

UNITED STATES BANKRUPTCY COURT  
Eastern District of California  
Honorable René Lastreto II  
Hearing Date: Wednesday, August 19, 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. [20-11901](#)-B-13     **IN RE: PAUL/DARLENE HOLLAND**  
[PBB-3](#)

MOTION TO CONFIRM PLAN  
7-14-2020    [\[52\]](#)

PAUL HOLLAND/MV  
PETER BUNTING/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. The proof of service does not show that the chapter 13 plan was served. The proof of service shows that the notice of hearing, motion, declarations, and exhibits were served. But the chapter 13 plan was not included in any of those documents.

2. [20-11602](#)-B-13     **IN RE: CARLITO/CRISTINA CATUBIG**  
[EAT-1](#)

MOTION TO CONFIRM PLAN  
7-6-2020    [\[26\]](#)

CARLITO CATUBIG/MV  
ARETE KOSTOPOULOS/ATTY. FOR DBT.  
RESPONSIVE PLEADING

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

DISPOSITION:     Continued to September 23, 2020 at 9:30 a.m.

ORDER:             The court will issue an order.

The court notes movant's procedural errors.

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](http://www.caeb.uscourts.gov) after 4:00 p.m. the day before the hearing.

Second, 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.

An objection to confirmation of plan by Nationstar Mortgage LLC was previously filed on June 15, 2020 (doc. #16) and sustained on July 1, 2020 (doc. #22). The DCN for that motion was EAT-1. This motion also has a DCN of EAT-1 and therefore does not comply with the local rules. Each separate matter filed with the court must have a different DCN.

Third, the amended certificate of service does not include the "attached service list." Doc. #32. So the court is not persuaded that all creditors were served. However, the motion was opposed by one creditor, as explained further below, which must mean that at least they had notice of the motion and amended plan.

Failure to comply with the LBR in the future may result in the application for relief being denied without prejudice.

Secured Creditor Sierra Pacific Mortgage Company, Inc. ("Creditor") has filed an objection to the debtors' fully noticed motion to confirm a chapter 13 plan. Unless this case is voluntarily converted to chapter 7, dismissed, or Creditor's opposition to confirmation is withdrawn, the debtors shall file and serve a written response not later than September 9, 2020. 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 debtors' position. Creditor shall file and serve a reply, if any, by September 16, 2020.

If the debtors elect 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 September 16, 2020. If the debtors do not timely file a modified plan or a written response, this motion will be denied on the grounds stated in the opposition without a further hearing.

3. [19-14304](#)-B-13     **IN RE: RAFAEL ESCAMILLA GARCIA AND ALMA ESCAMILLA**  
[SL-3](#)

MOTION TO MODIFY PLAN  
7-13-2020    [\[46\]](#)

RAFAEL ESCAMILLA GARCIA/MV  
SCOTT LYONS/ATTY. FOR DBT.  
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 chapter 13 trustee withdrew his opposition on August 17, 2020. The confirmation order shall include the docket control number of the motion and it shall reference the plan by the date it was filed.

4. [17-14513](#)-B-13     **IN RE: RANDALLCHAD MARTIN**  
[SL-3](#)

MOTION TO PAY  
7-16-2020    [\[37\]](#)

RANDALLCHAD MARTIN/MV  
STEPHEN LABIAK/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. No party that was served has opposed this motion. The debtor's home insurance company is authorized to pay for the repairs to the structural damages to debtor's real property.

5. [16-14015](#)-B-13     **IN RE: ROY DRESSEL**  
[SL-1](#)

MOTION TO MODIFY PLAN  
7-8-2020    [\[59\]](#)

ROY DRESSEL/MV  
SCOTT LYONS/ATTY. FOR DBT.

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

DISPOSITION:     Granted.

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

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.

6. [17-11726](#)-B-13     **IN RE: ALEJANDRO GONZALEZ RUIZ AND FELIPA  
BEJARANO RUIZ**  
[SL-1](#)

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

ALEJANDRO GONZALEZ RUIZ/MV  
SCOTT LYONS/ATTY. FOR DBT.

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

DISPOSITION:     Granted.

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

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

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

7. [20-10547](#)-B-13     **IN RE: CLAYTON/KIMBERLY WHITE**  
[PBB-2](#)

MOTION TO CONFIRM PLAN  
7-14-2020    [\[54\]](#)

CLAYTON WHITE/MV  
PETER BUNTING/ATTY. FOR DBT.  
DISMISSED 7/16/20

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. #67.

8. [19-15350](#)-B-13     **IN RE: LUIS BORGES**  
[PLG-1](#)

MOTION TO MODIFY PLAN  
7-6-2020    [\[20\]](#)

LUIS BORGES/MV  
STEVEN ALPERT/ATTY. FOR DBT.  
RESPONSIVE PLEADING

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

DISPOSITION:                    Continued to September 23, 2020 at 9:30 a.m.

ORDER:                            The court will issue an order.

The chapter 13 trustee ("Trustee") has filed an 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 Trustee's opposition to confirmation is withdrawn, the debtors shall file and serve a written response not later than September 9, 2020. 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. Trustee shall file and serve a reply, if any, by September 16, 2020.

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 September 16, 2020. If the debtor does not timely file a modified plan or a written response, this motion will be denied on the grounds stated in the opposition without a further hearing.



9. [20-10957](#)-B-13     **IN RE: GURMIT SANDHU AND KARAMJIT BRAR**  
[MHM-3](#)

MOTION TO DISMISS CASE  
7-21-2020    [\[85\]](#)

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

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

DISPOSITION:     Denied as moot.

ORDER:             The court will issue an order.

An order dismissing this case was already entered on August 12, 2020. Doc. #91. This motion is DENIED AS MOOT.

10. [19-11859](#)-B-13     **IN RE: JOSHUA BOVARD**  
[FW-3](#)

MOTION TO MODIFY PLAN  
7-6-2020    [\[52\]](#)

JOSHUA BOVARD/MV  
PETER FEAR/ATTY. FOR DBT.  
RESPONSIVE PLEADING

NO RULING.

This motion was set for hearing on 35 days' notice as required by Local Rule of Practice ("LBR") 3015-1(d)(1) and will proceed as scheduled. 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). Therefore, the defaults of the above-mentioned parties in interest are entered, except for the chapter 13 trustee ("Trustee").

Trustee opposes confirmation under 11 U.S.C. §§ 1325(a)(3) and (a)(7), alleging that the plan was not filed in good faith. Doc. #60. In supporting the opposition, Trustee highlights the following facts:

The confirmed plan provides for a 100% payback to unsecured creditors. Doc. #23. At the time of filing, Debtor's gross monthly wages was \$7,891.07. See Schedule I, doc. #1, Amended Schedule I, Doc. #24. Debtor lists two minor children as dependents on Schedule J. Doc. #24. Debtor deducted \$700.00 on Schedule J for "child support." Debtor testified at the 341 hearing on June 4, 2019 that the mother of Debtor's children lives with him. Debtor increased the percentage to unsecured creditors from 28% (see doc. #2) to 100% (see doc #23), after Trustee informed Debtor at the 341 hearing that

Trustee would object to the plan for understating or not paying disposable income. Debtor's gross wages have now increased from \$7,891.07 per month to \$8,184.00 per month. Schedule I, doc. #56.

Debtor now proposes to reduce the percentage to unsecured creditors to 38%. Doc. #54. In addition, the Trustee requests documentation of how the child support payments of \$700.00, deducted on Schedule J, is reasonably necessary to be expended for each child and is an actual expense in addition to the expenses already deducted on Schedule J for each child.

Debtor timely responded. Doc. #62. Debtor stated that his ex-wife lives with him because she is medically disabled. They do not combine household expenses or income. Her income is approximately \$3,000.00 per month - \$2,300.00 from "medical retirement" and \$700.00 in child support. Debtor's accounting of her expenses makes up the entire amount of her income. Due to her medical condition, her food budget is greater than what Debtor spends for himself and his children.

Debtor's explanation that the \$700.00 he pays to the mother of his children (who resides with him) is still not adequately explained. There are also issues concerning an increase in housing expense, child-care and education costs, cleaning and laundry.

The debtor must satisfy all elements of § 1325(a) including good faith. The debtor may modify a plan to resolve missed plan payments, to be sure. But the debtor must demonstrate that such a reduction in dividend contemplated here is in good faith.

Trustee will have the opportunity to respond to Debtor's declaration. If the court does finally grant the motion, the confirmation order shall include the docket control number of the motion and it shall reference the plan by the date it was filed.

11. [20-11581](#)-B-13     **IN RE: APRIL BETTERSON**  
[EPE-1](#)

MOTION TO CONFIRM PLAN  
7-21-2020    [\[27\]](#)

APRIL BETTERSON/MV  
ERIC ESCAMILLA/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.

Local Rule of Practice 3015-1(d)(1) requires motions to confirm plans to be set on 35 days' notice. This motion was filed and served on July 21, 2020 (doc. #32) and set for hearing on August 19, 2020 (doc. #28). That is less than 35 days' notice. Therefore the motion is DENIED WITHOUT PREJUDICE.

12. [20-10595](#)-B-13     **IN RE: ARLENE GONZALES**  
[MHM-1](#)

CONTINUED MOTION TO DISMISS CASE  
6-24-2020    [[63](#)]

MICHAEL MEYER/MV  
TIMOTHY SPRINGER/ATTY. FOR DBT.

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. #79.

11:00 AM

1. [11-63503](#)-B-7     **IN RE: FRANK/ALICIA ITALIANE**  
[12-1053](#)

CONTINUED STATUS CONFERENCE RE: FIRST AMENDED COMPLAINT  
10-18-2012    [[21](#)]

JEFFREY CATANZARITE FAMILY LIMITED PARTNERSHIP ET V. LANE  
HAMID RAFATJOO/ATTY. FOR PL.  
RESPONSIVE PLEADING

NO RULING.

2. [11-63503](#)-B-7     **IN RE: FRANK/ALICIA ITALIANE**  
[12-1053](#)     [CHC-1](#)

CONTINUED MOTION FOR SUMMARY JUDGMENT  
6-1-2020    [[115](#)]

JEFFREY CATANZARITE FAMILY LIMITED PARTNERSHIP ET V. LANE  
HAMID RAFATJOO/ATTY. FOR MV.  
RESPONSIVE PLEADING

NO RULING.

3. [19-12217](#)-B-7     **IN RE: JASON BLANKENSHIP**  
[20-1015](#)

STATUS CONFERENCE RE: COMPLAINT  
3-12-2020    [[1](#)]

BLANKENSHIP V. SUNSET CREDIT SERVICES, INC. ET AL  
NANCY KLEPAC/ATTY. FOR PL.  
DISMISSED 7/24/20

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. #27.

4. [19-12058](#)-B-13     **IN RE: RICHARD/DAWN MARTINES**  
[19-1116](#)

CONTINUED ORDER TO SHOW CAUSE  
6-16-2020    [\[20\]](#)

MARTINES ET AL V. VIVINT SOLAR  
DISMISSED 07/16/2020

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. #26.

5. [08-17066](#)-B-13     **IN RE: JOE PARKS**  
[20-1039](#)

STATUS CONFERENCE RE: COMPLAINT  
6-24-2020    [\[1\]](#)

PARKS V. HSBC MORTGAGE SERVICES, INC. ET AL  
GABRIEL WADDELL/ATTY. FOR PL.

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

DISPOSITION:                    Continued to September 30, 2020 at 11:00 a.m.

ORDER:                            The court will issue an order.

The parties have stipulated to setting the deadline for defendants  
to respond to the complaint to August 26, 2020. Doc. #9.