

UNITED STATES BANKRUPTCY COURT
Eastern District of California
Honorable René Lastreto II
Hearing Date: Thursday, July 5, 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.

11:00 AM

1. [16-11605](#)-B-7 **IN RE: CAROLYN CHARLTON**
[16-1078](#)

RESCHEDULED PRE-TRIAL CONFERENCE RE: AMENDED COMPLAINT
2-16-2017 [[25](#)]

CHARLTON V. CHARLTON
NANETTE BEAUMONT/ATTY. FOR PL.
RESPONSIVE PLEADING

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

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

ORDER: The court will issue an order.

The parties have advised the court that the matter may be settled.
The hearing shall be continued to August 1, 2018 at 1:30 p.m.
subject to counsel filing a signed stipulation and order agreeing to
a later date. The matter will be called as a status conference and
telephonic appearance will be permitted.

2. [15-14881](#)-B-7 **IN RE: GEORGE SNYDER**
[18-1010](#)

CONTINUED STATUS CONFERENCE RE: COMPLAINT
2-27-2018 [[1](#)]

PARKER V. MERCHANTS BANK OF
CALIFORNIA, NATIONAL
LISA HOLDER/ATTY. FOR PL.

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

DISPOSITION: Dropped as moot.

ORDER: The court will issue an order.

This matter will be DROPPED AS MOOT because plaintiff's motion for
entry of default judgment (matter #3 below) is granted.

3. [15-14881](#)-B-7 **IN RE: GEORGE SNYDER**
[18-1010](#) [KDG-1](#)

MOTION FOR ENTRY OF DEFAULT JUDGMENT
5-23-2018 [[16](#)]

PARKER V. MERCHANTS BANK OF
CALIFORNIA, NATIONAL
LISA HOLDER/ATTY. FOR MV.

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

DISPOSITION: Granted.

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

This motion 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.

Federal Rule of Civil Procedure 55, made applicable to this adversary proceeding through Federal Rule of Bankruptcy Procedure 7055, states that when a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend as provided by these rules and that fact is made to appear by affidavit or otherwise, the clerk shall enter the party's default.

On April 23, 2018, the clerk of the court entered the default of the defendant, Merchants Bank of California, National Association. Doc. #10. The clerk's order required the plaintiff to apply for a default judgment within 30 days of the date of the order. *Id.* This motion was filed within that timeframe.

Trustee's complaint prayed for the following relief: requiring defendant to turn over the current value of the certificate of deposit ("CD") to trustee; for judgment in the current value of the CD, and for interest, attorney's fees, and costs allowed by law or contract.

11 U.S.C. § 541(a)(1) defines property of the estate as "all legal or equitable interests of the debtor in property as of the

commencement of the case." In the Ninth Circuit, "[T]he right to receive a tax refund constitutes an interest in property." Nichols v. Birdsell, 491 F.3d 987, 990 (9th Cir. 2007).

11 U.S.C. § 542 provides that "[A]n entity, other than a custodian, in possession, custody, or control during the case, of property that the trustee may use, sell, or lease under section 363...shall deliver to the trustee, and account for, such value property or the value of such property."

In this case, debtor dissolved Cameroncorbin, Inc. and paid all the corporation's debts. Under California law, the board distributed the remaining corporate assets among the shareholders, and therefore the CD was distributed to debtor, who was the sole shareholder of the corporation. Doc. #18. According to debtor's schedule A/B, the CD was worth \$20,244.01 at the time of filing. Doc. #1. At debtor's meeting of creditors, debtor testified that defendant still possessed the CD. Doc. #18.

This motion is GRANTED. Defendant is ordered to turn over the current value of the CD to trustee pursuant to 11 U.S.C. § 542. Judgment shall be entered in favor of plaintiff for turnover of the CD or alternatively the current value of the CD and for interest and costs as allowed by law. Any claim for attorneys' fees is denied without prejudice. If fees are sought, plaintiff must prosecute a proceeding establishing a right to attorneys' fees on a turnover action and proof of the amount claimed. Neither was included on the motion for default judgment. See Fed. R. Bankr. P. 7054.

4. [17-13797](#)-B-9 **IN RE: TULARE LOCAL HEALTHCARE DISTRICT**
[18-1008](#)

STATUS CONFERENCE RE: AMENDED COMPLAINT
5-8-2018 [[9](#)]

TULARE LOCAL HEALTHCARE
DISTRICT V. MB FINANCIAL BANK,
RILEY WALTER/ATTY. FOR PL.
RESPONSIVE PLEADING

NO RULING.

1:30 PM

1. [18-11501](#)-B-13 **IN RE: BAO VUE**
[MHM-1](#)

MOTION TO DISMISS CASE
6-4-2018 [[21](#)]

MICHAEL MEYER/MV
BENNY BARCO

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

DISPOSITION: Dropped from calendar.

NO ORDER REQUIRED: Movant withdrew the motion.

2. [18-11003](#)-B-13 **IN RE: CARLOS LEAL**
[MHM-1](#)

CONTINUED MOTION TO DISMISS CASE
5-4-2018 [[29](#)]

MICHAEL MEYER/MV
TIMOTHY SPRINGER
RESPONSIVE PLEADING

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. Trustee's Motion to Dismiss (MHM-2)
is granted, therefore this motion is denied as moot.

3. [18-11003](#)-B-13 **IN RE: CARLOS LEAL**
[MHM-2](#)

MOTION TO DISMISS CASE
6-5-2018 [[47](#)]

MICHAEL MEYER/MV
TIMOTHY SPRINGER

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

DISPOSITION: Granted.

ORDER: The court will issue an order.

Unless the trustee's motion is withdrawn before the hearing, the motion will be granted without oral argument for cause shown.

This matter was fully noticed in compliance with the Local Rules of Practice and there is no opposition. Accordingly, the respondent's default will be entered. Federal Rule of Civil Procedure 55, made applicable by Federal Rule of Bankruptcy Procedure 7055, governs default matters and is applicable to contested matters under Federal Rule of Bankruptcy Procedure 9014(c). 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 record shows that the debtor has failed to make all payments due under the plan. Pursuant to 11 U.S.C. § 1307(c)(1) and/or (c)(4), cause exists to dismiss this case. Accordingly, the case will be dismissed.

4. [18-11003](#)-B-13 **IN RE: CARLOS LEAL**
[TCS-3](#)

MOTION TO CONFIRM PLAN
5-22-2018 [[33](#)]

CARLOS LEAL/MV
TIMOTHY SPRINGER

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. Trustee's Motion to Dismiss (MHM-2) is granted, therefore this motion is denied as moot.

5. [18-11703](#)-B-13 **IN RE: ENRIQUE IBARRA AND NORMA CORTEZ**
IBARRA
[TGM-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY RESIDENTIAL FUNDING
MORTGAGE SECURITIES II, INC.
5-22-2018 [\[14\]](#)

RESIDENTIAL FUNDING MORTGAGE
SECURITIES II, INC./MV
PETER BUNTING
TYNEIA MERRITT/ATTY. FOR MV.

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

DISPOSITION: Continued to August 2, 2018 at 1:30 p.m.

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

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

6. [17-12708](#)-B-13 **IN RE: JOHN/TANYA TOLMOSOFF**
[PBB-1](#)

MOTION TO MODIFY PLAN
5-24-2018 [\[25\]](#)

JOHN TOLMOSOFF/MV
PETER BUNTING

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

DISPOSITION: Granted.

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

This motion was set for hearing on 35 days' notice as required by Local Rule of Practice ("LBR") 3015-1(d)(1). The failure of the creditors, the debtor, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved

without oral argument. Upon default, factual allegations will be taken as true (except those relating to amount of damages). Televideo Systems, Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires that a plaintiff make a prima facie showing that they are entitled to the relief sought, which the movant has done here.

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

7. [18-10222](#)-B-13 **IN RE: DOMINIC BURRIEL**
[AP-1](#)

CONTINUED OBJECTION TO CONFIRMATION OF PLAN BY CALIFORNIA
FIELD IRONWORKERS TRUST FUNDS
3-13-2018 [[29](#)]

BOARD OF TRUSTEES OF THE
CALIFORNIA IRONWORKERS FIELD
PETER FEAR
CHRISTOPHER MCDERMOTT/ATTY. FOR MV.

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.

Because the § 341 meeting of creditors has not yet concluded, this matter will be continued to July 19, 2018 at 1:30 p.m., which is nine days after the continued 341 meeting.

8. [18-10222](#)-B-13 **IN RE: DOMINIC BURRIEL**
[MHM-3](#)

MOTION TO DISMISS CASE
6-4-2018 [[61](#)]

MICHAEL MEYER/MV
PETER FEAR
RESPONSIVE PLEADING

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

DISPOSITION: Dropped from calendar.

NO ORDER REQUIRED: Movant withdrew the motion.

9. [18-10222](#)-B-13 **IN RE: DOMINIC BURRIEL**
[RMP-1](#)

CONTINUED OBJECTION TO CONFIRMATION OF PLAN BY CREDITOR
DITECH FINANCIAL LLC
2-28-2018 [[18](#)]

DITECH FINANCIAL LLC/MV
PETER FEAR
JAMES LEWIN/ATTY. FOR MV.

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.

Because the § 341 meeting of creditors has not yet concluded, this matter will be continued to July 19, 2018 at 1:30 p.m., which is nine days after the continued 341 meeting.

10. [18-10926](#)-B-13 **IN RE: PATRICIA CRAWFORD**
[MHM-2](#)

CONTINUED MOTION TO DISMISS CASE
5-4-2018 [[17](#)]

MICHAEL MEYER/MV
SCOTT LYONS

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

DISPOSITION: Dropped from calendar.

NO ORDER REQUIRED: Movant withdrew the motion.

11. [18-10926](#)-B-13 **IN RE: PATRICIA CRAWFORD**
[SL-1](#)

CONTINUED MOTION TO CONFIRM PLAN
5-7-2018 [[21](#)]

PATRICIA CRAWFORD/MV
SCOTT LYONS
RESPONSIVE PLEADING

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

DISPOSITION: Granted.

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

This motion was set for hearing on 35 days' notice as required by Local Rule of Practice ("LBR") 3015-1(d)(1). The failure of the creditors, the debtor, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument. Upon default, factual allegations will be taken as true (except those relating to amount of damages). Televideo Systems, Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires that a plaintiff make a prima facie showing that they are entitled to the relief sought, which the movant has done here. Opposition to confirmation filed by the trustee was withdrawn. Doc. #39.

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

12. [14-14129](#)-B-13 **IN RE: FLORENSIO/GENEVIEVE ESPINOSA**
[FJG-5](#)

MOTION TO VALUE COLLATERAL OF BANK OF AMERICA, N.A.
5-25-2018 [\[82\]](#)

FLORENSIO ESPINOSA/MV
F. GIST

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.

Based on the evidence offered in support of the motion, the respondent's junior priority mortgage claim is found to be wholly unsecured and may be treated as a general unsecured claim in the chapter 13 plan. The debtor may proceed to obtain relief from this lien upon completion of the necessary requirements under applicable law.

This ruling is only binding on the named respondent in the moving papers and any successor who takes an interest in the property after service of the motion.

13. [18-10642](#)-B-13 **IN RE: PETER SOLORIO**
[MHM-3](#)

MOTION TO DISMISS CASE
6-4-2018 [[44](#)]

MICHAEL MEYER/MV
YELENA GUREVICH
RESPONSIVE PLEADING

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

DISPOSITION: Continued to August 2, 2018 at 1:30 p.m.

ORDER: The court will issue an order.

This motion is continued to August 2, 2018 at 1:30 p.m. to be heard in conjunction with debtor's motion to confirm chapter 13 plan.

14. [18-12145](#)-B-13 **IN RE: MARCO ALVAREZ AND CLAUDIA GARCIA**
[TOG-1](#)

MOTION TO VALUE COLLATERAL OF LENDMARK FINANCIAL SERVICES
6-2-2018 [[8](#)]

MARCO ALVAREZ/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 replacement value of the 2006 Toyota Sienna.

The legal issues appear to include: whether debtor's are entitled to the requested relief prior to plan confirmation; whether debtors are entitled to the requested relief because their plan does not provide "adequate protection" for the secured creditor's collateral. The attachment to the proof of claim which is referenced is the only evidence submitted by objector. The attachment to the claim is an unauthenticated "NADA price guide." No foundation is proven.

The court notes that the declaration of James MacLeod was not in compliance with Local Rule of Practice 9004-2(c)(1), which requires that declarations, exhibits, *inter alia*, to be filed as separate documents. Here, the declarations and exhibits were combined into one document and not filed separately.

15. [18-11357](#)-B-13 **IN RE: ENRIQUE/GUADALUPE REYES**
[JAM-1](#)

MOTION TO AVOID LIEN OF COUNTY OF TULARE
6-4-2018 [\[23\]](#)

ENRIQUE REYES/MV
JAMES MICHEL
RESPONSIVE PLEADING

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

DISPOSITION: Denied without prejudice.

ORDER: The court will issue an order.

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

LBR 9014-1(d)(1) requires "every application, motion, contested matter or other request for an order [to be] comprised of a motion, or other request for relief, notice, evidence, and a certificate of service."

In this case, a motion was not filed. Numerous references to a motion were made in the notice, proof of service, *inter alia*, but no motion was filed with the court. The court notes that a Memorandum of Points and Authorities was filed and it contains a prayer for relief, but that is not sufficient. While motions and points and authorities may be combined in one document in some cases (see LBR 9014-1(d)(4)), these pleadings do not qualify. No document

denominated "motion" was filed and the pleading exceeded the page limit.

The motion is DENIED.

The court also notes that the chapter 13 trustee was not served with all of the necessary documents.

16. [18-11357](#)-B-13 **IN RE: ENRIQUE/GUADALUPE REYES**
[JAM-2](#)

MOTION TO AVOID LIEN OF KUTNERIAN
6-4-2018 [[29](#)]

ENRIQUE REYES/MV
JAMES MICHEL
CONTINUED TO 7/19/18 PER ECF ORDER NO. 42

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

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

NO ORDER REQUIRED: The court already issued an order. Doc. #42.

17. [18-11357](#)-B-13 **IN RE: ENRIQUE/GUADALUPE REYES**
[JAM-3](#)

OBJECTION TO CLAIM OF STATE OF CALIFORNIA FRANCHISE TAX
BOARD, CLAIM NUMBER 2
6-4-2018 [[38](#)]

ENRIQUE REYES/MV
JAMES MICHEL
RESPONSIVE PLEADING

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: This matter will proceed as a scheduling
conference.

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

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

This matter is now deemed to be a contested matter. Pursuant to Federal Rule of Bankruptcy Procedure 9014(c), the federal rules of discovery apply to contested matters. The parties shall be prepared for the court to set an early evidentiary hearing.

The legal issues appear to include: whether debtor's tax liability owed to the Franchise Tax Board is barred by the 20-year abatement provision of California Revenue and Taxation Code § 19255.

18. [18-11457](#)-B-13 **IN RE: GREGG/WENDY SCHOFIELD**
[JHW-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
6-6-2018 [[34](#)]

SANTANDER CONSUMER USA INC./MV
PETER BUNTING
JENNIFER WANG/ATTY. FOR MV.
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 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 under § 362(d)(1) with respect to a 2014 Hyundai Sonata.

11 U.S.C. § 362(d)(1) allows the court to grant relief from stay for cause, including the lack of adequate protection. "Because there is no clear definition of what constitutes 'cause,' discretionary relief from the stay must be determined on a case by case basis." In re Mac Donald, 755 F.2d 715, 717 (9th Cir. 1985).

After review of the included evidence, the court concludes that "cause" exists to lift the stay because movant is already in possession of the vehicle and debtor is delinquent over \$4,000. Claim 2.

Accordingly, the motion will be granted pursuant to 11 U.S.C. § 362(d)(1) to permit the movant to dispose of its collateral pursuant to applicable law and to use the proceeds from its disposition to satisfy its claim. No other relief is awarded.

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

19. [18-11361](#)-B-13 **IN RE: JENNIFER SILVA**
[MHM-1](#)

MOTION TO DISMISS CASE
6-5-2018 [[18](#)]

MICHAEL MEYER/MV
SCOTT LYONS

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

DISPOSITION: Granted.

ORDER: The court will issue an order.

Unless the trustee's motion is withdrawn before the hearing, the motion will be granted without oral argument for cause shown.

This matter was fully noticed in compliance with the Local Rules of Practice and there is no opposition. Accordingly, the respondent's default will be entered. Federal Rule of Civil Procedure 55, made applicable by Federal Rule of Bankruptcy Procedure 7055, governs default matters and is applicable to contested matters under Federal Rule of Bankruptcy Procedure 9014(c). 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 record shows that there has been unreasonable delay by the debtor that is prejudicial to creditors. The debtor failed to provide the trustee with all of the documentation required by 11 U.S.C. § 521(a)(3) and (4). Accordingly, the case will be dismissed.

20. [18-11563](#)-B-13 **IN RE: ALBA FELIXMORENO**
[MHM-1](#)

MOTION TO DISMISS CASE
6-1-2018 [[34](#)]

MICHAEL MEYER/MV

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

DISPOSITION: Granted.

ORDER: The court will issue an order.

Unless the trustee's motion is withdrawn before the hearing, the motion will be granted without oral argument for cause shown.

This matter was fully noticed in compliance with the Local Rules of Practice and there is no opposition. Accordingly, the respondent's default will be entered. Federal Rule of Civil Procedure 55, made applicable by Federal Rule of Bankruptcy Procedure 7055, governs default matters and is applicable to contested matters under Federal Rule of Bankruptcy Procedure 9014(c). 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 record shows that there has been unreasonable delay by the debtor that is prejudicial to creditors. The debtor failed to provide the trustee with all of the documentation required by 11 U.S.C. § 521(a)(3) and (4). Accordingly, the case will be dismissed.

21. [18-11563](#)-B-13 **IN RE: ALBA FELIXMORENO**
[TGM-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY CITIGROUP MORTGAGE LOAN TRUST INC.
5-22-2018 [[25](#)]

CITIGROUP MORTGAGE LOAN TRUST
INC./MV
TYNEIA MERRITT/ATTY. FOR MV.

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. Trustee's motion to dismiss (MHM-1, matter #20 above) is granted.

22. [18-11865](#)-B-13 **IN RE: GERALD SANDERS**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES
6-13-2018 [\[35\]](#)

ERIC ESCAMILLA
\$80.00 INSTALLMENT PAYMENT 6/18/18

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

DISPOSITION: The OSC will be vacated.

ORDER: The court will issue an order.

The record shows that the debtor paid \$80.00 on June 18, 2018.

The order permitting the payment of filing fees in installments will be modified to provide that if future installments are not received by the due date, the case will be dismissed without further notice or hearing.

23. [18-11472](#)-B-13 **IN RE: EFRAIN MEJIA**
[MHM-2](#)

MOTION TO DISMISS CASE
6-1-2018 [\[27\]](#)

MICHAEL MEYER/MV
DAVID JENKINS
RESPONSIVE PLEADING

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

DISPOSITION: Dropped from calendar.

NO ORDER REQUIRED: Movant withdrew the motion.

24. [18-11375](#)-B-13 **IN RE: ERIC RUBIO**
[MHM-2](#)

MOTION TO DISMISS CASE
6-1-2018 [\[22\]](#)

MICHAEL MEYER/MV
TIMOTHY SPRINGER

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

DISPOSITION: Dropped from calendar.

NO ORDER REQUIRED: Movant withdrew the motion.

25. [18-11479](#)-B-13 **IN RE: DAVID/ANTOINETTE MORALES**
[MHM-1](#)

MOTION TO DISMISS CASE
6-4-2018 [[22](#)]

MICHAEL MEYER/MV
MARK ZIMMERMAN

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

DISPOSITION: Dropped from calendar.

NO ORDER REQUIRED: Movant withdrew the motion.