Doc. #60. Property is listed in the schedules with a value of \$346,162.00 and was encumbered on the petition date by a \$268,403.00 first deed of trust in favor of Freedom Mortgage Corporation, and a second \$49,995.00 deed of trust in favor of Figure Lending, as serviced by Specialized Loan Servicing, LLC ("SLS"). Docs. #1, *Sched. D*; #39, *Am. Sched. A/B*; *cf.* Claims 28-1; 45-1. The Freedom Mortgage deed of trust was assigned to Lakeview Loan Servicing dba Mr. Cooper ("Mr. Cooper") on or about March 14, 2022. Doc. #56. Now, Debtors want to refinance those mortgages into a single loan in favor of NEXA. Doc. #58.

LBR 3015-1(h)(1)(C) allows a debtor, *ex parte* and with court approval, to refinance existing debts encumbering the debtor's residence if the

written consent of the chapter 13 trustee is filed with or as part of the motion. The trustee's approval is certification to the court that: (i) all chapter 13 plan payments are current; (ii) the chapter 13 plan is not in default; (iii) the debtor has demonstrated an ability to pay all future plan payments, projected living expenses, and the refinanced debt; (iv) the new debt is a single loan incurred only to refinance existing debt encumbering the debtor's residence; (v) the only security for the new debt is the debtor's existing residence; (vi) all creditors with liens and security interests encumbering the debtor's residence will be paid in full from the proceeds of the new debt and in a manner consistent with the plan; and (vii) the monthly payment will not exceed the greater of the debtor's current monthly payments on the existing debt, or \$2,500.

If the trustee will not give consent, or if a debtor wishes to incur new debt on terms and conditions not authorized by subsection (h)(1)(C), the debtor may still seek court approval under LBR 3015-1(h)(1)(E) by filing and serving a motion on the notice required by Rule 2002 and LBR 9014-1.

Here, the refinance proposes the following payoffs:

Loan amount	\$378,510.00
Closing costs	- \$1,570.00
Payoff to Mr. Cooper	- \$262,743.00
Payoff to SLS	- \$49,511.00
Payoff 2020 Toyota CH-R	- \$18,298.62
Payoff 2020 Toyota CH-R	- \$16,913.63
<b>Net to Debtors</b>	<b>= \$29,473.75</b>

Docs. ##60-61, *Ex. 1*; ##66-67, *Ex. A*. Debtors estimate that their closing costs will be approximately \$11,150.00, but the Closing Disclosure provided by Trustee indicates they will be approximately \$1,570.00. Docs. #60; #67, *Ex. A*. Debtors intend to use \$7,300.00 of the \$29,473.75 to pay their 2021 tax debt, which leaves approximately \$22,173.75 unaccounted for.

Debtors' combined current mortgages and car leases/loans compared to the refinanced loan are illustrated as follows:

	<u>Current Loans</u>	<u>Refinanced Loan</u>
Principal balances:	\$347,466.25 <sup>1</sup>	\$378,510.00
Monthly payments:	\$3,490.88 <sup>2</sup>	\$3,382.61 <sup>3</sup>
Interest:	3.375% <sup>4</sup> & 9.75% <sup>5</sup>	6.00% <sup>6</sup>
Term:	305 months <sup>7</sup> & 180 months <sup>8</sup>	360 months <sup>9</sup>

In sum, Debtor's monthly expenses will be consolidated and decrease by \$108.27, and they will be paid \$29,473.75, but the principal, interest, and term will increase.

Joint debtor Guillermo Alvarado declares that they are current on plan payments, the plan is not in default, this is a single loan incurred only to refinance existing debt encumbering their residence and the only security for the new debt will be Property. Doc. #60. However, the refinance is actually paying existing debt encumbering both their residence and their vehicles. Additionally, the monthly payment does not exceed Debtors current combined monthly payment.

Trustee objects because Debtors plan provides for a 0% dividend to unsecured creditors, but Debtors will be receiving \$29,473.75 in proceeds. Though \$7,300 is going to tax debt, Debtors have not disclosed what they will do with the remaining \$22,173.75. Doc. #65.

This matter will be called and proceed as scheduled to inquire what Debtors intend to do with the remaining \$22,173.75.

If approved, any order confirming the modification shall provide that Debtors are authorized, *but not required*, to enter into a loan modification agreement with NEXA.

---

<sup>1</sup> This is the sum of the payoff estimates of \$262,743 to Mr. Cooper, \$49,511 to SLS, and \$18,298.62 and \$16,914.63 to Toyota. Doc. #67, *Ex. A*.

<sup>2</sup> This combined monthly payment consists of two mortgage payments of \$1,960.05 and \$552.17, and three auto payments of \$433.61, \$309.37, and \$235.68. Doc. #39, *Am. Sched. J*.

<sup>3</sup> This combined monthly payment consists of the single mortgage payment of \$2,949.00 and a single auto payment of \$433.61. Doc. #63, *Am. Sched. J*.

<sup>4</sup> Claim 28-1.

<sup>5</sup> Claim 45-1.

<sup>6</sup> Doc. #61, *Ex. 1*.

<sup>7</sup> Payments ranged from Claim 28-1.

<sup>8</sup> Claim 45-1.

<sup>9</sup> Doc. #61, *Ex. 1*.

5. [20-10859](#)-B-13      **IN RE: KEITH/GERALDINE CASH**  
[TCS-4](#)

MOTION TO WAIVE FINANCIAL MANAGEMENT COURSE  
REQUIREMENT, WAIVE SECTION 1328 CERTIFICATE  
REQUIREMENT, CONTINUE CASE ADMINISTRATION, SUBSTITUTE PARTY,  
AS TO DEBTOR  
6-10-2022    [[59](#)]

GERALDINE CASH/MV  
TIMOTHY SPRINGER/ATTY. FOR DBT.

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

DISPOSITION:      Denied without prejudice.

ORDER:              The court will issue an order.



On March 30, 2022, joint debtor Keith Raymond Cash ("Decedent") passed away. Doc. #58. He is survived by his wife, joint debtor Geraldine Lee Cash ("Debtor"). Doc. #59. Debtor requests (1) continued administration of this bankruptcy case; (2) to be appointed as representative for Decedent for this joint chapter 13 bankruptcy; and (3) waiver of the § 1328(g) post-petition education requirement with respect to Decedent and of the certification requirements under § 1328(a)-(f). *Id.*

This motion will be DENIED WITHOUT PREJUDICE because the notice of hearing is ambiguous. Doc. #60. The notice provides in the caption that the hearing will be on June 29, 2022 at 9:30 a.m. Then, it says that the hearing will be on July 20, 2022 at 9:30 a.m. *Id.*, at 1, ¶ 22. Parties that receive the notice may miss the June 29, 2022 hearing on the mistaken belief that it is actually set for July 20, 2022. Therefore, the notice of hearing is insufficient.

6. [20-12359](#)-B-13     **IN RE: CARINA LOERA**  
[MAZ-4](#)

MOTION TO MODIFY PLAN  
5-19-2022    [[70](#)]

CARINA LOERA/MV  
MARK ZIMMERMAN/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.

Carina Loera ("Debtor") seeks an order confirming the *Third Modified Chapter 13 Plan* dated May 19, 2022 ("Plan"). Doc. #74. The Plan provides that Debtor has paid an aggregate of \$28,898.00 between months 1 to 21, and starting month 22, Debtor shall pay \$1,518.00 per month for the remainder of the 60-month plan term. Doc. #74, § 7. Additionally, it provides that Class 2(A) creditor Safe 1 Credit Union's ("Safe 1 CU") claim has a balance of \$8,044.40 at 4.29% interest, Debtor has paid \$20,199.13 to date, and for months 22 to 60, the dividend for this claim will be \$229.89 per month. Debtor's *Amended Schedules I and J* indicate that Debtor has \$1,518.00 in monthly net income, which is sufficient to fund the plan. Doc. #76.

In contrast to the operative *First Modified Chapter 13 Plan* dated November 10, 2020 and confirmed January 6, 2021, Debtor owed a balance to Safe 1 CU in the amount of \$28,243.33 at 4.29% interest. Docs. #44; #55. The current plan provided that Debtor had paid \$1,372.50 in months 1 to 3, and the payment will be \$592.10 for months 4 to 60.

Doc. #44. Both plans provide for a 100% dividend to be distributed to allowed, nonpriority unsecured claims. 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)(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 it shall reference the plan by the date it was filed.

7. [22-10568](#)-B-13     **IN RE: JUAN ALARCON**  
[MHM-2](#)

MOTION TO DISMISS CASE  
5-31-2022    [\[39\]](#)

MICHAEL MEYER/MV  
ARETE KOSTOPOULOS/ATTY. FOR DBT.  
DISMISSED 6/1/22

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

DISPOSITION:     Denied as moot.

ORDER:             The court will issue an order.

Chapter 13 trustee Michael H. Meyer moves to dismiss this case pursuant to 11 U.S.C. § 1307(c)(1) for unreasonable delay by the debtor that is prejudicial to creditors; failure to appear at the 341 meeting of creditors; failure to provide Trustee with 2021 Federal Tax Returns in violation of § 521(e)(2)(A) and (B); ineligibility to be a debtor under § 109(h) because no Credit Counseling Certificate has been provided; and failure to cooperate with the trustee as required by § 521(a)(3) and (4). Doc. #39.

However, this case was dismissed on June 1, 2022. Doc. #45. Accordingly, this motion will be DENIED AS MOOT because the case has already been dismissed.

8. [21-12469](#)-B-13     **IN RE: JUAN/SARAH AYON**  
[SL-1](#)

MOTION FOR COMPENSATION FOR SCOTT LYONS, DEBTORS ATTORNEY(S)  
5-24-2022    [[42](#)]

SCOTT LYONS/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.

Scott Lyons ("Applicant"), attorney for Juan Carlos Ayon and Sarah Louise Ayon ("Debtors"), seeks interim compensation in the sum of \$14,074.00. Doc. #42. This amount consists of \$13,643.52 in fees as reasonable compensation and \$430.48 in reimbursement for actual, necessary expenses from July 16, 2021 through February 16, 2022. *Id.*

Debtors executed a statement dated May 24, 2022 indicating that they have reviewed the fee application and have no objections. *Id.*, § 9(7).

No party in interest timely filed written opposition. This motion will be GRANTED.

This motion was set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1) and Fed. R. Bankr. P. ("Rule") 2002(a)(6). The failure of the creditors, the UST, 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.

Debtors filed chapter 13 bankruptcy on October 21, 2021. Doc. #1. The *Chapter 13 Plan* dated October 21, 2021 is the operative plan in this

case. Docs. #3; #37. Section 3.05 provides that Applicant was paid \$1,761.00 prior to filing the case and, subject to court approval, an additional \$32,451 shall be paid through the plan by filing and serving a motion in accordance with 11 U.S.C. §§ 329, 330, and Rule 2002, 2016, and 2017. Doc. #3. However, the *Order Confirming Plan* reduced the fees to \$12,000.00 to be paid through the plan. Doc. #37. The *Disclosure of Compensation of Attorney for Debtor(s)* Form, 2030, indicates that Applicant was paid \$1,761.00 pre-petition, plus a \$313.00 filing fee, for a total of \$2,074.00. Doc. #1.

This is Applicant's first interim request for compensation. The source of funds for payment will be \$12,000.00 from the chapter 13 trustee in conformance with the plan and after application of the \$2,074.00 pre-petition payment. Doc. #44, *Ex. A*.

Applicant's firm provided 94.26 hours of legal services at the following rates, totaling \$13,852.00 in fees. Doc., *Ex. B*. However, Applicant limited this fee application to **\$13,643.52**:

Professional	Rate	Hours	Rate x Hour	Requested
Scott Lyons	\$400	0.17	\$68.00	\$68.00
Louis Lyons <sup>10</sup>	\$350	17.50	\$6,125.00	\$5,916.52
Sylvia Gutierrez	\$100	76.59	\$7,659.00	\$7,659.00
<b>Total Hours &amp; Fees</b>		<b>94.26</b>	<b>\$13,852.00</b>	<b>\$13,643.52</b>

*Id.* Applicant also incurred \$430.48 in expenses:

Credit report fee	\$90.00
Filing fee	\$313.00
Postage	\$27.48
<b>Total</b>	<b>\$430.48</b>

*Id.* These combined fees and expenses total **\$14,074.00**. After applying the \$2,074.00 pre-petition payment, the balance of \$12,000.00 remains to be paid through the plan.

11 U.S.C. § 330(a)(1)(A) and (B) permit approval of "reasonable compensation for actual, necessary services rendered by . . . [a] professional person, or attorney" and "reimbursement for actual, necessary expenses." In determining the amount of reasonable compensation to be awarded to a professional person, the court shall consider the nature, extent, and value of such services, considering all relevant factors, including those enumerated in subsections (a)(3)(A) through (E). § 330(a)(3).

Applicant's services included, without limitation: (1) advising Debtor about bankruptcy and non-bankruptcy alternatives; (2) reviewing Debtor's financial information, the effects of exemptions, and value of assets; (3) gathering information and documents for and preparing

the petition, schedules, statements, and chapter 13 plan; (4) preparing and sending § 341 meeting of creditor documents to the trustee and attending the meeting; (5) responding to the trustee's objection to confirmation of the plan (MHM-1) and confirming the chapter 13 plan; and (6) filing and serving this fee application (SL-1). Doc. #44, Exs. A, B. As noted above, Debtors have consented to payment of the requested fees. Doc. #42, § 9(7). The court finds the services and expenses actual, reasonable, and necessary.

No party in interest timely filed written opposition. Accordingly, this motion will be GRANTED. Applicant will be awarded \$13,643.52 in fees and \$430.48 in expenses on an interim basis under 11 U.S.C. § 331, subject to final review pursuant to § 330. After application of the pre-petition payment of \$2,074.00, the chapter 13 trustee is authorized, in his discretion, to pay Applicant \$12,000.00 in accordance with the chapter 13 plan for services rendered and expenses incurred from July 16, 2021 through February 16, 2022.

---

<sup>10</sup> Louis Lyons waived 0.5 hours (\$175.00) for the initial consultation on July 16, 2021 and requested only \$82.02 for 0.33 hours (\$115.50) for reviewing Trustee's reply on February 16, 2022. Doc. #44, Ex. A.

9. [21-12591](#)-B-13     **IN RE: MICHELLE FRANCO**  
[PLG-3](#)

OBJECTION TO CLAIM OF PINNACLE SERVICE SOLUTIONS LLC, CLAIM  
NUMBER 13  
5-6-2022    [\[34\]](#)

MICHELLE FRANCO/MV  
RABIN POURNAZARIAN/ATTY. FOR DBT.

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

DISPOSITION:     Sustained.

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

Michelle L. Franco ("Debtor") objects to Proof of Claim No. 13-1 filed by Pinnacle Service Solutions, LLC ("Claimant"), on January 8, 2022 in the amount of \$10,836.97 and seeks that it be disallowed in its entirety.<sup>11</sup> Doc. #34. Debtor objects under Federal Rule of Bankruptcy Procedure ("Rule") 3007 because the claim does not provide the date of the account holder's last transaction, the date of the last payment on the account, and the date on which the account was charged to profit and loss as required by Rule 3001(c)(3)(A). *Id.*

No party in interest timely filed written opposition. This objection will be SUSTAINED.

This objection was set for hearing on 44 days' notice as required by Local Rule of Practice ("LBR") 3007-1(b)(1). The failure of Claimant, 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 sustaining of the objection. *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 debtor has done here.

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.

Rule 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. *Lundell v. Anchor Constr. Specialists, Inc.*, 223 F.3d 1035, 1039 (B.A.P. 9th Cir. 2000).

Rule 3001(c)(3)(A) requires a claim based on an open-end or revolving consumer credit agreement, except one for which a security interest is claimed in the debtor's real property, a statement with the proof of claim that includes all of the following information:

- (i) the name of the entity from whom the creditor purchased the account;
- (ii) the name of the entity to whom the debt was owed at the time of an account holder's last transaction on the account;
- (iii) the date of an account holder's last transaction;
- (iv) the date of the last payment on the account; and
- (v) the date on which the account was charged to profit and loss.

Rule 3001(c)(3)(A)(i)-(v). Under subsection (c)(3)(B), a party in interest may request a copy of the writing under Rule 3001(c)(1), which must be furnished by the holder of the claim within 30 days.

Here, Debtor requested by email a copy of the writing on January 21 and 28, 2022. Doc. #38, Ex. 2. Claimant did not respond. Doc. #36.

The Attachment filed with Claim 13 includes the following statement:

Statement under FED. R. BANKR. P. 3001(c)(1) of the Circumstances of the Loss or Destruction of the Writing Upon Which the Claim is Based Pinnacle Service Solutions LLC purchased this claim from a collection agency or debt broker. In connection with purchasing the claim, Pinnacle Service Solutions LLC requested that the Seller provide the underlying agreements, applications or other writings (collectively "media") upon which the claim is based.

In response to Pinnacle Service Solutions LLC's above-described request, Seller represented and warranted to Pinnacle Service Solutions LLC that the media underlying the claim had been lost or destroyed. Based upon the Seller's foregoing representation and warranty, Pinnacle Service Solutions LLC reviewed Seller's other available information in support of the claim and concluded the claim is a valid and enforceable obligation of the Debtor(s). The information in support of the claim is set forth on the attached schedule.

*Attach. 1*, to Claim 13, at 2. The referenced attached schedule contains information about the borrower, account, bankruptcy, and creditor, but the dates of the account holder's last transaction, the last payment, and when the account was charged to profit and loss are omitted. *Id.*, at 3.

Claim 13 does not contain the information to support the claim as required under Rule 3001(c)(1)(A). Claimant did not respond to a request for a copy of the writing or of the circumstances of the loss or destruction and did not file any opposition to this objection.

Therefore, this objection will be SUSTAINED. Claim 13 will be disallowed in its entirety.

---

<sup>11</sup> Claimant was properly served to the person most recently designated on the proof of claim as the person to receive notices, at the address indicated. Doc. #39; *cf.* Claim 13.

10. [21-12394](#)-B-13     **IN RE: FELIX/RAMONA LEDESMA**  
[SL-2](#)

OBJECTION TO CLAIM OF WILMINGTON SAVINGS FUND SOCIETY, FSB,  
CLAIM NUMBER 6-1  
5-24-2022    [\[52\]](#)

RAMONA LEDESMA/MV  
SCOTT LYONS/ATTY. FOR DBT.  
RESPONSIVE PLEADING  
WITHDRAWN

**Since 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; dropped from calendar.

NO ORDER REQUIRED.

Felix Ledesma and Ramona Ledesma ("Debtors") withdrew this objection to claim on June 27, 2022. Doc. #62. Accordingly, this objection will be DROPPED FROM CALENDAR.



11:00 AM

1. [20-13712](#)-B-7     **IN RE: KAWALJEET KAUR**  
[21-1022](#)

PRE-TRIAL CONFERENCE RE: COMPLAINT  
5-25-2021    [[1](#)]

SALVEN V. KAUR ET AL  
ANTHONY JOHNSTON/ATTY. FOR PL.  
RESPONSIVE PLEADING

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

DISPOSITION:        The pre-trial conference will be vacated.

ORDER:                The court will issue an order.

Chapter 7 trustee James E. Salven ("Plaintiff"), and debtor Kawaljeet Kaur, and third-party Lovepreet Singh (collectively "Defendants") stipulated to resolve this adversary proceeding, which was approved on June 6, 2022. Bankr. Case No. 20-13712, Doc. #36. Under the terms of the settlement, Defendants will make twelve monthly payments of \$750 beginning March 15, 2022 for a total of \$9,000. *Id.* Upon receipt of all twelve payments, Plaintiff waives any and all claims the bankruptcy estate against Defendants and will promptly dismiss this adversary proceeding with prejudice. *Id.*

Since the adversary proceeding will be resolved upon completion of the payments, the court will issue an order VACATING the pre-trial conference and administratively close the adversary proceeding. Either party may file an application to reopen the adversary proceeding without additional fee if further action is required and set another scheduling conference with 14 days' notice to all other parties.

2. [20-10024](#)-B-7     **IN RE: SUKHJINDER SINGH**  
[20-1036](#)

CONTINUED ORDER TO SHOW CAUSE  
4-1-2022    [[106](#)]

SALVEN V. SINGH ET AL

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

DISPOSITION:        The OSC will be vacated.

ORDER:                The court will issue an order.

Chapter 7 trustee James E. Salven ("Plaintiff"), and debtor Sukhjinder Singh, third parties Manjinder Singh, Lakhvir Singh, and Balwinder Kaur (collectively "Defendants") stipulated to resolve this adversary proceeding, which was approved on June 6, 2022. Bankr. Case No. 20-10024, Doc. #62. Under the terms of the settlement, Defendants tendered \$9,070 for payment of sanctions and \$200,000 as full payment of the disputed claims, which are considered paid upon court approval. *Id.*

Since the adversary proceeding appears to be resolved, the court will issue an order VACATING the *Order to Show Cause*.

3. [20-10024](#)-B-7      **IN RE: SUKHJINDER SINGH**  
[20-1036](#)

CONTINUED PRE-TRIAL CONFERENCE RE: AMENDED COMPLAINT  
7-21-2020    [[14](#)]

SALVEN V. SINGH ET AL  
RUSSELL REYNOLDS/ATTY. FOR PL.  
RESPONSIVE PLEADING

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

DISPOSITION:      The pre-trial conference will be vacated.

ORDER:              The court will issue an order.

Chapter 7 trustee James E. Salven ("Plaintiff"), and debtor Sukhjinder Singh, third parties Manjinder Singh, Lakhvir Singh, and Balwinder Kaur (collectively "Defendants") stipulated to resolve this adversary proceeding, which was approved on June 6, 2022. Bankr. Case No. 20-10024, Doc. #62. Under the terms of the settlement, Defendants tendered \$9,070 for payment of sanctions and \$200,000 as full payment of the disputed claims, which are considered paid upon court approval. *Id.*

Since the adversary proceeding appears to be resolved, the court will issue an order VACATING the pre-trial conference and administratively close the adversary proceeding. Either party may file an application to reopen the adversary proceeding without additional fee if further action is required and set another scheduling conference with 14 days' notice to all other parties.

4. [21-11674](#)-B-7     **IN RE: JULIO ARELLANO**  
[22-1010](#)     [CAE-1](#)

CONTINUED STATUS CONFERENCE RE: COMPLAINT  
4-5-2022     [\[1\]](#)

DIVERSIFIED FINANCIAL  
SERVICES, LLC V. ARELLANO, SR.  
PAUL PASCUZZI/ATTY. FOR PL.

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

DISPOSITION:     The status conference will be concluded.

ORDER:     The court will issue an order.

The court is in receipt of Diversified Financial Services, LLC's ("Plaintiff") status conference statement. Doc. #20. The Clerk of the Bankruptcy Court reissued the summons on June 22, 2022, which set a status conference for August 24, 2022. Plaintiff served debtor Julio Arellano, Sr. ("Defendant") and Defendant's attorney on June 22, 2022. Docs. ##21-23.

The court will issue an order CONCLUDING this status conference and DROP IT FROM CALENDAR because a second status conference is scheduled for August 24, 2022.

5. [17-13797](#)-B-9     **IN RE: TULARE LOCAL HEALTHCARE DISTRICT**  
[20-1002](#)

CONTINUED STATUS CONFERENCE RE: COMPLAINT  
1-14-2020     [\[1\]](#)

TULARE LOCAL HEALTHCARE  
DISTRICT V. BAKER & HOSTETLER  
RILEY WALTER/ATTY. FOR PL.  
CONT'D TO 12/14/22 PER ECF ORDER #54

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

DISPOSITION:     Continued to December 14, 2022 at 11:00 a.m.

NO ORDER REQUIRED.

The parties stipulated to continue this status conference because this adversary proceeding requires the resolution of an ongoing related criminal proceeding now pending in Tulare County Superior Court (*People v. Benzeevi, Greene, Germany*) and a civil proceeding pending in Kern County Superior Court (*Tulare Local Healthcare District v. Baker Hostetler, Greene, et. al.*). Doc. #52. Since these matters will not be tried for at least 6 months, the parties agreed to stay all

discovery and other proceedings related to this adversary proceeding pending a further status conference in December 2022, which shall be conducted as a scheduling conference only. The parties also agreed to file a joint status report not later than December 1, 2022. Doc. #1.

The court approved the stipulation on June 7, 2022 at this status conference was CONTINUED to December 14, 2022 at 11:00 a.m.