



UNITED STATES BANKRUPTCY COURT
Eastern District of California
Honorable Jennifer E. Niemann
Hearing Date: Thursday, August 22, 2024
Department A – Courtroom #11
Fresno, California

Unless otherwise ordered, all matters before the Honorable Jennifer E. Niemann shall be simultaneously: (1) **In Person** at, Courtroom #11 (Fresno hearings only), (2) via **ZoomGov Video**, (3) via **ZoomGov Telephone**, and (4) via **CourtCall**. You may choose any of these options unless otherwise ordered or stated below.

All parties who wish to appear at a hearing remotely must sign up by 4:00 p.m. **one business day** prior to the hearing. Information regarding how to sign up can be found on the **Remote Appearances** page of our website at <https://www.caeb.uscourts.gov/Calendar/RemoteAppearances>. Each party who has signed up will receive a Zoom link or phone number, meeting I.D., and password via e-mail.

If the deadline to sign up has passed, parties who wish to appear remotely must contact the Courtroom Deputy for the Department holding the hearing.

Please also note the following:

- Parties in interest may connect to the video or audio feed free of charge and should select which method they will use to appear when signing up.
- Members of the public and the press appearing by ZoomGov may only listen in to the hearing using the zoom telephone number. Video appearances are not permitted.
- Members of the public and the press may not listen in to trials or evidentiary hearings, though they may appear in person in most instances.

To appear remotely for law and motion or status conference proceedings, you must comply with the following guidelines and procedures:

1. Review the [Pre-Hearing Dispositions](#) prior to appearing at the hearing.
2. Parties appearing via CourtCall are encouraged to review the [CourtCall Appearance Information](#).

If you are appearing by ZoomGov phone or video, please join at least 10 minutes prior to the start of the calendar and wait with your microphone muted until the matter is called.

Unauthorized Recording is Prohibited: Any recording of a court proceeding held by video or teleconference, including "screen shots" or other audio or visual copying of a hearing is prohibited. Violation may result in sanctions, including removal of court-issued media credentials, denial of entry to future hearings, or any other sanctions deemed necessary by the court. For more information on photographing, recording, or broadcasting Judicial Proceedings, please refer to Local Rule 173(a) of the United States District Court for the Eastern District of 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, and all parties will need to appear at the hearing unless otherwise ordered. 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.

1. [24-11612](#)-A-13 **IN RE: CHERYLE HARRISON**
[LGT-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY LILIAN G. TSANG
7-23-2024 [[12](#)]

LILIAN TSANG/MV
JERRY LOWE/ATTY. FOR DBT.

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

DISPOSITION: Continued to September 25, 2024 at 2:00 p.m.

ORDER: The court will issue an order.

Cheryle Ann Harrison ("Debtor") filed a voluntary petition under chapter 13 and a chapter 13 plan ("Plan") on June 11, 2024. Doc. ##1, 3. The chapter 13 trustee ("Trustee") objects to confirmation of the Plan because the Trustee is unable to determine whether the Plan is feasible due to a motion to value collateral having yet to be filed with this court. Doc. #12. On August 19, 2024, Debtor filed a motion to value the collateral of secured creditor Solarity Credit Union and noticed that motion for hearing on September 25, 2024. Doc. ##16-19.

This objection will be continued to September 25, 2024 at 2:00 p.m. to be heard in conjunction with the hearing on Debtor's motion to value collateral also set for hearing at that time.

2. [24-10413](#)-A-13 **IN RE: DOUGLAS MORAZAN-MOLINA**
[TCS-1](#)

MOTION TO CONFIRM PLAN
7-5-2024 [[31](#)]

DOUGLAS MORAZAN-MOLINA/MV
TIMOTHY SPRINGER/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 at least 35 days' notice prior to the hearing date pursuant to Local Rule of Practice ("LBR") 3015-1(d)(1). The failure of creditors, 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 Sys., Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires a moving party 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.

3. [19-13341](#)-A-13 **IN RE: GARY/JENNIFER FOX**
[FW-5](#)

MOTION FOR COMPENSATION BY THE LAW OFFICE OF FEAR WADDELL, P.C. FOR
GABRIEL J. WADDELL, DEBTORS ATTORNEY(S)
7-16-2024 [\[65\]](#)

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 at least 28 days' notice prior to the hearing date pursuant to Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of creditors, 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 Sys., Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires a moving party make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

Fear Waddell, P.C. ("Movant"), counsel for Gary Allen Fox and Jennifer Anne Fox (together, "Debtors"), the debtors in this chapter 13 case, requests allowance of final compensation in the amount of \$2,574.00 and reimbursement for expenses in the amount of \$84.38 for services rendered November 1, 2021 through July 11, 2024. Doc. #65. Debtors' confirmed plan provides, in addition to \$2,690.00 paid prior to filing the case, for \$12,000.00 in attorney's fees. Plan, Doc. #2, 20. Two prior fee applications have been granted, allowing interim compensation to Movant pursuant to 11 U.S.C. § 331 in the total amount of \$9,625.00 and reimbursement for expenses totaling \$471.00. Order, Doc. #38, 57. Debtors consent to the amount requested in Movant's application. Ex. E, Doc. #67.

Section 330(a) of the Bankruptcy Code authorizes "reasonable compensation for actual, necessary services rendered" and "reimbursement for actual, necessary expenses" to a debtor's attorney in a chapter 13 case. 11 U.S.C. § 330(a)(1), (4)(B). In determining the amount of reasonable compensation, the court shall consider the nature, extent, and value of such services, taking into account all relevant factors. 11 U.S.C. § 330(a)(3). Here, Movant demonstrates services

rendered relating to: (1) claim administration and objections; (2) original and modified plan, hearings, and objections; and (3) preparation for discharge and case closing. Exs. A, B and C, Doc. #67. The court finds that the compensation and reimbursement sought are reasonable, actual, and necessary, and the court will approve the motion on a final basis.

This motion is GRANTED. The court finds all fees and expenses of Movant previously allowed on an interim basis are reasonable and necessary. The court allows on a final basis all fees and expenses previously allowed to Movant on an interim basis, in addition to compensation requested by this motion in the amount of \$2,574.00 and reimbursement for expenses in the amount of \$84.38 to be paid in a manner consistent with the terms of the confirmed plan.

4. [24-10441](#)-A-13 **IN RE: JAMES WHITEHEAD**
[LGT-2](#)

MOTION TO DISMISS CASE
7-12-2024 [\[27\]](#)

LILIAN TSANG/MV
TIMOTHY SPRINGER/ATTY. FOR DBT.
RESPONSIVE PLEADING

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

DISPOSITION: Granted.

ORDER: The court will issue the 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 at least 28 days' notice pursuant to Local Rule of Practice ("LBR") 9014-1(f)(1). The debtor late-filed a statement of non-opposition to dismissal. Doc. #31. The failure of creditors, 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 non-responding 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 a movant 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 pursuant to 11 U.S.C. § 1307(c)(4) because the debtor has failed to make all payments due under the plan. Doc. #27. Debtor is delinquent in the amount of \$20,270.84 as of July 12, 2024, with an additional \$6,767.71 due on July 25, 2024, and the 25th day of each month thereafter. Doc. #29. The debtor does not oppose dismissal. Doc. #31.

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)(4) for the debtor's failure to timely make payments due under the plan.

A review of the debtor's Schedules A/B, C and D shows that there is some equity in two Sea Doo jet skis and trailers after considering secured claims and claimed exemptions. Doc. #9. However, the court determines that the liquidation value of these assets does not support conversion of this case to chapter 7. In addition, the debtor does not oppose dismissal of this case. Doc. #31. Thus, dismissal, rather than conversion to chapter 7, is in the best interests of creditors and the estate.

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

5. [23-12543](#)-A-13 **IN RE: HERNAN CORTEZ**
[JDW-1](#)

MOTION FOR COMPENSATION FOR JOEL D. WINTER, DEBTORS ATTORNEY(S)
7-23-2024 [[61](#)]

JOEL WINTER/ATTY. FOR DBT.
DISMISSED 02/01/2024

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

DISPOSITION: Denied without prejudice.

ORDER: The court will issue an order.

This matter is DENIED WITHOUT PREJUDICE for improper notice.

There is no certificate of service filed with the court, so the motion does not comply with Federal Rule of Bankruptcy Procedure 2002(a)(6), which requires that a motion to approve compensation for more than \$1,000 be served on all parties in interest at least twenty-one (21) days prior to the hearing. The motion also does not comply with Local Rule of Practice 9014-1(e)(2), which requires that proof of service of all pleadings be filed with the court not more than three (3) days after the pleading is filed with the court.

6. [24-11352](#)-A-13 **IN RE: DANIELLE CARTOZIAN**
[SLL-1](#)

MOTION TO CONFIRM PLAN
7-11-2024 [[16](#)]

DANIELLE CARTOZIAN/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 at least 35 days' notice prior to the hearing date pursuant to Local Rule of Practice ("LBR") 3015-1(d)(1). The failure of creditors, 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 Sys., Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires a moving party 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. [22-12053](#)-A-13 **IN RE: NICHOLAS/MISTY CARRILLO**
[PBB-5](#)

MOTION TO MODIFY PLAN
7-5-2024 [[92](#)]

MISTY CARRILLO/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 at least 35 days' notice prior to the hearing date pursuant to Local Rule of Practice ("LBR") 3015-1(d)(2). The failure of creditors, 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 Sys., Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires a moving party 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.

8. [19-11359](#)-A-13 **IN RE: JUAN/MARIA VELAZQUEZ**
[LGT-1](#)

MOTION TO DISMISS CASE
7-16-2024 [\[64\]](#)

LILIAN TSANG/MV
THOMAS GILLIS/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 at least 28 days' notice prior to the hearing date pursuant to Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of creditors, the debtors, 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 a movant 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) and (c)(8) for the debtors' failure to make all plan payments due during the 60 months of their confirmed plan. Doc. #64. Specifically, as of July 16, 2024, the total claims filed in this case required aggregate plan payments of \$71,799.75, and the debtors have only paid \$58,900.00. Doc. #64. The debtors 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) and (c)(8) for the debtors’ failure to make all plan payments due during the 60 months of their confirmed plan.

A review of the debtors’ Schedules A/B, C and D shows that there is minimal equity in the debtors’ assets after considering secured claims and claimed exemptions. Doc. #1. Thus, dismissal, rather than conversion to chapter 7, is in the best interests of creditors and the estate.

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

9. [22-12163](#)-A-13 **IN RE: TINA GARCIA**
[SL-1](#)

CONTINUED EVIDENTIARY HEARING RE: OBJECTION TO CLAIM OF CHICAGO TITLE
INSURANCE COMPANY, CLAIM NUMBER 6
4-11-2023 [\[44\]](#)

TINA GARCIA/MV
SCOTT LYONS/ATTY. FOR DBT.
RESPONSIVE PLEADING

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

DISPOSITION: Continued to October 31, 2024 at 9:30 a.m.

ORDER: The court will issue an order.

Pursuant to the joint evidentiary hearing setting conference statement filed on August 15, 2024 (Doc. #113), the evidentiary hearing setting conference is continued to October 31, 2024 at 9:30 a.m.

No later than October 24, 2024, the parties shall file a joint status report if, by that date, a written settlement agreement between the parties has not been finalized and the debtor has not filed, served and set for hearing a motion to confirm an amended plan.

10. [23-10691](#)-A-13 **IN RE: KAYE KIM**
[LKW-3](#)

MOTION FOR COMPENSATION FOR LEONARD K. WELSH, DEBTORS ATTORNEY(S)
7-24-2024 [\[186\]](#)

LEONARD WELSH/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 at least 28 days’ notice prior to the hearing date pursuant to Local Rule of Practice (“LBR”) 9014-1(f)(1). The failure of creditors, 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 Sys., Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires a moving party make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

As a procedural matter, the notice of hearing filed in connection with this motion does not comply with LBR 9014-1(d)(3)(B)(i), which requires the notice, if written opposition is required, to include the names and addresses of persons who must be served with any opposition. The court encourages counsel to review the local rules to ensure compliance in future matters or those matters may be denied without prejudice for failure to comply with the local rules.

Law Offices of Leonard K. Welsh ("Movant"), counsel for Kaye Yekyung Kim ("Debtor"), the debtor in this chapter 13 case, requests allowance of final compensation in the amount of \$2,515.00 and reimbursement for expenses in the amount of \$40.98 for services rendered from November 1, 2023 through December 31, 2023. Doc. #186. Debtor's confirmed plan provides for \$24,000.00 in attorney's fees. Plan, Doc. #171, 192. No prior fee application has been filed. Debtor consents to the amount requested in Movant's application. Decl. of Kaye Yekyung Kim, Doc. #189.

Section 330(a) of the Bankruptcy Code authorizes "reasonable compensation for actual, necessary services rendered" and "reimbursement for actual, necessary expenses" to a debtor's attorney in a chapter 13 case. 11 U.S.C. § 330(a)(1), (4)(B). In determining the amount of reasonable compensation, the court shall consider the nature, extent, and value of such services, taking into account all relevant factors. 11 U.S.C. § 330(a)(3). Here, Movant demonstrates services rendered relating to: (1) conversion of Debtor's chapter 7 bankruptcy case to chapter 13; (2) amending Debtor's schedules; (3) reviewing fee applications of the chapter 7 trustee and his counsel; (4) preparing a chapter 13 plan; (5) representing Debtor in a related corporate chapter 11 bankruptcy case; and (6) general case administration. Doc. #186. The court finds that the compensation and reimbursement sought are reasonable, actual, and necessary, and the court will approve the motion on a final basis.

This motion is GRANTED. The court allows on a final basis the compensation requested by this motion in the amount of \$2,515.00 and reimbursement for expenses in the amount of \$40.98 to be paid in a manner consistent with the terms of the confirmed plan.

11:00 AM

1. [22-11226](#)-A-11 **IN RE: ALVARENGA TRANSPORT, LLC**
[FW-9](#)

PRE-TRIAL CONFERENCE RE: OBJECTION TO CLAIM OF DIANA RAMIREZ MUNOZ,
CLAIM NUMBER 4
3-23-2023 [[126](#)]

ALVARENGA TRANSPORT, LLC/MV
PETER FEAR/ATTY. FOR DBT.

NO RULING.

Pursuant to paragraph 3 of the Settlement Agreement and Release attached to this court's Order Granting Motion to Approve Settlement Agreement and Release filed on May 3, 2024 (Doc. #208) resolving these consolidated objections to claims, this court was to enter an order with respect to each settled claim stating the allowed amount of each claim pursuant to the settlement agreement. However, such orders have not been uploaded to the court, so there are no final orders resolving each claim objection and providing the final, allowed amount of each claim. Therefore, each of these consolidated objections to claims remain pending on the court's docket.

2. [19-11628](#)-A-12 **IN RE: MIKAL JONES**
[19-1081](#) [CAE-1](#)

CONTINUED STATUS CONFERENCE RE: COMPLAINT
6-28-2019 [[1](#)]

DILDAY ET AL V. JONES
RESPONSIVE PLEADING

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

DISPOSITION: Continue to October 10, 2024 at 11:00 a.m.

ORDER: The court will issue an order.

Based on the joint status conference statement filed by the parties on August 14, 2024 (Doc. #173), the court will continue this status conference to October 10, 2024 at 11:00 a.m. The parties shall file a further joint status report on or before October 3, 2024.

3. [23-12328](#)-A-7 **IN RE: RUSTY PITTS**
[23-1056](#) [CAE-1](#)

CONTINUED STATUS CONFERENCE RE: COMPLAINT
12-27-2023 [[1](#)]

YOUNG V. PITTS
RESPONSIVE PLEADING

NO RULING.

4. [24-10440](#)-A-7 **IN RE: ZAC FANCHER**
[24-1013](#) [CAE-1](#)

CONTINUED STATUS CONFERENCE RE: COMPLAINT
5-23-2024 [[1](#)]

FANCHER V. TULARE COUNTY
RESOURCE MANAGEMENT AGENCY

NO RULING.

5. [24-10440](#)-A-7 **IN RE: ZAC FANCHER**
[24-1013](#) [CH-1](#)

MOTION TO DISMISS ADVERSARY PROCEEDING/NOTICE OF REMOVAL
7-8-2024 [[20](#)]

FANCHER V. TULARE COUNTY RESOURCE MANAGEMENT AGENCY
DARRYL HOROWITT/ATTY. FOR MV.

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Continued to September 12, 2024 at 11:00 a.m.

ORDER: The court will issue an order.

Tulare County Resource Management Agency ("Defendant") moves the court to dismiss all claims asserted against it by Zac Fancher ("Plaintiff") pursuant to Federal Rule of Civil Procedure 12(b)(6), incorporated into this adversary proceeding by Federal Rule of Bankruptcy Procedure 7012(b), on the grounds that the complaint does not state any claim upon which relief can be granted.

As a procedural matter, the notice of hearing filed by Defendant in connection with this motion does not comply with Local Rule of Practice ("LBR") 9014-1(d)(3)(B)(i), which requires the notice to advise potential respondents whether and when written opposition must be filed and, if written opposition is required, include the names and addresses of persons who must be served with any opposition. Doc. #20. The notice of hearing also does not comply with LBR 9014-1(d)(3)(B)(iii), which requires the notice to advise respondents that they can determine whether the matter has been resolved without oral argument or whether the court has issued a tentative ruling by viewing the court's website at www.caeb.uscourts.gov after 4:00 p.m. the day before the hearing, and that parties appearing telephonically must view the pre-hearing dispositions prior to the hearing. The court encourages counsel to review the local rules to ensure compliance in future matters or those matters may be denied without prejudice for failure to comply with the local rules.

Notwithstanding the inadequate notice, Plaintiff served his opposition fourteen (14) days before the hearing, which is timely, although it is not clear whether Plaintiff served his opposition on counsel for Defendant. Doc. #35. However, Plaintiff's opposition was not filed with the court until August 12, 2024, which was ten (10) days before hearing and is untimely under LBR 9014-1(f)(1)(B). In addition, while Defendant filed its reply timely, Defendant filed an amended reply one day after the time permitted by LBR 9014-1(f)(1)(C).

It appears that both the parties have fully briefed the motion, although the parties' papers were not filed timely pursuant to this court's Local Rules of

Practice. Rather than deny this motion for improper service and have the motion re-noticed and all the pleadings re-filed, the court is inclined to determine that each party waives any procedural defects and continue the hearing on this motion to September 12, 2024, at 11:00 a.m. for a determination of the motion on the merits. The court will not permit any further pleadings to be filed with respect to this motion.

6. [23-10947](#)-A-13 **IN RE: SONIA LOPEZ**
[23-1039](#) [SDS-2](#)

CONTINUED MOTION FOR SUMMARY JUDGMENT
5-29-2024 [\[73\]](#)

LOPEZ V. UNIFIED MORTGAGE SERVICE, INC. ET AL
SUSAN SILVEIRA/ATTY. FOR MV.
RESPONSIVE PLEADING

NO RULING.

7. [23-12163](#)-A-7 **IN RE: THRIVE SPORTS INC.**
[24-1015](#) [CAE-1](#)

STATUS CONFERENCE RE: COMPLAINT
6-11-2024 [\[1\]](#)

FEAR V. EAGLE MOUNTAIN CASINO
GABRIEL WADDELL/ATTY. FOR PL.

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

DISPOSITION: Continued to September 12, 2024 at 11:00 a.m.

ORDER: The court will issue an order.

The status conference will be continued to September 12, 2024 at 11:00 a.m. to be heard in conjunction with the hearing regarding the defendant's motion to stay this adversary proceeding pending a determination on the defendant's motion to withdraw the reference filed with the district court. Doc. #19.

8. [21-10679](#)-A-13 **IN RE: SYLVIA NICOLE**
[23-1029](#) [CAE-1](#)

STATUS CONFERENCE RE: AMENDED COMPLAINT
6-24-2024 [\[82\]](#)

NICOLE V. LOS BANOS TRANSPORT & TOWING ET AL
RESPONSIVE PLEADING
REISSUED SUMMONS FOR 7/31/24

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

DISPOSITION: Dropped from calendar

No order required.

A reissued summons was issued on August 8, 2024, with a status conference date of October 10, 2024 at 11:00 a.m. Doc. #84. Therefore, this status conference will be dropped from calendar.

9. [23-12893](#)-A-7 **IN RE: RAYMOND HERNANDEZ**
[24-1008](#) [CAE-1](#)

CONTINUED STATUS CONFERENCE RE: COMPLAINT
4-19-2024 [[1](#)]

FEAR V. HERNANDEZ
GABRIEL WADDELL/ATTY. FOR PL.

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

DISPOSITION: Continued to September 25, 2024 at 3:00 p.m.

ORDER: The court will issue an order.

The status conference will be continued to September 25, 2024 at 3:00 p.m. to be heard in conjunction with the hearing regarding the plaintiff's motion for default judgment. Doc. ##17, 18.