



**UNITED STATES BANKRUPTCY COURT
Eastern District of California
Honorable Jennifer E. Niemann
Hearing Date: Thursday, August 31, 2023
Department A – Courtroom #11
Fresno, California**

Unless otherwise ordered, all hearings before Judge Niemann are simultaneously: (1) **IN PERSON** in 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.

To appear via zoom gov video or zoom gov telephone for law and motion or status conference proceedings, you must comply with the following new guidelines and procedures:

1. Review the [Pre-Hearing Dispositions](#) prior to appearing at the hearing.
2. Review the court's [Zoom Policies and Procedures](#) for these and additional instructions.
3. Parties appearing through CourtCall are encouraged to review the [CourtCall Appearance Information](#).

Parties in interest and members of the public may connect to ZoomGov, free of charge, using the information provided:

Video web address:

<https://www.zoomgov.com/j/1613718991?pwd=TFNtT2NNZGR3eHJaT1pReW5TR0ZEZz09>

Meeting ID: 161 371 8991

Password: 448688

Zoom.Gov Telephone: (669) 254-5252 (Toll Free)

Please join at least 10 minutes before the start of your hearing. You are required to give the court 24 hours advance notice on [Court Calendar](#).

Unauthorized Recording is Prohibited: Any recording of a court proceeding held by video or teleconference, including "screenshots" 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. [18-12801](#)-A-13 **IN RE: JEREMY/SHIRRELL COOK**
[WSL-6](#)

MOTION FOR COMPENSATION BY THE LAW OFFICE OF WADHWANI & SHANFELD, APLC
FOR GREGORY M. SHANFELD, DEBTORS ATTORNEY(S)
7-28-2023 [\[154\]](#)

GREGORY SHANFELD/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 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.

Gregory M. Shanfeld ("Movant"), counsel for Jeremy Daniel Cook and Shirrell Linette Cook (together, "Debtors"), the debtors in this chapter 13 case, requests allowance of final compensation in the amount of \$6,292.50 and no reimbursement for expenses rendered from January 3, 2019 through closing of this bankruptcy case. Doc. #154. Debtors' fifth amended confirmed plan provides, in addition to \$700.00 paid prior to filing the case, for \$5,277.22 in attorney's fees. Plan, Doc. #136, 144. No prior fee application has been submitted. Movant has voluntarily reduced his attorney fee from \$6,299.50 to \$4,495.00 and waives any request for reimbursement for expenses so the allowed attorneys' fees can be paid from funds the chapter 13 trustee has on hand. Ex. A, Doc. #156. Debtors' consent to the amount requested in Movant's application. Doc. #154.

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) preparing three modified plans; (2) opposing Trustee's fourth modified plan seeking to increase Debtors' plan payment; and (3) preparing compensation application and communicating with Debtors about case closing. Exs. A & B, Doc. #156. The court finds that the compensation and

reimbursement sought in the voluntarily reduced amounts 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 agreed reduced amount of \$4,495.00 and no reimbursement for expenses to be paid in a manner consistent with the terms of the confirmed plan.

2. [23-11411](#)-A-13 **IN RE: JASON/DANIELLE PETERSON**
[MHM-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY MICHAEL H. MEYER
8-14-2023 [\[13\]](#)

MICHAEL MEYER/MV
SCOTT LYONS/ATTY. FOR DBT.

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Sustained.

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

This objection was filed and served pursuant to Local Rule of Practice ("LBR") 3015-1(c)(4) and will proceed as scheduled. Unless opposition is presented at the hearing, the court intends to enter the respondents' defaults and sustain the objection. If opposition is presented at the hearing, the court will consider the opposition and whether further hearing is proper pursuant to LBR 9014-1(f)(2). The court will issue an order if a further hearing is necessary.

The debtors filed their chapter 13 plan ("Plan") on June 30, 2023. Doc. #5. Chapter 13 trustee Michael H. Meyer ("Trustee") objects to confirmation of the Plan on the grounds that Plan fails to provide for submission of all or such portion of future earnings or other future income to the supervision and control of Trustee as is necessary for execution of the Plan pursuant to 11 U.S.C. §1322(a). Doc. #13. Trustee also objects to confirmation of the Plan because it appears that the claim of secured creditor Toyota Motor Credit Corporation ("Creditor") matures during the term of the Plan, so the claim should be listed in Class 2 instead of Class 4. Id.

Federal Rule of Bankruptcy Procedure 3001(f) provides that "[a] proof of claim executed and filed in accordance with these rules shall constitute prima facie evidence of the validity and amount of the claim." 11 U.S.C. § 502(a) states that a claim or interest, evidenced by a proof of claim filed under section 501, is deemed allowed unless a party in interest objects. Creditor filed its proof of claim on August 10, 2023, which included a retail installment contract that indicates that the final payment due under the loan is October 31, 2027. Ex. A, Claim 7.

Section 3.08 of the Plan provides that Class 2 includes all secured claims that are modified by the plan, or that have matured or will mature before the plan is completed. Doc. #5. The debtors' final Plan payment will be due on June 25, 2028. Id. Since Creditor's loan matures on October 31, 2027, which is

during the pendency of the debtors' bankruptcy, Creditor should be treated under Class 2 of the Plan instead of Class 4.

Accordingly, pending any opposition at hearing, the objection will be SUSTAINED.

3. [23-11112](#)-A-13 **IN RE: ADANAN/HUDA BATH**
[MHM-1](#)

MOTION TO DISMISS CASE
7-26-2023 [\[17\]](#)

PAULDEEP BAINS/ATTY. FOR DBT.

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Granted in part; the case will be converted.

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

This motion was set for hearing on at least 28 days' notice 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). Therefore, the defaults of the above-mentioned parties in interest are entered. Because the court intends to convert this case instead of dismissing it, this matter will proceed as scheduled.

Here, the chapter 13 trustee ("Trustee") asks the court to dismiss this case under 11 U.S.C. § 1307(c)(1) and (c)(4) for unreasonable delay by the debtors that is prejudicial to creditors. Doc. #17. Specifically, Trustee asks the court to dismiss this case for the debtors' failure to provide Trustee with certain requested documents as well as make all payments due under the plan. Doc. #17. The debtors are delinquent in the amount of \$12,492.00. Decl. of Lillian G. Tsang, Doc. #19. Before this hearing, another payment in the amount of \$6,246.00 will also come due. Id. 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)(1) for unreasonable delay by debtor that is prejudicial to creditors because the debtors failed to provide Trustee with all of the documentation required by 11 U.S.C. § 521(a)(3) and (4). Cause also exists under 11 U.S.C. § 1307(c)(4) to dismiss this case as the debtors have failed to make all payments due under the plan.

A review of the debtors' Schedules A/B and D shows that there is a liquidation amount of \$39,033.60 after trustee compensation. Tsang Decl., Doc. #19. This liquidation amount is comprised largely of the non-exempt equity in the debtors' 2022 Lexus IS 500, Harley Davidson Street Glide, and 2019 Lexus GS 350. Id. Because there appears to be sufficient non-exempt equity in the

debtors' assets to be realized for the benefit of the estate, conversion, rather than dismissal, is in the best interests of creditors and the estate.

Accordingly, the motion will be GRANTED IN PART, and the case will be converted.

4. [23-11520](#)-A-13 **IN RE: THEDFORD JONES**
[MHM-1](#)

OBJECTION TO DEBTOR'S CLAIM OF EXEMPTIONS
7-28-2023 [[18](#)]

MICHAEL MEYER/MV
GABRIEL WADDELL/ATTY. FOR DBT.
RESPONSIVE PLEADING

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

DISPOSITION: Overruled as moot.

ORDER: The court will issue an order.

This objection is OVERRULED AS MOOT. The debtor filed an amended Schedule C on August 10, 2023, removing claimed exemptions in tools of the trade. Doc. #32.

5. [23-11520](#)-A-13 **IN RE: THEDFORD JONES**
[SAH-2](#)

OBJECTION TO CONFIRMATION OF PLAN BY CREDITOR DENISE BALESTIER
8-4-2023 [[26](#)]

DENISE BALESTIER/MV
GABRIEL WADDELL/ATTY. FOR DBT.
SUSAN HEMB/ATTY. FOR MV.
RESPONSIVE PLEADING
WITHDRAWN

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

DISPOSITION: Dropped from calendar.

NO ORDER REQUIRED.

The creditor Denise Balestier withdrew the objection to confirmation on August 24, 2023. Doc. #53.

6. [23-11524](#)-A-13 **IN RE: MARIA LOPEZ**
[MHM-1](#)

OBJECTION TO DEBTOR'S CLAIM OF EXEMPTIONS
7-28-2023 [\[18\]](#)

MICHAEL MEYER/MV
JAMES CANALEZ/ATTY. FOR DBT.

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

DISPOSITION: Overruled as moot.

ORDER: The court will issue an order.

This objection is OVERRULED AS MOOT. The debtor filed an amended Schedule C on August 17, 2023, amending the claimed exemption in the 2018 Honda Fit. Doc. #26.

7. [23-10232](#)-A-13 **IN RE: SHAUN SESTINI**
[DK-4](#)

CONTINUED MOTION TO CONFIRM PLAN
6-29-2023 [\[46\]](#)

SHAUN SESTINI/MV
DANIEL KING/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 as required by Local Rule of Practice ("LBR") 3015-1(d)(1). The chapter 13 trustee timely opposed this motion but withdrew his opposition on August 28, 2023. Doc. ##62, 73. 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. [23-10232](#)-A-13 **IN RE: SHAUN SESTINI**
[MHM-2](#)

CONTINUED MOTION TO DISMISS CASE
6-23-2023 [\[42\]](#)

MICHAEL MEYER/MV
DANIEL KING/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 on August 28, 2023. Doc. #71.

9. [23-10939](#)-A-13 **IN RE: LINDA BALTIMORE TODD**
[MAZ-1](#)

MOTION TO CONFIRM PLAN
7-21-2023 [\[27\]](#)

LINDA BALTIMORE TODD/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 at least 35 days' notice as required by 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 movants have 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.

10. [23-10943](#)-A-13 **IN RE: DE QIANG/AMY FENG**
[WLG-1](#)

MOTION TO CONFIRM PLAN
7-25-2023 [\[29\]](#)

AMY FENG/MV
MICHAEL REID/ATTY. FOR DBT.
CONT'D TO 9/7/23 WITHOUT ORDER

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

DISPOSITION: Continued to September 7, 2023 at 9:00 a.m.

ORDER: The court will issue an order.

On July 25, 2023, the movant filed an amended notice of hearing continuing the motion to confirm the plan to September 7, 2023 at 9:00 a.m. Doc. #39. However, Local Rule of Practice ("LBR") 9014-1(j) requires court approval for the continuance of a hearing. The movant did not seek court approval for continuing the hearing on this motion. Because this motion was continued from a Fresno calendar to a Bakersfield calendar and the case is a Bakersfield case, the court will permit the continuance of this motion this one time notwithstanding the movant's failure to comply with LBR 9014-1(j).

The court encourages counsel for the movant 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. The rules can be accessed on the court's website at <https://www.caeb.uscourts.gov/LocalRules.aspx>.

11. [23-11446](#)-A-13 **IN RE: MARIO/MARIA RIVERA**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES
8-9-2023 [\[26\]](#)

DISMISSED 8/14/23

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

DISPOSITION: Dropped as moot.

NO ORDER REQUIRED.

An order dismissing the case was entered on August 14, 2023, Doc. #28. The order to show cause will be dropped as moot.

MOTION TO DETERMINE FINAL CURE AND MORTGAGE PAYMENT RULE 3002.1
8-2-2023 [\[62\]](#)

MICHAEL MEYER/MV
NANCY KLEPAC/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 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.

Michael H. Meyer ("Trustee"), the chapter 13 trustee, moves the court for a determination of final cure pursuant to Federal Rule of Bankruptcy Procedure ("Rule") 3002.1. Doc. #62. On June 29, 2023, Trustee filed and served a Notice of Final Cure Payment pursuant to Rule 3002.1(f) on The Bank of New York Mellon, successor to JPMorgan Chase Bank, N.A. ("Creditor"). See Doc. #58. Rule 3002.1(g) requires that within 21 days after service of the notice under Rule 3002.1(f), the holder of the claim shall file and serve on the debtor, debtor's counsel, and the trustee a statement indicating (1) whether it agrees that the debtor has paid in full the amount required to cure the default on the claim, and (2) whether the debtor is otherwise current on all payments consistent with 11 U.S.C. § 1322(b)(5). On July 20, 2023, Creditor filed a written response indicating that the debtor still owes \$911.65 in pre-petition arrears. Doc. #60.

Rule 3002.1(h) states that on motion by the trustee filed within 21 days after service of the statement under subdivision (g) of this rule, the court shall, after notice and hearing, determine whether the debtor has cured the default and paid all required post-petition amounts. Trustee timely served this motion on August 2, 2023. Doc. ##62-66.

According to Trustee's disbursement ledger and declaration, Trustee has paid a sum of \$31,194.11 towards the pre-petition mortgage arrears of Creditor. Decl. of Trustee, Doc. #64; See Ex. B, Doc. #65. The sum of \$31,194.11 is consistent with the prepetition mortgage arrears alleged in Creditor's proof of claim. Claim 7. Therefore, the record shows that the debtor has cured the default on the loan with Creditor and is current on mortgage payments to Creditor from the months of May 2018 to April 2023.

Accordingly, this motion is GRANTED.

13. [20-12257](#)-A-13 **IN RE: JESUS/ESTEFANIA FLORES**
[FW-3](#)

MOTION TO WAIVE SECTION 1328 CERTIFICATE REQUIREMENT, AS TO DEBTOR
8-2-2023 [\[44\]](#)

ESTEFANIA FLORES/MV
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 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.

Estefania Avellaneda Flores ("Movant"), the surviving spouse of Jesus Villegas Flores ("Debtor") and joint debtor in this chapter 13 case, requests the court waive the § 1328 certification requirements as to Debtor. Doc. #44.

With respect to a waiver of Debtor's certification requirements for entry of discharge under 11 U.S.C. § 1328, Movant states that Debtor has no child or spousal support obligations, Debtor has not received a discharge in a chapter 7, 11, or 12 case filed within four years prior to filing this case, Debtor has not received a chapter 13 discharge filed within two years prior to filing this case, and Debtor did not owe any of the debts of the types described in 11 U.S.C. § 522(q). Decl. of Estefania Avellaneda Flores, Doc. #46. Debtor also met the post-petition financial education requirements before Debtor died. Flores Decl., Doc. #46; see Ex. C, Doc. #47.

Accordingly, Movant's motion to waive § 1328 certification requirements as to Debtor is GRANTED.

14. [23-11357](#)-A-13 **IN RE: MARGARET WILSON**
[WEW-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY JOHN L. GRUE
8-15-2023 [\[16\]](#)

JOHN GRUE/MV
HENRY NUNEZ/ATTY. FOR DBT.
WILLIAM WINFIELD/ATTY. FOR MV.

NO RULING.

15. [23-10978](#)-A-13 **IN RE: ARTHUR MARTINEZ**
[MHM-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY TRUSTEE MICHAEL H. MEYER
7-25-2023 [\[18\]](#)

TIMOTHY SPRINGER/ATTY. FOR DBT.
RESPONSIVE PLEADING

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Sustained.

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

This objection was filed and served pursuant to Local Rule of Practice ("LBR") 3015-1(c)(4) and will proceed as scheduled. While not required, the debtor filed a written non-opposition to the objection to confirmation of plan. Doc. ##22, 23. The court intends to sustain the objection. At the hearing, the court will consider any additional opposition and whether further hearing is proper pursuant to LBR 9014-1(f)(2). The court will issue an order if a further hearing is necessary.

The debtor filed his chapter 13 plan ("Plan") on May 6, 2023. Doc. #3. Michael H. Meyer, the chapter 13 trustee ("Trustee"), objects to confirmation of the Plan on the grounds that the Plan does not provide for: (1) submission of all or such portions of future earnings or other future income to the supervision and control of Trustee as is necessary for execution of the Plan pursuant to 11 U.S.C. §1322(a)(1); and (2) all of the debtor's projected disposable income to be applied to unsecured creditors pursuant to 11 U.S.C. § 1325(b). Tr.'s Obj., Doc. #18.

Based on the debtor's non-opposition to the court sustaining Trustee's objection to the Plan and the merits of Trustee's objections, the court is inclined to sustain Trustee's objection under §§ 1322(a)(1) and 1325(b).

16. [20-10488](#)-A-13 **IN RE: EDWIN/MARIZEN PROTACIO**
[FW-3](#)

MOTION TO MODIFY PLAN
7-14-2023 [\[55\]](#)

MARIZEN PROTACIO/MV
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 35 days' notice as required by 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 movants have done here.

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

17. [23-11393](#)-A-13 **IN RE: DAVID GONZALEZ**
[MHM-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY MICHAEL H. MEYER
8-14-2023 [\[16\]](#)

MICHAEL MEYER/MV
T. O'TOOLE/ATTY. FOR DBT.

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Sustained.

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

This objection was filed and served pursuant to Local Rule of Practice ("LBR") 3015-1(c)(4) and will proceed as scheduled. While not required, the debtor filed a written non-opposition to the objection to confirmation of plan. Doc. ##20, 21. The court intends to sustain the objection. At the hearing, the court will consider any additional opposition and whether further hearing is

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

The debtor filed his chapter 13 plan ("Plan") on June 29, 2023. Doc. #3. Michael H. Meyer, the chapter 13 trustee ("Trustee"), objects to confirmation of the Plan on the grounds that the Plan does not provide for all of the debtor's projected disposable income to be applied to unsecured creditors pursuant to 11 U.S.C. § 1325(b). Tr.'s Obj., Doc. #16.

Based on the debtor's non-opposition to the court sustaining Trustee's objection to the Plan and the merits of Trustee's objection, the court is inclined to sustain Trustee's objection under § 1325(b).

18. [23-11094](#)-A-13 **IN RE: RICHARD GOMEZ**
[MHM-4](#)

CONTINUED MOTION TO DISMISS CASE
7-19-2023 [\[36\]](#)

SUSAN SILVEIRA/ATTY. FOR DBT.

NO RULING.

19. [23-11198](#)-A-13 **IN RE: JOHN/NANCY ALVA**
[MHM-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY TRUSTEE MICHAEL H. MEYER
7-25-2023 [\[18\]](#)

TIMOTHY SPRINGER/ATTY. FOR DBT.
RESPONSIVE PLEADING

NO RULING.

11:00 AM

1. [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
RILEY WALTER/ATTY. FOR PL.
RESPONSIVE PLEADING

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Continue to September 28, 2023 at 11:00 a.m.

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

Based on the joint status report filed by the parties on August 21, 2023
(Doc. #132), the court intends to continue this status conference to
September 28, 2023 at 11:00 a.m. The court will require the parties to file a
further joint status report on or before September 21, 2023.