

UNITED STATES BANKRUPTCY COURT
Eastern District of California
Honorable René Lastreto II
Hearing Date: August 17, 2017
Place: Department B – Courtroom #13
Fresno, California

INSTRUCTIONS FOR PRE-HEARING DISPOSITIONS

1. The following rulings are tentative. The tentative ruling will not become the final ruling until the matter is called at the scheduled hearing. **Pre-disposed matters will generally be called, and the rulings placed on the record at the end of the calendar.** Any party who desires to be heard with regard to a pre-disposed matter may appear at the hearing. If the party wishes to contest the tentative ruling, he/she shall notify the opposing party/counsel of his/her intention to appear. **If no disposition is set forth below, the hearing will take place as scheduled.**
2. Submission of Orders:

Unless the tentative ruling expressly states that the court will prepare an order, then the tentative ruling will only appear in the minutes. If any party desires an order, then the appropriate form of order, which conforms to the tentative ruling, must be submitted to the court. When the debtor(s) discharge has been entered, proposed orders for relief from stay must reflect that the motion is denied as to the debtor(s) and granted only as to the trustee. Entry of discharge normally is indicated on the calendar.
3. Matters Resolved Without Opposition:

If the tentative ruling states that no opposition was filed, and the moving party is aware of any reason, such as a settlement, why a response may not have been filed, the moving party must advise Vicky McKinney, the Calendar Clerk, at (559) 499-5825 by 4:00 p.m. the day before the scheduled hearing.
4. Matters Resolved by Stipulation:

If the parties resolve a matter by stipulation after the tentative ruling has been posted, but **before the formal order is entered on the docket**, the **moving party** may appear at the hearing and advise the court of the settlement or withdraw the motion. Alternatively, the parties may submit a stipulation and order to modify the tentative ruling together with the proposed order resolving the matter.
5. Resubmittal of Denied Matters:

If the moving party decides to re-file a matter that is denied without prejudice for any reason set forth below, the moving party must file and serve a new set of pleadings with a new docket control number. It may not simply re-notice the original motion.

THE COURT ENDEAVORS TO PUBLISH ITS PREDISPOSITIONS AS SOON AS POSSIBLE, HOWEVER CALENDAR PREPARATION IS ONGOING AND THESE PREDISPOSITIONS 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 A.M.

1.	12-14514 -B-11	TERRENCE/LORRENE	MOTION TO VALUE COLLATERAL OF
	HAR-16	GONSALVES	WELLS FARGO BANK, NA HOME
	TERRENCE GONSALVES/MV		EQUITY GROUP
			7-19-17 [375]
	HILTON RYDER/Atty. for dbt.		

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

DISPOSITION: Granted

ORDER: No appearance is necessary. The Moving Party shall submit a proposed order in conformance with the ruling below.

The motion will be granted without oral argument based upon well-pled facts.

This motion to value the collateral for a consensual lien against real property was fully noticed in compliance with the Local Rules of Practice and there was 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.

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 11 plan. The debtors may proceed under state law to obtain a reconveyance of respondent's trust deed upon completion of the chapter 11 plan and entry of the discharge.

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.

2. [17-12721](#)-B-11 AVALON CARE CENTER - MOTION TO DETERMINE WHETHER
 UST-1 CHOWCHILLA, LLC DEBTOR IS A HEALTH CARE
 TRACY DAVIS/MV BUSINESS AND/OR A PATIENT CARE
 OMBUDSMAN SHOULD BE APPOINTED
 7-19-17 [[9](#)]

HAGOP BEDOYAN/Atty. for dbt.
ROBIN TUBESING/Atty. for mv.
RESPONSIVE PLEADING

This matter will proceed as scheduled.

3. [11-15795](#)-B-12 EPIGMENIO JIMENEZ MOTION FOR ENTRY OF DISCHARGE
 TOG-15 7-5-17 [[121](#)]
 EPIGMENIO JIMENEZ/MV
 THOMAS GILLIS/Atty. for dbt.

TENTATIVE RULING This matter will proceed as scheduled.

DISPOSITION: Denied without prejudice.

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

Debtor's counsel shall appear in person at the hearing and produce the
debtor's declaration, a copy of which was submitted in support of this
motion, with a "wet" signature that complies with LBR 9004-1(c).

1:30 P.M.

1. [17-12401](#)-B-13 MAHYANTI JOHNSON

ORDER TO SHOW CAUSE REGARDING
DISMISSAL FOR FAILURE TO FILE
CREDIT COUNSELING CERTIFICATE
6-29-17 [[13](#)]

CERTIFICATE FILED 8/4/17

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

DISPOSITION: Dropped from calendar. No appearance is necessary.

NO ORDER REQUIRED: The OSC will be vacated.

The record shows that the required document has been filed.

2. [17-11004](#)-B-13 SANTIAGO/VELIA VALDOVINOS

MOTION TO DISMISS CASE
7-14-17 [[46](#)]

MHM-1

MICHAEL MEYER/MV

THOMAS GILLIS/Atty. for dbt.

RESPONSIVE PLEADING

FINAL RULING There will be no hearing on this matter.

DISPOSITION: Continued to August 31, 2017, at 1:30 p.m.

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

The trustee's motion to dismiss the case is based on unreasonable delay by the debtors in that they have not yet confirmed a chapter 13 plan. The matter was fully noticed in compliance with the Local Rules of Practice and the debtors filed a timely opposition. The first amended plan was filed on July 19, 2017 and noticed for hearing on August 31, 2017, at 1:30 p.m. Accordingly, this objection will be continued to be heard with the Debtors' motion to confirm the modified plan.

3. [15-13706](#)-B-13 JOSE PINA
TOG-1
JOSE PINA/MV
THOMAS GILLIS/Atty. for dbt.

MOTION TO AVOID LIEN OF
CASHCALL, INC.
7-6-17 [[36](#)]

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

DISPOSITION: **Granted.**

ORDER: **No appearance is necessary. The Moving Party shall submit a proposed order in conformance with the ruling below.**

This matter was fully noticed in compliance with the Local Rules of Practice and there is no opposition. 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. Accordingly, the respondents' defaults will be entered.

It appears from the evidence submitted and the record that the debtors are entitled to avoid this lien that impairs an exemption to which they would otherwise have been entitled.

4. [17-12010](#)-B-13 JOSE RAYA
ABG-1
KINECTA FEDERAL CREDIT
UNION/MV
THOMAS GILLIS/Atty. for dbt.
MARK BLACKMAN/Atty. for mv.
WITHDRAWN

OBJECTION TO CONFIRMATION OF
PLAN BY KINECTA FEDERAL CREDIT
UNION
6-22-17 [[17](#)]

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

DISPOSITION: **Dropped from calendar.**

NO ORDER REQUIRED: **The objection has been withdrawn.**

5. [17-12010](#)-B-13 JOSE RAYA
TOG-1
JOSE RAYA/MV
THOMAS GILLIS/Atty. for dbt.
WITHDRAWN

MOTION TO VALUE COLLATERAL OF
KINECTA
7-7-17 [[27](#)]

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

DISPOSITION: **Dropped from calendar.**

NO ORDER REQUIRED: **The motion has been withdrawn.**

6. [17-12214](#)-B-13 KENNETH/JANE HOSTETLER
AP-1
CITIBANK, N.A./MV
TIMOTHY SPRINGER/Atty. for dbt.
JAMIE HANAWALT/Atty. for mv.

OBJECTION TO CONFIRMATION OF
PLAN BY CITIBANK, N.A.
8-1-17 [[40](#)]

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

DISPOSITION: **Continued to September 28, 2017, at 1:30 p.m.**

ORDER: **No appearance is necessary. The court will issue an 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 has been concluded and this objection has not been withdrawn, the court will call the matter and set an evidentiary hearing.

7. [17-12215](#)-B-13 GEORGE/BERENICE ARABIAN OBJECTION TO CONFIRMATION OF
RCO-1 PLAN BY AMERIHOMES MORTGAGE
AMERIHOMES MORTGAGE COMPANY, COMPANY, LLC
LLC/MV 7-31-17 [[27](#)]
TIMOTHY SPRINGER/Atty. for dbt.
JASON KOLBE/Atty. for mv.

FINAL RULING There will be no hearing on this matter.

DISPOSITION: Overruled without prejudice.

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

The objection was submitted without evidence as required by LBR 9014-1(d)(7). The declaration and exhibits only established that the objecting party has a secured claim in this bankruptcy case. There was no evidence that the debtors are behind in their payments. This case was filed June 6, 2017, more than 2 months ago. While a proof of claim is presumptive evidence of a claim, the objecting party has not yet filed such a proof of claim in this case.

8. [17-12121](#)-B-13 TERRY/ROBBIE JANNEY OBJECTION TO CONFIRMATION OF
EAT-1 PLAN BY SOLUTION FUND INC.
SOLUTION FUND INC./MV 7-31-17 [[34](#)]
DARLENE VIGIL/Atty. for mv.

FINAL RULING There will be no hearing on this matter.

DISPOSITION: Continued to September 28, 2017, at 1:30 p.m.

ORDER: No appearance is necessary. The court will issue an 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 has been concluded and this objection has not been withdrawn, the court will call the matter and set an evidentiary hearing.

9. [17-12722](#)-B-13 BRETT HURTADO MOTION TO CONFIRM TERMINATION
EGS-1 OR ABSENCE OF STAY
BAYVIEW LOAN SERVICING, LLC/MV 7-27-17 [[12](#)]
EDWARD SCHLOSS/Atty. for mv.
DISMISSED

FINAL RULING There will be no hearing on this matter.

DISPOSITION: Dropped from calendar.

NO ORDER REQUIRED: The case has already been dismissed.

10. [17-11524](#)-B-13 DIONICIA PARKS
MHM-2
MICHAEL MEYER/MV
SCOTT LYONS/Atty. for dbt.

CONTINUED MOTION TO DISMISS
CASE
6-26-17 [[24](#)]

FINAL RULING There will be no hearing on this matter.

DISPOSITION: Denied as moot

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

This motion will be denied as moot. The trustee's motion to dismiss was based solely on unreasonable delay caused by the debtor's failure to confirm a chapter 13 plan. In light of the court's intention to grant the motion below, calendar number #11, DC# SL-1, and confirm the debtor's plan, this motion will be denied.

11. [17-11524](#)-B-13 DIONICIA PARKS
SL-1
DIONICIA PARKS/MV
SCOTT LYONS/Atty. for dbt.

MOTION TO CONFIRM PLAN
6-27-17 [[28](#)]

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

DISPOSITION: Granted.

ORDER: No appearance is necessary. The Moving Party shall submit a proposed order in conformance with the ruling below.

The motion will be granted without oral argument based on well-pled facts. No appearance is necessary. The movant shall submit a proposed order as specified below.

This motion to confirm or modify a chapter 13 plan was fully noticed in compliance with the Local Rules of Practice; there is no opposition and the respondents' default will be entered. The confirmation order shall include the docket control number of the motion and it shall reference the plan by the date it was filed.

12. [16-12425](#)-B-13 GENEVIEVE SANTOS
ALG-3
GENEVIEVE SANTOS/MV
JANINE ESQUIVEL/Atty. for dbt.

MOTION TO MODIFY PLAN
6-29-17 [[67](#)]

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

DISPOSITION: Granted.

ORDER: No appearance is necessary. The Moving Party shall submit a proposed order in conformance with the ruling below.

The motion will be granted without oral argument based on well-pled facts. No appearance is necessary. The movant shall submit a proposed order as specified below.

This motion to confirm or modify a chapter 13 plan was fully noticed in compliance with the Local Rules of Practice; there is no opposition and the respondents' default will be entered. The confirmation order shall include the docket control number of the motion and it shall reference the plan by the date it was filed.

13. [17-11129](#)-B-13 ROGELIO SALCEDO AND
TOG-2 FRANCES RUIZ
ROGELIO SALCEDO/MV
THOMAS GILLIS/Atty. for dbt.
WITHDRAWN

MOTION TO CONFIRM PLAN
6-22-17 [[28](#)]

FINAL RULING There will be no hearing on this matter.

DISPOSITION: Dropped from calendar.

NO ORDER REQUIRED: The motion has been withdrawn.

14. [15-14733](#)-B-13 JAVIER VELIZ
PBB-7
JAVIER VELIZ/MV
PETER BUNTING/Atty. for dbt.
RESPONSIVE PLEADING

MOTION TO MODIFY PLAN
7-5-17 [[78](#)]

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

DISPOSITION: Granted.

ORDER: No appearance is necessary. The Moving Party shall submit a proposed order in conformance with the ruling below.

The motion will be granted without oral argument based on well-pled facts. No appearance is necessary. The movant shall submit a proposed order as specified below.

This motion to confirm or modify a chapter 13 plan was fully noticed in compliance with the Local Rules of Practice. The court has reviewed the debtor's response to the trustee's opposition and agreement to increase the plan payment to address that opposition and the proposed order submitted by the debtor. Accordingly, the other respondents' defaults will be entered and the plan confirmed. 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 order shall include the increased payment term.

15. [17-11135](#)-B-13 MARIA MACIEL
MHM-2

CONTINUED OBJECTION TO
CONFIRMATION OF PLAN BY TRUSTEE
MICHAEL H. MEYER
6-26-17 [[31](#)]

THOMAS GILLIS/Atty. for dbt.
NON-OPPOSITION

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

DISPOSITION: **Sustained.**

ORDER: **No appearance is necessary. The objecting party shall submit a proposed order in conformance with the ruling below.**

This matter was fully noticed in compliance with the Local Rules of Practice. The debtor filed a notice of non-opposition and there was no other opposition. 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. Accordingly, the respondents' defaults will be entered.

The debtor shall confirm a modified plan on or before November 1, 2017, or the case will be dismissed upon the trustee's *ex parte* application.

16. [17-10236](#)-B-13 PAUL/KATHLEEN LANGSTON
FW-3
PAUL LANGSTON/MV
PETER FEAR/Atty. for dbt.
WITHDRAWN

CONTINUED MOTION TO CONFIRM
PLAN
5-5-17 [[49](#)]

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

DISPOSITION: **Dropped from calendar.**

NO ORDER REQUIRED: **The motion has been withdrawn.**

17. [12-17745](#)-B-13 F. OLIVER COOPER
DMG-7
F. OLIVER COOPER/MV

D. GARDNER/Atty. for dbt.
RESPONSIVE PLEADING

MOTION FOR THE FINAL
DISTRIBUTION OF PAYMENTS TO THE
CREDITORS
7-19-17 [[145](#)]

This matter will proceed as scheduled.

18. [17-11345](#)-B-13 VALINA WISNER
APN-1
FORD MOTOR CREDIT COMPANY/MV

GLEN GATES/Atty. for dbt.
AUSTIN NAGEL/Atty. for mv.

MOTION FOR RELIEF FROM
AUTOMATIC STAY AND/OR MOTION
FOR RELIEF FROM CO-DEBTOR STAY
7-18-17 [[41](#)]

FINAL RULING There will be no hearing on this matter.

DISPOSITION: Denied as moot

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

The secured claim relating to this collateral is provided for in Class 4 of the debtor's confirmed chapter 13 plan. Upon confirmation of the chapter 13 plan, the automatic stay was modified for this claim to permit enforcement of the creditor's remedies with regard to the collateral in the event of a default under applicable law. No attorney's fees will be awarded in relation to this motion.

19. [13-15149](#)-B-13 DENVER/BRENDA LATHAM
DMG-4
DENVER LATHAM/MV
D. GARDNER/Atty. for dbt.

MOTION TO MODIFY PLAN
7-5-17 [[77](#)]

FINAL RULING There will be no hearing on this matter.

DISPOSITION: Granted in part and denied in part.

ORDER: No appearance is necessary. The Moving Party shall submit a proposed order in conformance with the ruling below.

The motion will be granted in part and denied in part without oral argument based on well-pled facts. No appearance is necessary. The movant shall submit a proposed order as specified below.

This motion to confirm or modify a chapter 13 plan was fully noticed in compliance with the Local Rules of Practice; there is no opposition and the respondents' default will be entered. The confirmation order shall include the docket control number of the motion and it shall reference the plan by the date it was filed.

The order confirming the plan shall amend the plan by providing for the correct attorney's fees consistent with the Rights and Responsibilities of Chapter 13 Debtors and their Attorneys, filed as document # 7, on July 29, 2013. This document, and the three prior plans filed in this case, provide for a total payment of \$2,500. The record does not show that the debtor's attorney has requested payment of additional fees, however the current plan provides for a total payment of \$3,500.

20. [12-16958](#)-B-13 BENJAMIN BRUFFETT
TCS-7
BENJAMIN BRUFFETT/MV
TIMOTHY SPRINGER/Atty. for dbt.

MOTION TO MODIFY PLAN
6-28-17 [[124](#)]

FINAL RULING There will be no hearing on this matter.

DISPOSITION: Granted.

ORDER: No appearance is necessary. The Moving Party shall submit a proposed order in conformance with the ruling below.

The motion will be granted without oral argument based on well-pled facts. No appearance is necessary. The movant shall submit a proposed order as specified below.

This motion to confirm or modify a chapter 13 plan was fully noticed in compliance with the Local Rules of Practice; there is no opposition and the respondents' default will be entered. The confirmation order shall include the docket control number of the motion and it shall reference the plan by the date it was filed.

21. [16-13467](#)-B-13 CAMILO GALACGAC AND
SL-1 VIOLETA CORTEZ GALACGAC
CAMILO GALACGAC/MV
SCOTT LYONS/Atty. for dbt.

MOTION TO MODIFY PLAN
6-16-17 [[29](#)]

FINAL RULING There will be no hearing on this matter.

DISPOSITION: Granted.

ORDER: No appearance is necessary. The Moving Party shall submit a proposed order in conformance with the ruling below.

The motion will be granted without oral argument based on well-pled facts. No appearance is necessary. The movant shall submit a proposed order as specified below.

This motion to confirm or modify a chapter 13 plan was fully noticed in compliance with the Local Rules of Practice; there is no opposition and the respondents' default will be entered. The confirmation order shall include the docket control number of the motion and it shall reference the plan by the date it was filed.

22. [17-11174](#)-B-13 JOSE RAMOS AND GABRIELA MOTION TO CONFIRM PLAN
TOG-1 HERNANDEZ 6-27-17 [[32](#)]
JOSE RAMOS/MV
THOMAS GILLIS/Atty. for dbt.
RESPONSIVE PLEADING

TENTATIVE RULING This matter will proceed as scheduled.

DISPOSITION: If trustee's objection is withdrawn at the hearing, then the motion will be granted. If the trustee's objection is not withdrawn at the hearing, the motion will be denied and the court will set a bar date by which time a plan must be confirmed.

ORDER: If the motion is granted, then the moving party shall submit a proposed order as specified below. If the motion is denied, then the minutes of the hearing will be the court's findings and conclusions.

This motion to confirm or modify a chapter 13 plan was fully noticed in compliance with the Local Rules of Practice and the trustee filed an opposition. There was no other opposition and those respondents' defaults will be entered. If the motion is granted and the plan confirmed, then the confirmation order shall include the docket control number of the motion and it shall reference the plan by the date it was filed.

23. [14-11175](#)-B-13 DANNY/SARA BAEZA MOTION TO MODIFY PLAN
KMM-6 6-21-17 [[112](#)]
DANNY BAEZA/MV
KARNEY MEKHITARIAN/Atty. for dbt.

FINAL RULING There will be no hearing on this matter.

DISPOSITION: Granted.

ORDER: No appearance is necessary. The Moving Party shall submit a proposed order in conformance with the ruling below.

The motion will be granted without oral argument based on well-pled facts. No appearance is necessary. The movant shall submit a proposed order as specified below.

This motion to confirm or modify a chapter 13 plan was fully noticed in compliance with the Local Rules of Practice; there is no opposition and the respondents' default will be entered. The confirmation order shall include the docket control number of the motion and it shall reference the plan by the date it was filed.

24. [17-10875](#)-B-13 GERALD STULLER AND CONTINUED MOTION TO DISMISS
MHM-1 BARBARA WIKINSON-STULLER CASE
MICHAEL MEYER/MV 6-12-17 [[41](#)]
SCOTT SAGARIA/Atty. for dbt.
RESPONSIVE PLEADING

FINAL RULING There will be no hearing on this matter.

DISPOSITION: Dropped from calendar.

NO ORDER REQUIRED: The trustee's motion has been withdrawn.

25. [17-10875](#)-B-13 GERALD STULLER AND MOTION TO CONFIRM PLAN
MJD-2 BARBARA WIKINSON-STULLER 6-21-17 [[52](#)]
GERALD STULLER/MV
SCOTT SAGARIA/Atty. for dbt.
WITHDRAWN

FINAL RULING There will be no hearing on this matter.

DISPOSITION: Dropped from calendar.

NO ORDER REQUIRED: The debtors' motion has been withdrawn.

26. [17-11376](#)-B-13 HECTOR MERCADO MUNOZ AND AMENDED MOTION TO CONFIRM PLAN
JRL-2 MIRTA MERCADO CARDENAS 6-28-17 [[63](#)]
HECTOR MERCADO MUNOZ/MV
JERRY LOWE/Atty. for dbt.
RESPONSIVE PLEADING

FINAL RULING There will be no hearing on this matter.

DISPOSITION: Dropped from calendar.

NO ORDER REQUIRED: The debtors' motion has been withdrawn.

27. [17-11376](#)-B-13 HECTOR MERCADO MUNOZ AND MOTION TO DISMISS CASE
MHM-2 MIRTA MERCADO CARDENAS 7-12-17 [[89](#)]
MICHAEL MEYER/MV
JERRY LOWE/Atty. for dbt.

FINAL RULING There will be no hearing on this matter.

DISPOSITION: Dropped from calendar.

NO ORDER REQUIRED: The debtors' motion has been withdrawn.

28. [17-11376](#)-B-13 HECTOR MERCADO MUNOZ AND MOTION TO DISMISS CASE
RRD-7 MIRTA MERCADO CARDENAS 7-6-17 [[73](#)]
DAWN LINDSAY/MV
JERRY LOWE/Atty. for dbt.
RENNEE DEHESA/Atty. for mv.

FINAL RULING There will be no hearing on this matter.

DISPOSITION: Continued to September 28, 2017, at 1:30 p.m. for a status conference. The unilateral or joint status conference statement will be due on or before September 21, 2017.

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

Based on the respondent's opposition, this matter will be continued to September 28, 2017, at 1:30 p.m., for a status conference. The unilateral or joint status conference statement will be due on or before September 21, 2017. 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 immediately commence formal discovery, exchange appraisals, meet and confer, set deposition dates if necessary, and be prepared for the court to set an early evidentiary hearing if the matter is not resolved by the continued hearing date. The court will issue an order. No appearance is necessary.

29. [17-12283](#)-B-13 TAJENDER SINGH ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
7-18-17 [[45](#)]
WILLIAM ROMAINE/Atty. for dbt.

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.

30. [12-12886](#)-B-13 DAVID/KATHLEEN BROWN
JDR-2
DAVID BROWN/MV
JEFFREY ROWE/Atty. for dbt.

MOTION TO INCUR DEBT
8-3-17 [[71](#)]

TENTATIVE RULING This matter will proceed as scheduled.

DISPOSITION: Granted.

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

This motion was filed and served pursuant to LRB 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 LRB 9014-1(f)(2). The court will issue an order if a further hearing is necessary.

31. [17-10187](#)-B-13 PETER SOLORIO
LR-2
PETER SOLORIO/MV
LAUREN RODE/Atty. for dbt.

CONTINUED MOTION TO VALUE
COLLATERAL OF WELLS FARGO BANK,
N.A.
6-29-17 [[42](#)]

FINAL RULING There will be no hearing on this matter.

DISPOSITION: Granted.

ORDER: No appearance is necessary. The Moving Party shall submit a proposed order in conformance with the ruling below.

This motion to value respondent's collateral 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 debtor is competent to testify as to the value of the 2013 Honda Accord. Given the absence of contrary evidence, the debtor's opinion of value may be conclusive. *Enewally v. Washington Mutual Bank (In re Enewally)*, 368 F.3d 1165, 1173 (9th Cir, 2004). The respondent's secured claim will be fixed at \$ 6,550. 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.

32. [17-10187](#)-B-13 PETER SOLORIO
MHM-2
MICHAEL MEYER/MV
LAUREN RODE/Atty. for dbt.
RESPONSIVE PLEADING

CONTINUED MOTION TO DISMISS
CASE
6-5-17 [[36](#)]

FINAL RULING There will be no hearing on this matter.

DISPOSITION: Denied as moot.

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

The basis for the trustee's motion to dismiss was the debtor's failure to serve and set a motion to value the debtor's 2013 Honda. In light of the court's ruling above, calendar number 31, DC# LR-2, this motion will be denied as moot.

33. [16-12690](#)-B-13 KIMBERLY SHACKELFORD
SAH-4
KIMBERLY SHACKELFORD/MV
SUSAN HEMB/Atty. for dbt.

MOTION TO MODIFY PLAN
6-13-17 [[94](#)]

FINAL RULING There will be no hearing on this matter.

DISPOSITION: Continued to August 31, 2017, at 1:30 p.m.

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

This motion will be continued to August 31, 2017, at 1:30 p.m., for submission of evidence that the plan satisfies the §1325(a) elements for confirmation which is made applicable to post-confirmation modification by §1329(b)(1). This evidence shall be served and submitted on or before August 24, 2017.

34. [17-12294](#)-B-13 TERESO/RAMONA SOLIZ
PBB-1
TERESO SOLIZ/MV

MOTION TO VALUE COLLATERAL OF
ONEMAIN FINANCIAL SERVICES,
INC.
7-3-17 [[18](#)]

PETER BUNTING/Atty. for dbt.

FINAL RULING There will be no hearing on this matter.

DISPOSITION: Denied as moot.

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

This motion to value collateral will be denied as moot in that there is no case or controversy. The creditor has filed a proof of secured claim, which values its collateral in the same amount as stated in the motion. In the Eastern District of California, the amount and classification of a claim is determined by the proof of claim and applicable non-bankruptcy law. No further relief is required unless the granting of a motion will affect the treatment of the claim.

35. [17-12294](#)-B-13 TERESO/RAMONA SOLIZ
RMP-1
DITECH FINANCIAL LLC/MV
PETER BUNTING/Atty. for dbt.
RENEE PARKER/Atty. for mv.

OBJECTION TO CONFIRMATION OF
PLAN BY DITECH FINANCIAL LLC
8-2-17 [[24](#)]

FINAL RULING There will be no hearing on this matter.

DISPOSITION: Continued to September 28, 2017, at 1:30 p.m., for a status conference. Unilateral or a joint status conference statement(s) will be due on or before September 21, 2017.

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

Based on the respondent's opposition, this matter will be continued to September 28, 2017, at 1:30 p.m., for a status conference. Unilateral or a joint status conference statement(s) will be due on or before September 21, 2017. 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 immediately commence formal discovery, meet and confer, set deposition dates if necessary, and be prepared for the court to set an early evidentiary hearing if the matter is not resolved by the continued hearing date.

The debtors should address the issue of, in the case where there is a pre-petition arrearage on a claim, why the claim should not be moved to class 1? In addition, debtors must address, whether confirmation of a plan that does cure an arrearage is consistent with 11 USC §§ 1325(b)(2), (b)(5), and §1325(a)(5)(B)?

The court will issue an order. No appearance is necessary.

36. [17-11695](#)-B-13 HUMBERTO RUIZ AND TERESA MOTION TO AVOID LIEN OF KINGS
TOG-3 SOLORIO CREDIT SERVICES
HUMBERTO RUIZ/MV 6-28-17 [[35](#)]
THOMAS GILLIS/Atty. for dbt.

FINAL RULING There will be no hearing on this matter.

DISPOSITION: Granted.

ORDER: No appearance is necessary. The Moving Party shall
submit a proposed order in conformance with the ruling
below.

This matter was fully noticed in compliance with the Local Rules of Practice and there is no opposition. 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. Accordingly, the respondents' defaults will be entered.

It appears from the evidence submitted and the record that the debtors are entitled to avoid this lien that impairs an exemption to which they would otherwise have been entitled.