

UNITED STATES BANKRUPTCY COURT
Eastern District of California
Honorable René Lastreto II
Hearing Date: Thursday, September 12, 2019
Place: Department B - Courtroom #13
Fresno, 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. 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. [16-13849](#)-B-12 **IN RE: DON FALLERT**
[DMG-10](#)

MOTION TO APPROVE LEASE AND/OR MOTION TO SELL
8-15-2019 [\[211\]](#)

DON FALLERT/MV
D. GARDNER
RESPONSIVE PLEADING

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Granted.

ORDER: The minutes of the hearing will be the court's findings and conclusions. The Moving Party will submit a proposed order after hearing.

This motion was filed and served pursuant to Local Rule of Practice ("LBR") 9014-1(f)(1) and will proceed as scheduled.

This motion is GRANTED. Chapter 12 debtor Don Fallert ("Debtor") asks the court for authorization to enter into an Agricultural Lease and Option with prospective tenant Bill Morgan ("Tenant"), to execute such other documents necessary to complete the transaction, and that allowed claims be paid consistent with the provisions contained in the motion. Doc. #211.

Debtor has been in bankruptcy just over two years, and believes that this lease with option to purchase would resolve all the claims of this chapter 12 case. Id. Debtor proposes to lease the subject property, two separate parcels of approximately 79 acres and five acres of orchards, to Tenant. Tenant has agreed to pay into an escrow an estimated sum of \$1.1 million, which has been calculated as the necessary sum to satisfy all filed and allowed claims together with administrative fees and expenses. Id.

Both Bank of the Sierra ("BOTS") and the chapter 12 trustee ("Trustee") filed timely limited oppositions. BOTS opposes to the extent that the proposed lease does not include additional proposed language intended to protect BOTS's collateral. Doc. #216. Trustee has also proposed additional language to be included. Doc. #218.

Debtor filed a reply on September 5, 2019 (doc. #227) agreeing to Trustee's and BOTS' proposed additional provisions.

2. [18-13677](#)-B-9 **IN RE: COALINGA REGIONAL MEDICAL CENTER, A
CALIFORNIA LOCAL HEALTH CARE DISTRICT**
[WJH-1](#)

DISCLOSURE STATEMENT FILED BY DEBTOR COALINGA REGIONAL
MEDICAL CENTER
7-31-2019 [\[328\]](#)

RILEY WALTER
CONTINUED TO 9/26/19 PER EDC ORDER #358

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

DISPOSITION: Continued to September 26, 2019 at 9:30 a.m.

NO ORDER REQUIRED: The court already issued an order. Doc. #358.

3. [18-13677](#)-B-9 **IN RE: COALINGA REGIONAL MEDICAL CENTER, A
CALIFORNIA LOCAL HEALTH CARE DISTRICT**
[WJH-7](#)

MOTION TO REJECT LEASE OR EXECUTORY CONTRACT
8-29-2019 [\[361\]](#)

COALINGA REGIONAL MEDICAL CENTER, A CALIFORNIA LOCAL
RILEY WALTER

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Granted.

ORDER: The minutes of the hearing will be the court's
findings and conclusions. The Moving Party
will submit a proposed order after hearing.

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

Debtor Coalinga Regional Medical Center ("Debtor") asks the court for authorization to reject ten executory contracts or unexpired leases. Doc. #361.

11 U.S.C. § 365(a) states that "subject to the court's approval, [the debtor in possession] may . . . reject any executory contract or unexpired lease of the debtor."

In evaluating a decision to reject an executory contract or unexpired lease in the Ninth Circuit, "the bankruptcy court should presume that the debtor-in-possession acted prudently, on an informed basis, in good faith, and in the honest belief that the action taken was in the best interests of the bankruptcy estate." Agarwal v. Pomona Valley Med. Group, Inc. (In re Pomona Valley Med. Group, Inc.), 476 F.3d 665, 670 (9th Cir. 2007) (citations omitted).

The debtor-in-possession is authorized to reject the 10 executory contracts or unexpired leases listed in exhibit A (doc. #364).

Any claim based on this motion shall be filed on or before December 12, 2019 provided notice of the order rejecting this contract is served on the other parties to these contracts or leases on or before September 19, 2019.

4. [18-13677](#)-B-9 **IN RE: COALINGA REGIONAL MEDICAL CENTER, A CALIFORNIA LOCAL HEALTH CARE DISTRICT**
[WJH-8](#)

MOTION TO REJECT LEASE OR EXECUTORY CONTRACT
8-29-2019 [\[366\]](#)

COALINGA REGIONAL MEDICAL CENTER, A CALIFORNIA LOCAL
RILEY WALTER

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Granted.

ORDER: The minutes of the hearing will be the court's findings and conclusions. The Moving Party will submit a proposed order after hearing.

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

Debtor Coalinga Regional Medical Center ("Debtor") asks the court for authorization to reject 14 executory contracts. Doc. #366.

11 U.S.C. § 365(a) states that "subject to the court's approval, [the debtor in possession] may . . . reject any executory contract . . . of the debtor."

In evaluating a decision to reject an executory contract or unexpired lease in the Ninth Circuit, "the bankruptcy court should presume that the debtor-in-possession acted prudently, on an informed basis, in good faith, and in the honest belief that the action taken was in the best interests of the bankruptcy estate."

Agarwal v. Pomona Valley Med. Group, Inc. (In re Pomona Valley Med. Group, Inc.), 476 F.3d 665, 670 (9th Cir. 2007) (citations omitted).

The debtor-in-possession is authorized to reject the 14 executory contracts or unexpired leases listed in exhibit A (doc. #369).

Any claim based on this motion shall be filed on or before December 12, 2019 provided notice of the order rejecting this contract is served on the other parties to these contracts or leases on or before September 19, 2019.

5. [18-13678](#)-B-11 **IN RE: VERSA MARKETING, INC.**

CONTINUED STATUS CONFERENCE RE: CHAPTER 11 VOLUNTARY PETITION
9-7-2018 [\[1\]](#)

RILEY WALTER

NO RULING.

6. [17-13797](#)-B-9 **IN RE: TULARE LOCAL HEALTHCARE DISTRICT
[WJH-7](#)**

OBJECTION TO CLAIM OF CALIFORNIA DEPT. OF TAX AND FEE
ADMINISTRATION, CLAIM NUMBER 102
7-19-2019 [\[1565\]](#)

TULARE LOCAL HEALTHCARE
DISTRICT/MV
RILEY WALTER

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

DISPOSITION: Sustained.

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

This objection was set for hearing on 44 days' notice as required by Local Rule of Practice ("LBR") 3007-1(b)(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 objection is SUSTAINED.

11 U.S.C. § 502(a) states that a claim or interest, evidenced by a proof filed under section 501, is deemed allowed, unless a party in interest objects.

Federal Rule of Bankruptcy Procedure 3001(f) states 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. If a party objects to a proof of claim, the burden of proof is on the objecting party. Lundell v. Anchor Constr. Specialists, Inc., 223 F.3d 1035, 1039 (9th Cir. BAP 2000).

Debtor objects to claim #102, filed by the California Department of Tax and Fee Administration ("Claimant"), and asks the court to disallow the claim as to its priority status. The claim alleges it has priority status pursuant to 11 U.S.C. § 507(a)(8). However, that section is not incorporated into chapter 9. See 11 U.S.C. § 901(a). The District did not object to the allowance of the amount of the claim as an unsecured claim.

Claimant did not oppose, nor did any other party. Therefore, the court finds that Debtor has met their burden and the objection is SUSTAINED. The claim will be disallowed as a priority claim and allowed as a general unsecured claim.

1:30 PM

1. [19-12900](#)-B-13 **IN RE: REBECCA FREITAS**
[MHM-2](#)

MOTION TO DISMISS CASE
8-8-2019 [\[27\]](#)

MICHAEL MEYER/MV
STEPHEN LABIAK
RESPONSIVE PLEADING

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

DISPOSITION: Dropped from calendar.

NO ORDER REQUIRED: Movant withdrew the motion. Doc. #49.

2. [19-12610](#)-B-13 **IN RE: DANIEL/KARLA ZAMORA**
[MHM-1](#)

MOTION TO DISMISS CASE
8-8-2019 [\[19\]](#)

MICHAEL MEYER/MV
SCOTT LYONS

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

DISPOSITION: Dropped from calendar.

NO ORDER REQUIRED: Movant withdrew the motion. Doc. #28.

3. [18-14811](#)-B-13 **IN RE: ALICE RUBIO**
[FW-1](#)

MOTION FOR COMPENSATION BY THE LAW OFFICE OF FEAR WADDELL,
P.C. FOR GABRIEL J. WADDELL, DEBTORS ATTORNEY(S)
8-12-2019 [\[28\]](#)

GABRIEL WADDELL

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

DISPOSITION: Granted.

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

This motion was set for hearing on 28 days' notice as required by
Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of the
creditors, the debtor, the U.S. Trustee, or any other party in

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

This motion is GRANTED. Movant is awarded \$2,178.50 in fees and \$381.87 in costs.

4. [19-11113](#)-B-13 **IN RE: FRANCISCO ESPINO AND MARIA DIAZ**
[MHM-1](#)

CONTINUED MOTION TO DISMISS CASE
6-24-2019 [\[31\]](#)

MICHAEL MEYER/MV
THOMAS GILLIS
RESPONSIVE PLEADING

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

DISPOSITION: Dropped from calendar.

NO ORDER REQUIRED: Movant withdrew the motion. Doc. #75.

5. [19-11113](#)-B-13 **IN RE: FRANCISCO ESPINO AND MARIA DIAZ**
[TOG-3](#)

MOTION TO CONFIRM PLAN
7-25-2019 [\[61\]](#)

FRANCISCO ESPINO/MV
THOMAS GILLIS
RESPONSIVE PLEADING

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Granted.

ORDER: The minutes of the hearing will be the court's findings and conclusions. The Moving Party will submit a proposed order after hearing.

This motion was filed and served pursuant to Local Rule of Practice ("LBR") 3015-1(d)(1) and will proceed as scheduled.

One creditor, Bank of America, N.A., ("BANA") secured by the debtors' residence, timely opposed this motion. Doc. #73. BANA objects to confirmation because the plan does not allegedly comply with 11 U.S.C. §§ 1322(b)(2), (b)(5), and 1325 because the plan does not provide for BANA's lien. Id.

First, a secured creditor's claim need not be "provided for" by the Plan. If a claim is provided for by the Plan §1325(a)(5) governs its treatment. But, there is nothing in §§ 1322 or 1325 requiring that a secured creditor's claim be "provided for" in the Plan.

Second, section 3.11(b) of the Plan states that a secured creditor whose claim is not provided for may seek stay relief. See doc. #63.

Third, Section 3.01 of the Plan provides that it is the proof of claim, not the plan itself, that determines the amount to be repaid under the plan. Id. BANA has filed two proofs of claim, only one of which is secured, and the debtor will need to object to the secured claim otherwise the claims will be paid according to the claims as filed.

This matter will be called to allow debtor to respond to BANA's opposition.

If the 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. [18-14325](#)-B-13 **IN RE: TIMOTHY BURNETT**
[MJA-1](#)

MOTION FOR COMPENSATION BY THE LAW OFFICE OF ARNOLD LAW GROUP,
APC FOR MICHAEL ARNOLD, DEBTORS ATTORNEY(S)
7-30-2019 [\[54\]](#)

MICHAEL ARNOLD

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

DISPOSITION: Granted.

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

This motion was set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of the creditors, the debtor, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned

parties in interest are entered and the matter will be resolved without oral argument. Upon default, factual allegations will be taken as true (except those relating to amount of damages). Televideo Systems, Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires that a plaintiff make a prima facie showing that they are entitled to the relief sought, which the movant has done here.

This motion is GRANTED. Movant is awarded \$8,181.50 in fees and \$318.50 in costs. Movant is authorized to withdraw \$1,500.00 held in its trust account and the chapter 13 trustee is authorized to pay \$7,000.00 to movant as an administrative expense through the chapter 13 plan.

7. [19-10227](#)-B-13 **IN RE: MA GUADALUPE SERRANO**
[TOG-2](#)

MOTION TO CONFIRM PLAN
8-8-2019 [\[77\]](#)

MA GUADALUPE SERRANO/MV
THOMAS GILLIS
RESPONSIVE PLEADING

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Granted.

ORDER: Preparation of the order will be determined at the hearing.

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). Therefore, the defaults of the above-mentioned parties in interest, except for the chapter 13 trustee, are entered.

This motion is GRANTED. The chapter 13 trustee ("Trustee") timely opposed this motion. Doc. #84. Trustee proposed additional language in the order confirming plan that would resolve the issues outlined in Trustee's opposition. That language is 1.) Debtor's applicable commitment period is 5 years, and 2.) The plan payment is \$2,009.99 per month effective month eight.

This matter will be called to allow debtor to respond to Trustee's proposal. If the 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. If the motion is not granted, the court may continue the hearing or deny the motion.

8. [19-12128](#)-B-13 **IN RE: JULIAN/GLORIA TORRES**
[NSV-1](#)

MOTION TO CONFIRM PLAN
7-9-2019 [\[36\]](#)

JULIAN TORRES/MV
NIMA VOKSHORI

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.

9. [19-12633](#)-B-13 **IN RE: PRISCILLA VELOZ**
[MHM-2](#)

MOTION TO DISMISS CASE
8-8-2019 [\[27\]](#)

MICHAEL MEYER/MV
YELENA GUREVICH
RESPONSIVE PLEADING

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

DISPOSITION: Dropped from calendar.

NO ORDER REQUIRED: Movant withdrew the motion. Doc. #40.

10. [19-12633](#)-B-13 **IN RE: PRISCILLA VELOZ**
[YG-1](#)

CONTINUED STATUS CONFERENCE RE: MOTION TO EXTEND AUTOMATIC
STAY
6-25-2019 [\[9\]](#)

PRISCILLA VELOZ/MV
YELENA GUREVICH

NO RULING.

11. [18-14334](#)-B-13 **IN RE: SHANNON TAYLOR**
[SL-2](#)

MOTION TO MODIFY PLAN
7-25-2019 [\[35\]](#)

SHANNON TAYLOR/MV
STEPHEN LABIAK

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.

12. [19-13650](#)-B-13 **IN RE: ANTHONY ESTACIO**
[RWR-1](#)

MOTION TO CONFIRM TERMINATION OR ABSENCE OF STAY
8-28-2019 [\[9\]](#)

RICHARD BLOOM/MV
RUSSELL REYNOLDS/ATTY. FOR MV.

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Granted as set forth below.

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

Movant, a beneficiary of a deed of trust encumbering property owned by the debtor, asks the court for an order under 11 U.S.C. § 362(c)(4)(A)(ii) confirming that no stay is in effect.

This is debtor's third bankruptcy case filed within one year. See case nos. 19-12489, 19-13117. Under § 362(c)(4)(A)(i), the stay does not go into effect upon the filing of the later case. So, no stay arose on the filing of this bankruptcy case. Under § 362(c)(4)(A)(ii), the court will issue an order confirming no stay is in effect in this case at this time.

However, § 362(c)(4)(B) states that the debtor may file a motion to impose the stay within 30 days of the filing of the later case. That 30-day deadline expires on September 25, 2019, which is more than two weeks away from this hearing date.

13. [19-12554](#)-B-13 **IN RE: RAFAELA GARZA THOMAS**
[SL-1](#)

MOTION TO VALUE COLLATERAL OF BANK OF THE WEST
8-16-2019 [\[35\]](#)

RAFAELA GARZA THOMAS/MV
SCOTT LYONS

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

DISPOSITION: Denied without prejudice.

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

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

LBR 9004-2(a)(6), (b)(5), (b)(6), (e) and LBR 9014-1(c), (e)(3) are the rules about Docket Control Numbers ("DCN"). These rules require

the DCN to be in the caption page on all documents filed in every matter with the court and each new motion requires a new DCN.

A Motion to confirm plan was previously filed on July 20, 2019. Doc. #23. That motion is set for hearing on this same calendar, matter #14 below. The DCN for that motion is SL-1. This motion also has a DCN of SL-1 and therefore does not comply with the local rules. Each separate matter filed with the court must have a different DCN.

14. [19-12554](#)-B-13 **IN RE: RAFAELA GARZA THOMAS**
[SL-1](#)

MOTION TO CONFIRM PLAN
7-30-2019 [\[23\]](#)

RAFAELA GARZA THOMAS/MV
SCOTT LYONS
RESPONSIVE PLEADING

TENTATIVE RULING: The matter will proceed as scheduled

DISPOSITION: Granted or continued at the Trustee's option.

ORDER: Order preparation determined at the hearing.

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). Therefore, the defaults of the above-mentioned parties in interest except the Chapter 13 Trustee are entered. 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).

This motion is tentatively GRANTED. The Chapter 13 Trustee withdrew his opposition on September 6, 2019. Doc. #42. If the 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.

The matter will be called because the Trustee withdrew opposition to the Plan. The opposition was solely based on the failure of the debtor to successfully litigate a motion to value on a 2015 Kia Sportage. See doc. #32. Though the valuation motion was filed (see item 13 above, SL-1) the court denied the valuation motion on procedural grounds. The Trustee could not have known that when the withdrawal was filed. The court will inquire whether the Trustee wants to stand on the withdrawal or continue the hearing on the Trustee's opposition.

15. [19-11357](#)-B-13 **IN RE: ROBERTO/VERONICA AYALA**
[MHM-3](#)

CONTINUED MOTION TO DISMISS CASE
7-16-2019 [\[56\]](#)

MICHAEL MEYER/MV
THOMAS GILLIS
RESPONSIVE PLEADING

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

DISPOSITION: Continued to October 17, 2019 at 1:30 p.m.

ORDER: The court will issue an order.

Debtor's motion to confirm plan is continued to October 17, 2019.
This motion is continued to that date to be heard in conjunction
with the continued motion to confirm plan.

16. [19-11357](#)-B-13 **IN RE: ROBERTO/VERONICA AYALA**
[TOG-3](#)

MOTION TO CONFIRM PLAN
7-29-2019 [\[60\]](#)

ROBERTO AYALA/MV
THOMAS GILLIS
RESPONSIVE PLEADING

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

DISPOSITION: Continued to October 17, 2019 at 1:30 p.m.

ORDER: The court will issue an order.

The trustee has filed a detailed 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 the trustee's
opposition to confirmation is withdrawn, the debtor shall file and
serve a written response not later than October 3, 2019. 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. The trustee shall file and serve a reply, if any, by
October 10, 2019.

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 October 10,
2019. If the debtor does not timely file a modified plan or a
written response, this motion will be denied on the grounds stated

17. [19-12667](#)-B-13 **IN RE: TERIKA HENDRIX**
[MHM-1](#)

MOTION TO DISMISS CASE
8-8-2019 [\[23\]](#)

MICHAEL MEYER/MV

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 matter 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 record shows that there has been unreasonable delay by the debtor that is prejudicial to creditors (11 U.S.C. § 1307(c)(1)). The debtor failed to provide the trustee with all of the required documentation, failed to file tax returns for the year 2018 (11 U.S.C. § 1307(e)), failed to set a plan for hearing and notice all creditors, and failed to file complete and accurate Schedule A/B and Plan (11 U.S.C. § 521 and/or F.R.B.P. 1007). Accordingly, the case will be dismissed.

18. [19-11472](#)-B-13 **IN RE: IGNACIO DALUDDUNG**
[AF-2](#)

MOTION TO CONFIRM PLAN
7-20-2019 [\[56\]](#)

IGNACIO DALUDDUNG/MV
ARASTO FARSAD
RESPONSIVE PLEADING

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

DISPOSITION: Dropped from calendar.

NO ORDER REQUIRED: Movant withdrew the motion. Doc. #71.

19. [19-12072](#)-B-13 **IN RE: ARACELI PADILLA**
[MHM-1](#)

CONTINUED MOTION TO DISMISS CASE
7-30-2019 [\[32\]](#)

MICHAEL MEYER/MV
SCOTT LYONS

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

DISPOSITION: Dropped from calendar.

NO ORDER REQUIRED: Movant withdrew the motion. Doc. #49.

20. [19-12887](#)-B-13 **IN RE: MOISES/JACQUELINE ARCE**
[MHM-2](#)

MOTION TO DISMISS CASE
8-8-2019 [\[22\]](#)

MICHAEL MEYER/MV
MARK ZIMMERMAN
RESPONSIVE PLEADING

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

DISPOSITION: Dropped from calendar.

NO ORDER REQUIRED: Movant withdrew the motion. Doc. #35.

21. [19-12288](#)-B-13 **IN RE: EDWARD/NIKKI TREADWAY**
[SAH-3](#)

MOTION TO CONFIRM PLAN
8-8-2019 [\[46\]](#)

EDWARD TREADWAY/MV
SUSAN HEMB
WITHDRAWN

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

DISPOSITION: Dropped from calendar.

NO ORDER REQUIRED: Movant withdrew the motion. Doc. #53.

22. [19-12388](#)-B-13 **IN RE: CHRISTOPHER/LAURIE MILAUCKAS**
[DRJ-2](#)

CONTINUED MOTION TO VALUE COLLATERAL OF WEST COAST CAPITAL
GROUP, INC. AND/OR MOTION TO VALUE COLLATERAL OF JOHN COONIS
7-18-2019 [\[25\]](#)

CHRISTOPHER MILAUCKAS/MV
DAVID JENKINS
RESPONSIVE PLEADING

NO RULING.

23. [19-12190](#)-B-13 **IN RE: CHRISTOPHER/ROBYN NELSON**
[MHM-1](#)

CONTINUED OBJECTION TO CONFIRMATION OF PLAN BY TRUSTEE MICHEAL
H. MEYER
6-26-2019 [\[18\]](#)

DAVID JENKINS
RESPONSIVE PLEADING

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

DISPOSITION: Dropped from calendar.

NO ORDER REQUIRED: Movant withdrew the objection. Doc. #41.