

UNITED STATES BANKRUPTCY COURT
Eastern District of California
Honorable René Lastreto II
Hearing Date: Wednesday, August 12, 2020
Place: Department B – Courtroom #13
Fresno, California

ALL APPEARANCES MUST BE TELEPHONIC
(Please see the court's website for instructions.)

Pursuant to District Court General Order 618, no persons are permitted to appear in court unless authorized by order of the court until further notice. All appearances of parties and attorneys shall be telephonic through CourtCall. The contact information for CourtCall to arrange for a phone appearance is: (866) 582-6878.

INSTRUCTIONS FOR PRE-HEARING DISPOSITIONS

Each matter on this calendar will have one of three possible designations: No Ruling, Tentative Ruling, or Final Ruling. These instructions apply to those designations.

No Ruling: All parties will need to appear at the hearing unless otherwise ordered.

Tentative Ruling: If a matter has been designated as a tentative ruling it will be called. The court may continue the hearing on the matter, set a briefing schedule or enter other orders appropriate for efficient and proper resolution of the matter. The original moving or objecting party shall give notice of the continued hearing date and the deadlines. The minutes of the hearing will be the court's findings and conclusions.

Final Ruling: Unless otherwise ordered, there will be no hearing on these matters. The final disposition of the matter is set forth in the ruling and it will appear in the minutes. The final ruling may or may not finally adjudicate the matter. If it is finally adjudicated, the minutes constitute the court's findings and conclusions.

Orders: Unless the court specifies in the tentative or final ruling that it will issue an order, the prevailing party shall lodge an order within 14 days of the final hearing on the matter.

THE COURT ENDEAVORS TO PUBLISH ITS RULINGS AS SOON AS POSSIBLE. HOWEVER, CALENDAR PREPARATION IS ONGOING AND THESE RULINGS MAY BE REVISED OR UPDATED AT ANY TIME PRIOR TO 4:00 P.M. THE DAY BEFORE THE SCHEDULED HEARINGS. PLEASE CHECK AT THAT TIME FOR POSSIBLE UPDATES.

9:30 AM

1. [19-14401](#)-B-13 **IN RE: RICHARD/IRENE DESIMONE**
[FW-1](#)

MOTION FOR COMPENSATION BY THE LAW OFFICE OF FEAR WADDELL, P.C.
FOR GABRIEL J. WADDELL, DEBTORS ATTORNEY(S)
7-9-2020 [\[22\]](#)

GABRIEL WADDELL/ATTY. FOR DBT.

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

DISPOSITION: Granted.

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

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

This motion is GRANTED. Movant is awarded \$1,719.00 in fees and \$333.70 in costs.

2. [15-11905](#)-B-13 **IN RE: SERGIO/OLIMPIA VELASQUEZ**
[MHM-1](#)

MOTION TO DISMISS CASE
7-13-2020 [\[38\]](#)

MICHAEL MEYER/MV
PETER BUNTING/ATTY. FOR DBT.

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 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.

Here, the chapter 13 trustee asks the court to dismiss this case under 11 U.S.C. § 1307(c)(6) for failure to complete the terms of the confirmed plan and 11 U.S.C. § 1307(c)(8) for termination of a confirmed plan by reason of the occurrence of a condition specified in the plan other than completion of payments under the plan. Doc #38. Debtor did not oppose.

Under 11 U.S.C. § 1307(c), the court may convert or dismiss a case, whichever is in the best interests of creditors and the estate, for "cause". "A debtor's unjustified failure to expeditiously accomplish any task required either to propose or to confirm a chapter 13 plan may constitute cause for dismissal under § 1307(c)(1)." Ellsworth v. Lifescape Med. Assocs., P.C. (In re Ellsworth), 455 B.R. 904, 915 (B.A.P. 9th Cir. 2011). There is "cause" for dismissal under 11 U.S.C. § 1307(c)(6) for failure to complete the terms of the confirmed plan and 11 U.S.C. § 1307(c)(8) for termination of a confirmed plan by reason of the occurrence of a condition specified in the plan other than completion of payments under the plan.

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

3. [20-11414](#)-B-13 **IN RE: BRANDON/NYDIA CARNEY**
[MAZ-1](#)

MOTION TO VALUE COLLATERAL OF TUCOEMAS FEDERAL C.U.
7-7-2020 [\[18\]](#)

BRANDON CARNEY/MV
MARK ZIMMERMAN/ATTY. FOR DBT.
WITHDRAWN

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

DISPOSITION: Dropped from calendar.

NO ORDER REQUIRED: Movant withdrew the motion. Doc. #27.

4. [20-10017](#)-B-13 **IN RE: MARISSA GONZALES**
[PBB-1](#)

MOTION TO MODIFY PLAN
7-1-2020 [\[24\]](#)

MARISSA GONZALES/MV
PETER BUNTING/ATTY. FOR DBT.

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

DISPOSITION: Granted.

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

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

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

5. [20-10746](#)-B-13 **IN RE: RAYMOND MADRID**
[MAZ-1](#)

MOTION TO VALUE COLLATERAL OF AMERICREDIT FINANCIAL
7-7-2020 [\[30\]](#)

RAYMOND MADRID/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.

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 motion is GRANTED. 11 U.S.C. § 1325(a)(*) (the hanging paragraph) states that 11 U.S.C. § 506 is not applicable to claims described in that paragraph if (1) the creditor has a purchase money security interest securing the debt that is the subject of the claim, (2) the debt was incurred within 910 days preceding the filing of the petition, and (3) the collateral is a motor vehicle acquired for the personal use of the debtor.

11 U.S.C. § 506(a)(1) limits a secured creditor's claim "to the extent of the value of such creditor's interest in the estate's interest in such property . . . and is an unsecured claim to the extent that the value of such creditor's interest . . . is less than the amount of such allowed claim."

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

Debtor asks the court for an order valuing a 2017 Chevy Silverado ("Vehicle") at \$29,246.00. Doc. #30. The Vehicle is encumbered by a purchase-money security interest in favor of creditor Americredit Financial Services, Inc. dba GM Financial ("Creditor"). Debtor purchased the Vehicle in February 2016, which is more than 910 days preceding the petition filing date. The Vehicle was acquired for debtor's personal use. The elements of § 1325(a)(*) are not met and § 506 is applicable.

Debtor's declaration states the replacement value of the Vehicle is \$29,246.00. Doc. #33. Creditor's claim states the amount owed to be \$36,500.52. Claim #4.

The debtor is competent to testify as to the value of the Vehicle. Given the absence of contrary evidence, the debtor's opinion of value may be conclusive. Enewally v. Washington Mutual Bank (In re Enewally), 368 F.3d 1165, 1173 (9th Cir. 2004). Creditor's secured claim will be fixed at \$29,246.00. The proposed order shall specifically identify the collateral, and if applicable, the proof of claim to which it relates. The order will be effective upon confirmation of the chapter 13 plan.

6. [20-10746](#)-B-13 **IN RE: RAYMOND MADRID**
[MAZ-2](#)

MOTION TO VALUE COLLATERAL OF AMERICREDIT FINANCIAL
7-7-2020 [\[35\]](#)

RAYMOND MADRID/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.

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 motion is GRANTED. 11 U.S.C. § 1325(a)(*) (the hanging paragraph) states that 11 U.S.C. § 506 is not applicable to claims described in that paragraph if (1) the creditor has a purchase money security interest securing the debt that is the subject of the claim, (2) the debt was incurred within 910 days preceding the filing of the petition, and (3) the collateral is a motor vehicle acquired for the personal use of the debtor.

11 U.S.C. § 506(a)(1) limits a secured creditor's claim "to the extent of the value of such creditor's interest in the estate's interest in such property . . . and is an unsecured claim to the extent that the value of such creditor's interest . . . is less than the amount of such allowed claim."

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

Debtor asks the court for an order valuing a 2016 Chevy Malibu ("Vehicle") at \$10,992.00. Doc. #35. The Vehicle is encumbered by a purchase-money security interest in favor of creditor Americredit Financial Services, Inc. dba GM Financial ("Creditor"). Debtor purchased the Vehicle in September 2016, which is more than 910 days preceding the petition filing date. The Vehicle was acquired for debtor's personal use. The elements of § 1325(a)(*) are not met and § 506 is applicable.

Debtor's declaration states the replacement value of the Vehicle is \$10,992.00. Doc. #38. Creditor's claim states the amount owed to be \$19,874.92. Claim #5.

The debtor is competent to testify as to the value of the Vehicle. Given the absence of contrary evidence, the debtor's opinion of value may be conclusive. Enewally v. Washington Mutual Bank (In re Enewally), 368 F.3d 1165, 1173 (9th Cir. 2004). Creditor's secured claim will be fixed at \$29,246.00. The proposed order shall specifically identify the collateral, and if applicable, the proof of claim to which it relates. The order will be effective upon confirmation of the chapter 13 plan.

7. [20-11547](#)-B-13 **IN RE: IRMA PRUNEDA**
[MHM-1](#)

MOTION TO DISMISS CASE
7-8-2020 [\[13\]](#)

MICHAEL MEYER/MV
PETER BUNTING/ATTY. FOR DBT.
RESPONSIVE PLEADING

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Granted.

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

This motion was set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1) and will proceed as scheduled.

This motion is GRANTED. The chapter 13 trustee ("Trustee") asks the court to dismiss this case because debtor is delinquent in the amount of \$1,000.00 and because debtor failed to file tax returns. Doc. #13. Before this hearing, another payment in the amount of \$500.00 will also come due. Doc. #15. Debtor timely responded, stating that she has filed all tax returns and provided copies of the returns to Trustee, and that they would be current by the time of the hearing. Doc. #26.

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 under 11 U.S.C. § 1307(c)(6) for being delinquent in making plan payments.

This matter will be called to confirm whether debtor is current and the receipt of the tax returns. If debtor is current on plan payments and Trustee has the tax returns, the motion will be denied. If debtor is not current or Trustee has not received the tax returns, the motion will be granted.

8. [20-11547](#)-B-13 **IN RE: IRMA PRUNEDA**
[PBB-1](#)

MOTION TO VALUE COLLATERAL OF LOBEL FINANCIAL CORPORATION
7-9-2020 [\[17\]](#)

IRMA PRUNEDA/MV
PETER BUNTING/ATTY. FOR DBT.
RESPONSIVE PLEADING

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: This matter will proceed as a scheduling
conference if the case is not dismissed (#7
above).

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 if the case
is not dismissed and will proceed as a scheduling conference.

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

Based on the record, the factual issues appear to include: the value
of 2011 BMW 328i.

Lobel Financials' opposition also includes an objection to the
chapter 13 plan. That section of the opposition will not be
considered on this motion. A separate timely objection is required
under the Local Rules of Practice.

9. [15-10849](#)-B-13 **IN RE: ERIC SANBRANO**
[TCS-2](#)

MOTION TO RECONSIDER
7-26-2020 [\[98\]](#)

ERIC SANBRANO/MV
TIMOTHY SPRINGER/ATTY. FOR DBT.

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

DISPOSITION: Denied without prejudice.

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

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

LBR 9004-2(a)(6), (b)(5), (b)(6), (e) and LBR 9014-1(c), (e)(3) are the rules about Docket Control Numbers ("DCN"). These rules require the DCN to be in the caption page on all documents filed in every matter with the court and each new motion requires a new DCN.

A Motion to Avoid Lien of State Farm Mutual Automobile Insurance Company was previously filed on March 30, 2020 (doc. #35) and denied on July 16, 2020. Doc. #94. The DCN for that motion was TCS-2. This motion also has a DCN of TCS-2 and therefore does not comply with the local rules. Each separate matter filed with the court must have a different DCN. Though this motion seeks to reconsider the court's ruling on TCS-2, it is a separate matter seeking distinct relief.

The motion would be denied for another reason: it has been less than 30 days since the amended schedule C was filed. See Fed. R. Bankr. P. 4003(b). The amended schedule was filed July 26, 2020. Doc. #101. The time for objection has not yet run.

The motion is DENIED.

10. [20-12452](#)-B-13 **IN RE: RAMON SEGURA DIAZ**
[MAZ-1](#)

MOTION TO EXTEND AUTOMATIC STAY
7-27-2020 [\[11\]](#)

RAMON SEGURA DIAZ/MV
MARK ZIMMERMAN/ATTY. FOR DBT.

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Granted.

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

This Motion to Extend the Automatic Stay was properly set for hearing on the notice required by Local Rule of Practice ("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.

If the debtor has had a bankruptcy case pending within the preceding one-year period, but was dismissed, then 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.

Debtor had one case pending within the preceding one-year period that was dismissed, case no. 20-10110. That case was filed on January 14, 2020 and was dismissed on May 11, 2020 for failure to file and produce documents and tax returns to the chapter 13 trustee. This case was filed on July 23, 2020 and the automatic stay will expire on August 22, 2020.

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.* Under the clear and convincing standard, the evidence presented by the movant must "place in the ultimate factfinder an abiding conviction that the truth of its factual contentions are highly probable. Factual contentions are highly probable if the evidence offered in support of them 'instantly tilt[s] the evidentiary scales in the affirmative when weighed against the evidence [the non-moving party] offered in opposition.'" Emmert v. Taggart (In re Taggart), 548 B.R. 275, 288, n.11 (9th Cir. BAP 2016) (citations omitted) (overruled on other grounds by Taggart v. Lorenzen, No. 18-489, 2019 U.S. LEXIS 3890 (June 3, 2019)).

In this case the presumption of bad faith arises. The subsequently filed case is presumed to be filed in bad faith because the prior case was dismissed because debtor failed to file documents as required by the bankruptcy code and the court without substantial excuse. 11 U.S.C. § 362(c)(3)(C)(i)(II)(aa).

However, based on the moving papers and the record, and in the absence of opposition, the court is persuaded that the presumption has been rebutted, the debtors' petition was filed in good faith, and it intends to grant the motion to extend the automatic stay as to all creditors.

Debtor's previous bankruptcy case was dismissed for failure to file and produce documents to the chapter 13 trustee. It appears that the complete petition and schedules have been filed. Doc. #1. The § 341 meeting of creditors has not been set. But the schedules show, and the plan proposes, an ability to pay unsecured creditors 100% of their claims. Doc. #1, 6.

The motion will be granted and the automatic stay extended for all purposes as to all parties who received notice, unless terminated by further order of this court. If opposition is presented at the hearing, the court will consider the opposition and whether further

hearing is proper pursuant to LBR 9014-1(f)(2). The court will issue an order.

11. [20-10957](#)-B-13 **IN RE: GURMIT SANDHU AND KARAMJIT BRAR**
[MHM-2](#)

CONTINUED MOTION TO DISMISS CASE
5-4-2020 [\[35\]](#)

MICHAEL MEYER/MV
PETER BUNTING/ATTY. FOR DBT.
RESPONSIVE PLEADING

NO RULING.

12. [20-11581](#)-B-13 **IN RE: APRIL BETTERSON**
[MHM-1](#)

MOTION TO DISMISS CASE
7-15-2020 [\[23\]](#)

MICHAEL MEYER/MV
ERIC ESCAMILLA/ATTY. FOR DBT.
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. The chapter 13 trustee ("Trustee") asks this court to dismiss the case under 11 U.S.C. § 1307(c) because of undue delay that is prejudicial to creditors due to debtor failing to set her modified plan for hearing with notice to creditors.

Debtor has set a motion to confirm a plan for hearing on August 19, 2020 at 9:30 a.m. The § 341 meeting of creditors concluded on July 7, 2020. There has been no undue delay that is prejudicial to creditors, and the grounds of the motion are moot because debtor has set a plan confirmation hearing. The motion is DENIED AS MOOT.

13. [20-12288](#)-B-13 **IN RE: FRANCISCO/MELISSA RAMIREZ**
[SAH-1](#)

MOTION TO VALUE COLLATERAL OF ALLY FINANCIAL, INC.
7-9-2020 [\[11\]](#)

FRANCISCO RAMIREZ/MV
SUSAN HEMB/ATTY. FOR DBT.

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

DISPOSITION: Denied without prejudice.

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

This motion is DENIED 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).

The motion is DENIED WITHOUT PREJUDICE.

The declaration does not contain the debtor's opinion of the relevant value. 11 U.S.C. § 506(a)(2) requires the valuation to be "replacement value," not "value," which is not specific enough.

14. [20-12288](#)-B-13 **IN RE: FRANCISCO/MELISSA RAMIREZ**
[SAH-2](#)

MOTION TO VALUE COLLATERAL OF UNITED LOCAL CREDIT UNION
7-9-2020 [\[15\]](#)

FRANCISCO RAMIREZ/MV
SUSAN HEMB/ATTY. FOR DBT.

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

DISPOSITION: Denied without prejudice.

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

This motion is DENIED 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).

The motion is DENIED WITHOUT PREJUDICE.

The declaration does not contain the debtor's opinion of the relevant value. 11 U.S.C. § 506(a)(2) requires the valuation to be "replacement value," not "value," which is not specific enough.

15. [20-10319](#)-B-13 **IN RE: OLGA AGUILAR**
[MHM-1](#)

CONTINUED MOTION TO DISMISS CASE
5-26-2020 [\[39\]](#)

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

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

DISPOSITION: Dropped from calendar.

NO ORDER REQUIRED: Movant withdrew the motion. Doc. #72.

16. [20-11905](#)-B-13 **IN RE: PARMINDER SINGH**

CONTINUED ORDER TO SHOW CAUSE - FAILURE TO PAY FEES
7-6-2020 [\[16\]](#)

PHILLIP GILLET/ATTY. FOR DBT.

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: The minutes of the hearing will be the court's findings and conclusions.

ORDER: The court will issue an order.

This matter will proceed as scheduled. If the fees due at the time of the hearing have not been paid prior to the hearing, the case will be dismissed on the grounds stated in the OSC.

If the installment fees due at the time of hearing are paid before the hearing, 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.

11:00 AM

1. [20-10501](#)-B-7 **IN RE: ANDRES BRAMBILA**
[20-1031](#)

ORDER TO SHOW CAUSE REGARDING DISMISSAL OF ADVERSARY PROCEEDING
FOR FAILURE TO PROSECUTE
7-17-2020 [[14](#)]

DANIEL V. BRAMBILA

NO RULING.

2. [19-15302](#)-B-7 **IN RE: LONELL GOODMAN**
[20-1005](#)

CONTINUED STATUS CONFERENCE RE: COMPLAINT
1-30-2020 [[1](#)]

GOODMAN, JR. V. BEST SERVICE COMPANY, INC.
TIMOTHY SPRINGER/ATTY. FOR PL.

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

DISPOSITION: The status conference will be vacated.

ORDER: The court will issue an order.

Judgment was entered on July 16, 2020. Doc. #28. The status
conference is vacated.

3. [19-15103](#)-B-7 **IN RE: NATHAN/AMY PERRY**
[20-1017](#)

CONTINUED STATUS CONFERENCE RE: COMPLAINT
3-15-2020 [[1](#)]

RICHNER ET AL V. PERRY
RICHARD FREEMAN/ATTY. FOR PL.
RESPONSIVE PLEADING

NO RULING.

4. [17-14112](#)-B-13 **IN RE: ARMANDO NATERA**
[20-1035](#)

STATUS CONFERENCE RE: COMPLAINT
6-5-2020 [[1](#)]

NATERA V. BARNES ET AL
GABRIEL WADDELL/ATTY. FOR PL.

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

DISPOSITION: Continued to September 23, 2020 at 11:00 a.m.

ORDER: The court will issue an order.

The parties have stipulated to allow the defendants until September 4, 2020 to respond to the complaint. Therefore the status conference is continued to September 23, 2020 at 11:00 a.m.

5. [20-10024](#)-B-7 **IN RE: SUKHJINDER SINGH**
[20-1036](#)

STATUS CONFERENCE RE: AMENDED COMPLAINT
7-21-2020 [[14](#)]

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

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

DISPOSITION: Status Conference continued to September 2, 2020 at 11:00 am.

ORDER: The court will issue an order

A defendant purported to file a motion to dismiss under Fed R. Civ. P. 12(b)(6) (applicable to this proceeding by Fed. R. Bankr. P. 7012). But only a notice and certificate of service was filed. Doc. #10. The motion was not put on calendar as it lacked the requisites of a motion. The motion would be denied anyway because an amended complaint was filed thereafter on July 21, 2020. Doc. #14.

Since responsive pleadings to the amended complaint are not due, this status conference will be continued to September 2, 2020 at 11:00 a.m.

6. [17-11028](#)-B-11 **IN RE: PACE DIVERSIFIED CORPORATION**
[18-1006](#)

CONTINUED PRE-TRIAL CONFERENCE RE: COMPLAINT
2-5-2018 [[1](#)]

PACE DIVERSIFIED CORPORATION ET AL V. MACPHERSON OIL
T. BELDEN/ATTY. FOR PL.
RESPONSIVE PLEADING

NO RULING.

7. [18-11651](#)-B-11 **IN RE: GREGORY TE VELDE**
[19-1091](#)

CONTINUED STATUS CONFERENCE RE: COMPLAINT
7-28-2019 [[1](#)]

SUGARMAN V. MARTIN LEASING RESOURCE, LLC ET AL
JOHN MACCONAGHY/ATTY. FOR PL.
RESPONSIVE PLEADING

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

DISPOSITION: Dropped from calendar.

NO ORDER REQUIRED: An order dismissing the case has already been
entered. Doc. #77.

8. [18-14160](#)-B-7 **IN RE: BRYAN ROCHE**
[19-1013](#) [DMS-2](#)

MOTION TO DISMISS CAUSE(S) OF ACTION FROM COMPLAINT
7-8-2020 [[74](#)]

VANDENBERGHE V. ROCHE
DAREN SCHLECTER/ATTY. FOR MV.

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, 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.

Second, LBR 9004-2(c)(1) requires that motions, notices, *inter alia*, to be filed as separate documents. Here, the motion, notice of hearing, declarations, and exhibits were combined into one document and not filed separately.

Third, LBR 9004-2(d) requires that exhibits shall be filed as a separate document, requires an index, and that exhibit pages be consecutively numbered. In this instance, the exhibits were not filed separately, there was no index, and the exhibit pages were not consecutively numbered.

9. [18-13468](#)-B-7 **IN RE: MANUEL/LUPITA MENDOZA**
[20-1032](#)

CONTINUED STATUS CONFERENCE RE: COMPLAINT
6-2-2020 [\[1\]](#)

SALVEN V. MENDOZA ET AL
RUSSELL REYNOLDS/ATTY. FOR PL.

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

DISPOSITION: The Status Conference will be continued to September 23, 2020 at 11:00 am The court will issue an Order to Show Cause.

ORDER: The court will issue the order.

The clerk's office issued orders for entry of default and establishing default procedures on July 16 and July 20, 2020. The orders give the plaintiff 30 days to file motions for default judgment. The court will continue this status conference to September 23, 2020 at 11:00 am. If the default judgment is entered or hearings are scheduled by that date, the status conference will either be vacated or continued to the scheduled default hearing date respectively.

If neither has occurred by the continued status conference date, the status conference will be vacated. The court will issue an Order to Show Cause why this adversary proceeding should not be dismissed.