

UNITED STATES BANKRUPTCY COURT
Eastern District of California
Honorable René Lastreto II
Hearing Date: Thursday, July 19, 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. [16-10643](#)-B-12 **IN RE: MARK FORREST**
[LKW-16](#)

MOTION FOR COMPENSATION FOR LEONARD K. WELSH, DEBTORS
ATTORNEY(S)
6-28-2018 [\[221\]](#)

LEONARD WELSH

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Granted.

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

This motion was filed and served pursuant to Local Rule of Practice ("LBR") 9014-1(f)(2) and will proceed as scheduled. Unless opposition is presented at the hearing, the court intends to enter the respondents' defaults and grant the motion. If opposition is presented at the hearing, the court will consider the opposition and whether further hearing is proper pursuant to LBR 9014-1(f)(2). The court will issue an order if a further hearing is necessary.

The motion will be GRANTED. Debtor's counsel, Leonard K. Welsh, requests fees of \$11,075.00 and costs of \$446.33 for a total of \$11,521.33 for services rendered as debtor's counsel from December 1, 2017 through May 31, 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) Advising debtor about the administration of its chapter 11 case and its duties as debtor-in-possession, (2) Working with debtor to address tax issues, (3) Working with debtor and the other parties in interest regarding completing the chapter 12 plan, (4) Administering claims, and (5) Completing the work required to conclude the Madrigal v. Forrest adversary proceeding without a trial. The court finds the services reasonable and necessary and the expenses requested actual and necessary.

Movant shall be awarded \$11,075.00 in fees and \$446.33 in costs.

2. [18-11166](#)-B-11 **IN RE: JOSE/MARY VALADAO**
[WW-1](#)

CONTINUED MOTION TO USE CASH COLLATERAL
4-2-2018 [\[15\]](#)

JOSE VALADAO/MV
RILEY WALTER

NO RULING.

3. [17-13797](#)-B-9 **IN RE: TULARE LOCAL HEALTHCARE DISTRICT**
[WW-40](#)

MOTION TO REJECT LEASE OR EXECUTORY CONTRACT
6-12-2018 [\[553\]](#)

TULARE LOCAL HEALTHCARE
DISTRICT/MV
RILEY WALTER

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."

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).

The presumption has not been rebutted, and so the court finds that the debtor-in-possession's decision to reject is consistent with the business judgment rule and Ninth Circuit precedent.

The debtor-in-possession is authorized to reject the lease with Toyota Lease Trust for a 2015 Toyota Prius.

4. [17-13797](#)-B-9 **IN RE: TULARE LOCAL HEALTHCARE DISTRICT**
[18-1018](#)

CONTINUED STATUS CONFERENCE RE: NOTICE OF REMOVAL
4-25-2018 [[1](#)]

MAXIM HEALTHCARE SERVICES,
INC. V. HEALTHCARE
UNKNOWN TIME OF FILING/ATTY. FOR PL.

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

DISPOSITION: The status conference will be continued to August 22, 2018 at 1:30 p.m. Unilateral or joint status conference statement(s) shall be filed on or before August 15, 2018. The report(s) may incorporate some or all of the Joint Status Report and Discovery Plan filed July 12, 2018. Doc. #20.

ORDER: The Court will issue the order.

The docket reveals that a third party complaint was filed and summons was issued. The status conference on the third party complaint is August 22, 2018 at 1:30 pm.

1:30 PM

1. [18-11201](#)-B-13 **IN RE: DOUGLAS PARKS**
[FW-2](#)

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

DOUGLAS PARKS/MV
PETER FEAR
RESPONSIVE PLEADING

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

DISPOSITION: Dropped from calendar.

NO ORDER REQUIRED: An order approving a stipulation between the
parties has been approved by the court. Doc.
#73.

2. [18-11703](#)-B-13 **IN RE: ENRIQUE IBARRA AND NORMA CORTEZ**
IBARRA
[MHM-2](#)

MOTION TO DISMISS CASE
6-15-2018 [[24](#)]

MICHAEL MEYER/MV
PETER BUNTING

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 respondents'
defaults 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 debtors that is prejudicial to creditors. The debtors have 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.

3. [18-12612](#)-B-13 **IN RE: GLORIA ALCALA**
[SL-1](#)

MOTION TO EXTEND AUTOMATIC STAY
7-3-2018 [\[8\]](#)

GLORIA ALCALA/MV
SCOTT LYONS

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Granted. Stay is extended as stated in this ruling until August 17, 2018 when it will expire subject to further extension as set forth below. This hearing will be continued to August 16, 2018 at 1:30 p.m.

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 June 28, 2018 and the automatic stay will expire on July 28, 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 DOES NOT arise. The only condition that could have applied is § 362(c)(3)(C)(i)(III). However, the latest-filed plan in debtor's previous case purported to pay 0% to unsecured creditors (though the plan itself stated the percent would be "N/A," case no. 17-14527, doc. #75, sec. 3.14), whereas the plan filed in this case proposes to pay 100% of unsecured creditors. Doc. #2. Additionally, the debtor has received a \$3.98/hr raise, which over the course of a year of full-time work will amount to over \$8,000.00. These facts show that there has been a substantial change to debtor's financial affairs and that this case is more likely to conclude with a confirmed chapter 13 plan. See § 362(c)(3)(C)(i)(III)(bb).

The motion is GRANTED.

The automatic stay shall be extended for all purposes as to all parties who received notice, unless terminated by further order of this court until August 17, 2018 when it will expire subject to further extension as set forth below. 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 notes that the notice did not contain the language required under LBR 9014-1(d)(3)(B)(iii). LBR 9014-1(d)(3)(B), which is about noticing requirements, requires movants to notify respondents that they can determine whether the matter has been resolved without oral argument or if the court has issued a tentative ruling by checking the Court's website at www.caeb.uscourts.gov after 4:00 p.m. the day before the hearing.

Debtor shall re-file and serve the notice of hearing to all creditors with the added LBR 9014-1(d)(3)(B)(iii) language, notifying the creditors of a continued hearing on this motion on August 16, 2018 at 1:30 p.m. The court will consider further extension of the stay at that hearing.

4. [13-12414](#)-B-13 **IN RE: CLYDE/RACHEL ABLES**
[MHM-2](#)

MOTION TO DISMISS CASE
6-11-2018 [[48](#)]

MICHAEL MEYER/MV
SCOTT LYONS

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

DISPOSITION: Dropped from calendar.

NO ORDER REQUIRED: This case has been converted to chapter 7.
Doc. #53.

5. [16-12421](#)-B-13 **IN RE: INEZ SEARS**
[TCS-3](#)

MOTION TO MODIFY PLAN
6-12-2018 [[56](#)]

INEZ SEARS/MV
TIMOTHY SPRINGER
RESPONSIVE PLEADING

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

DISPOSITION: Continued to August 23, 2018 at 1:30 p.m.

ORDER: The court will issue an order.

This motion will be set for a continued hearing on August 23, 2018 at 9:00 a.m. The court will issue an order. No appearance is necessary.

The trustee has filed a detailed objection to the debtor's fully noticed motion to confirm a chapter 13 plan. Unless this case is voluntarily converted to chapter 7, dismissed, or the trustee's opposition, the debtor shall file and serve a written response not later than August 9, 2018. The response shall specifically address each issue raised in the opposition to confirmation, state whether the issue is disputed or undisputed, and include admissible evidence to support the debtor's position. If the debtor elects to withdraw this plan and file a modified plan in lieu of filing a response, then a confirmable modified plan shall be filed, served, and set for hearing, not later than August 16, 2018. If the debtor does not timely file a modified plan or a written response, the motion to confirm the plan will be denied on the grounds stated in the opposition without a further hearing.

6. [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 August 23, 2018 at 1:30 p.m.

ORDER: The court will issue an order.

This motion will be set for a continued hearing on August 23, 2018
at 1:30 p.m. The court will issue an order. No appearance is
necessary.

Creditor California Field Ironworkers Trust Funds has filed a
detailed objection to the debtors' fully noticed motion to confirm a
chapter 13 plan. Unless this case is voluntarily converted to
chapter 7, dismissed, or the creditor's opposition to confirmation
is withdrawn, the debtor shall file and serve a written response not
later than August 9, 2018. The response shall specifically address
each issue raised in the opposition to confirmation, state whether
the issue is disputed or undisputed, and include admissible evidence
to support the debtor's position. If the debtor elects to withdraw
this plan and file a modified plan in lieu of filing a response,
then a confirmable modified plan shall be filed, served, and set for
hearing, not later than August 16, 2018. If the debtor does not
timely file a modified plan or a written response, the motion to
confirm the plan will be denied on the grounds stated in the
opposition without a further hearing.

7. [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 August 23, 2018 at 1:30 p.m.

ORDER: The court will issue an order.

This motion will be set for a continued hearing on August 23, 2018 at 1:30 p.m. The court will issue an order. No appearance is necessary.

Creditor Ditech Financial LLC has filed a detailed objection to the debtors' fully noticed motion to confirm a chapter 13 plan. Unless this case is voluntarily converted to chapter 7, dismissed, or the creditor's opposition to confirmation is withdrawn, the debtor shall file and serve a written response not later than August 9, 2018. The response shall specifically address each issue raised in the opposition to confirmation, state whether the issue is disputed or undisputed, and include admissible evidence to support the debtor's position. If the debtor elects to withdraw this plan and file a modified plan in lieu of filing a response, then a confirmable modified plan shall be filed, served, and set for hearing, not later than August 16, 2018. If the debtor does not timely file a modified plan or a written response, the motion to confirm the plan will be denied on the grounds stated in the opposition without a further hearing.

Objector filed a claim on February 27, 2018 (claim #1) which asserts a pre-petition arrearage is due. The debtor has satisfied this creditor in class 4 (direct pay). Based on the claim, that is not the proper classification. A plan may not be confirmed if it misclassifies claims. See In re Hill, 440 B.R. 176, 184 (Bankr. S.C. Cal. 2010).

8. [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: Denied as moot.

ORDER: The court will issue an order.

This motion is DENIED AS MOOT. This case was dismissed on July 11, 2018. Doc. #59.

9. [18-11825](#)-B-13 **IN RE: JESSICA RAMOS**
[MHM-1](#)

MOTION TO DISMISS CASE
6-15-2018 [[17](#)]

MICHAEL MEYER/MV
PETER CIANCHETTA
RESPONSIVE PLEADING

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

DISPOSITION: Dropped from calendar.

NO ORDER REQUIRED: Movant withdrew the motion. Doc. #30.

10. [18-11831](#)-B-13 **IN RE: DEBORAH ALDRIDGE**
[MHM-2](#)

MOTION TO DISMISS CASE
6-15-2018 [[16](#)]

MICHAEL MEYER/MV
TIMOTHY SPRINGER

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

DISPOSITION: Conditionally denied.

ORDER: The court will issue the order.

The chapter 13 trustee's motion to dismiss is CONDITIONALLY DENIED.

The debtors shall attend the meeting of creditors rescheduled for July 24, 2018 at 9:00 a.m. If the debtor fails to do so, the chapter

7 trustee may file a declaration with a proposed order and the case will be dismissed without a further hearing.

The time prescribed in Rules 1017(e)(1) and 4004(a) for the chapter 7 trustee and the U.S. Trustee to object to the debtors' discharge or file motions for abuse, other than presumed abuse, under § 707, is extended to 60 days after the conclusion of the meeting of creditors.

11. [18-10233](#)-B-13 **IN RE: JOSE QUINTEROS**
[TOG-2](#)

CONTINUED MOTION TO CONFIRM PLAN
3-23-2018 [\[29\]](#)

JOSE QUINTEROS/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: whether debtor's plan is feasible. The trustee will have the opportunity to file further pleadings and the debtor's issues will be considered in scheduling a further hearing.

12. [17-14648](#)-B-13 **IN RE: FLIMON/LOURDES RAMIREZ**
[EPE-1](#)

CONTINUED MOTION TO CONFIRM PLAN
5-8-2018 [\[67\]](#)

FLIMON RAMIREZ/MV
ERIC ESCAMILLA
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. Debtor filed another chapter 13 plan and motion to confirm after this motion. That later-filed plan supersedes this plan, and therefore the previous plan is deemed withdrawn and this motion is denied as moot.

13. [17-14648](#)-B-13 **IN RE: FLIMON/LOURDES RAMIREZ**
[EPE-3](#)

MOTION TO CONFIRM PLAN
6-7-2018 [\[84\]](#)

FLIMON RAMIREZ/MV
ERIC ESCAMILLA

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.

14. [18-11951](#)-B-13 IN RE: SHAWN WILLIAMS
[AP-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY WELLS FARGO BANK, NA
6-21-2018 [\[33\]](#)

WELLS FARGO BANK, NA/MV
JERRY LOWE
JAMIE HANAWALT/ATTY. FOR MV.
RESPONSIVE PLEADING

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Overruled without prejudice.

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

This objection is OVERRULED WITHOUT PREJUDICE. Constitutional due process requires that the movant make a *prima facie* showing that they are entitled to the relief sought. Here, the moving papers do not present "sufficient factual matter, accepted as true, to 'state a claim to relief that is plausible on its face.'" In re Tracht Gut, LLC, 503 B.R. 804, 811 (9th Cir. BAP, 2014), citing Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009), and Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 570 (2007).

Creditor's objection is on the grounds that the plan does not account for the entire amount of the pre-petition arrearages that debtor owes to creditor. Doc. #33.

Debtor responded, stating that section 3.02 of the plan shows that it is the proof of claim, not the plan itself, that determines the amount that will be repaid in the plan. This is correct.

This matter will be called to allow movant to reply to debtor's response.

15. [18-11357](#)-B-13 **IN RE: ENRIQUE/GUADALUPE REYES**
[JAM-2](#)

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

ENRIQUE REYES/MV
JAMES MICHEL
RESPONSIVE PLEADING

NO RULING.

16. [18-11457](#)-B-13 **IN RE: GREGG/WENDY SCHOFIELD**
[PBB-2](#)

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

GREGG SCHOFIELD/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.

17. [18-11770](#)-B-13 **IN RE: DAVID/DELIA HAYES**
[MHM-2](#)

MOTION TO DISMISS CASE
6-15-2018 [\[30\]](#)

MICHAEL MEYER/MV
STEPHEN LABIAK
RESPONSIVE PLEADING

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

DISPOSITION: Dropped from calendar.

NO ORDER REQUIRED: Movant withdrew the motion. Doc. #44.

18. [16-10080](#)-B-13 **IN RE: MARY MIGLIORE**
[GEG-3](#)

MOTION FOR COMPENSATION FOR GLEN E. GATES, DEBTORS
ATTORNEY(S)
6-27-2018 [\[59\]](#)

GLEN GATES

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").

First, LBR 9014-1(f)(1)(B) requires the movant to notify the respondent or respondents that any opposition to motions filed on at least 28 days' notice must be in writing and must be filed with the court at least fourteen (14) days preceding the date or continued date of the hearing. LBR 9014-1(f)(2)(C) states that written opposition is not required on motions set on less than 28 days' notice but at least 14 days' notice.

This motion and the notice of hearing was filed and served on June 27, 2018 (doc. #61) and set for hearing on July 19, 2018 (doc. #60). July 19, 2018 is 22 days after June 27, 2018, and therefore this hearing was set on less than 28 days' notice under LBR 9014-1(f)(2). The notice stated that written opposition was required and must be filed at least 14 days preceding the date of the hearing. Doc. #60. That is incorrect. Because the hearing was set on 14 days' notice, the notice should have stated that no written opposition was required. Because this motion was filed, served, and noticed on less than 28 days' notice, the language of LBR 9014-1(f)(2)(C) needed to have been included in the notice.

Second, LBR 9004-2(c)(1) requires that motions, notices, exhibits, etc. be filed as separate documents.

The exhibits in this matter were not filed separately, but included in the motion. That is not in compliance with LBR 9004-2(c)(1).

19. [18-11583](#)-B-13 **IN RE: TODD FISHER AND LEZA COOPER**
[MHM-2](#)

MOTION TO DISMISS CASE
6-15-2018 [\[34\]](#)

MICHAEL MEYER/MV
STEPHEN LABIAK
RESPONSIVE PLEADING

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

DISPOSITION: Dropped from calendar.

NO ORDER REQUIRED: Movant withdrew the motion. Doc. #50.

20. [18-10489](#)-B-13 **IN RE: JAVIER/GABRIELA DIAZ**
[JDR-1](#)

MOTION TO CONFIRM PLAN
5-25-2018 [\[49\]](#)

JAVIER DIAZ/MV
JEFFREY ROWE
RESPONSIVE PLEADING

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

DISPOSITION: Granted.

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

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

1987). Constitutional due process requires that a plaintiff make a prima facie showing that they are entitled to the relief sought, which the movant has done here.

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

The court notes that an "Exhibit A" was included with the notice of hearing. Doc. #51. Because the "Exhibit A" was also filed separately with another exhibit, the court will not deny this motion without prejudice pursuant to LBR 9004-2(c)(1). The court will caution counsel however, to ensure that future motions are in compliance with the Local Rules of Practice.

21. [17-14293](#)-B-13 **IN RE: ERIC/MEREDITH KURTZ**
[NES-6](#)

MOTION TO INCUR DEBT
7-5-2018 [[71](#)]

ERIC KURTZ/MV
NEIL SCHWARTZ

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. Debtor is authorized to borrow no more than \$19,289.59 for a term not longer than 57 months at an interest rate not greater than 22.99%.

The declaration signed by the debtors states they have not been able to obtain favorable financing terms from other dealerships. The interest proposed is generally unacceptable. However, there is a confirmed plan that proposes to pay 100% to unsecured claims and the debtors are current on the plan payments. Also, the monthly payment proposed is almost equal to what the debtors were paying under the lease for the previous vehicle.

The court notes that the motion states the debtors wish to purchase a 2015 Jeep Cherokee, but debtor's declaration and the bill of sale

state that the vehicle is a 2006 Dodge Durango. Counsel must be prepared to correct the error at the hearing and inform the court as to which vehicle it will be.

22. [18-11093](#)-B-13 **IN RE: CATHERINE GARCIA**
[MHM-2](#)

CONTINUED MOTION TO DISMISS CASE
5-16-2018 [[15](#)]

MICHAEL MEYER/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.

This motion was continued to allow debtor to attend the continued
§ 341 meeting of creditors on July 10, 2018.

The debtor did not appear at the continued § 341 meeting. Therefore,
this motion is GRANTED.

23. [18-11093](#)-B-13 **IN RE: CATHERINE GARCIA**
[PBB-1](#)

MOTION TO VALUE COLLATERAL OF DEPARTMENT OF THE TREASURY-
INTERNAL REVENUE SERVICE
6-14-2018 [[24](#)]

CATHERINE GARCIA/MV
PETER BUNTING

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, matter
#22 above, MHM-2, is granted.

24. [14-14594](#)-B-13 **IN RE: DIEDRE BROOKS**
[MHM-1](#)

MOTION TO DETERMINE FINAL CURE AND MORTGAGE PAYMENT RULE
3002.1
6-7-2018 [[47](#)]

MICHAEL MEYER/MV
F. GIST
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 creditor Lakeview Loan Servicing, LLC, 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. Pursuant to Federal Rule of Bankruptcy Procedure 3002.1(g):

Within 21 days after service of the notice under subdivision (f) of this rule, the holder shall file and serve on the debtor, debtor's counsel, and the trustee a statement indicating (1) whether it agrees that the debtor has paid in full the amount required to cure the default on the claim, and (2) whether the debtor is otherwise current on all payments consistent with § 1322(b)(5) of the Code. The statement shall itemize the required cure or postpetition amounts, if any, that the holder contends remain unpaid as of the date of the statement. The statement shall be filed as a supplement to the holder's proof of claim and is not subject to Rule 3001(f).

The servicer for Lakeview Loan Servicing, LLC ("Creditor"), Cenlar FSB, filed a response, stating that they have no opposition to this

motion and confirmed and agreed that all amounts due with respect to their claim and all post-petition payments through and including March 2018 have been received from the trustee. Doc. #53.

Therefore, Creditor and its successors are barred from presenting any omitted information, which was provided in the response to the notice of final cure, pursuant to 3002.1(i), in any form in any contested matter regarding debtor's first mortgage here. The court also finds and concludes that debtor has cured the default on the loan with Creditor and is current on mortgage payments to Creditor through March 2018.

25. [17-13797](#)-B-9 **IN RE: TULARE LOCAL HEALTHCARE DISTRICT**
[MRH-1](#)

CONTINUED MOTION FOR ADMINISTRATIVE EXPENSES
4-10-2018 [[475](#)]

MEDLINE INDUSTRIES, INC./MV
RILEY WALTER
MICHAEL HOGUE/ATTY. FOR MV.
RESPONSIVE PLEADING

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

DISPOSITION: Continued to September 27, 2018 at 9:30 a.m.

ORDER: The court will issue an order.

The court entered an order on July 11, 2018 continuing this matter to September 27, 2018 at 9:30 a.m. Doc. #592.

26. [18-11598](#)-B-7 **IN RE: LYDIA CORONADO**
[MHM-1](#)

MOTION TO DISMISS CASE
6-6-2018 [[25](#)]

MICHAEL MEYER/MV
HECTOR VEGA
CONVERTED

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. This case was converted to chapter 7 on June 11, 2018. Doc. #29.