

UNITED STATES BANKRUPTCY COURT
Eastern District of California
Honorable René Lastreto
Hearing Date: Thursday, September 15, 2016
Place: Department B – Courtroom #13
Fresno, California

INSTRUCTIONS FOR PRE-HEARING DISPOSITIONS

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

2. Submission of Orders:

Unless the tentative ruling expressly states that the court will prepare a civil minute order, then the tentative ruling will only appear in the minutes. If any party desires an order, then the appropriate form of order, which conforms to the tentative ruling, must be submitted to the court. When the debtor(s) discharge has been entered, proposed orders for relief from stay must reflect that the motion is denied as to the debtor(s) and granted only as to the trustee. Entry of discharge normally is indicated on the calendar.

3. Matters Resolved Without Opposition:

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

4. Matters Resolved by Stipulation:

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

5. Resubmittal of Denied Matters:

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

THE COURT ENDEAVORS TO PUBLISH ITS PREDISPOSITIONS AS SOON AS POSSIBLE, HOWEVER CALENDAR PREPARATION IS ONGOING AND THESE PREDISPOSITIONS MAY BE REVISED OR UPDATED AT ANY TIME PRIOR TO 4:00 P.M. THE DAY BEFORE THE SCHEDULED HEARINGS. PLEASE CHECK AT THAT TIME FOR POSSIBLE UPDATES.

9:30 A.M.

1. [15-14017](#)-B-11 CLUB ONE CASINO, INC. CONTINUED STATUS CONFERENCE RE:
[15-1146](#) COMPLAINT
 KMG1, INC. ET AL V. LONG ET AL 12-1-15 [[1](#)]
 ORI KATZ/Atty. for pl.

This matter will be dropped from calendar. The adversary proceeding has already been dismissed.

2. [15-14017](#)-B-11 CLUB ONE CASINO, INC. CONTINUED STATUS CONFERENCE RE:
CHAPTER 11 VOLUNTARY PETITION
10-14-15 [[1](#)]
HAGOP BEDOYAN/Atty. for dbt.

This matter will proceed as scheduled.

3. [15-14017](#)-B-11 CLUB ONE CASINO, INC.
BBR-6
- HAGOP BEDOYAN/Atty. for dbt.
HEARING VACATED PER ORDER
#685
- CONTINUED MOTION FOR
COMPENSATION BY THE LAW OFFICE
OF BELDEN BLAINE RAYTIS, LLP
FOR T. TODD ENGLAND, DEBTORS
ATTORNEY(S)
4-19-16 [[572](#)]

This hearing has been vacated by court order dated September 2, 2016. No appearance is necessary.

4. [15-14017](#)-B-11 CLUB ONE CASINO, INC.
WW-2
ELAINE LONG/MV

HAGOP BEDOYAN/Atty. for dbt.
HOLLY ESTES/Atty. for mv.
WITHDRAWN
- CONTINUED MOTION FOR ABSTENTION
AND/OR MOTION TO DISMISS CASE,
MOTION TO APPOINT TRUSTEE
11-21-15 [[178](#)]

This matter has been withdrawn. No appearance is necessary.

- This matter has been withdrawn. No appearance is necessary.

- This matter will proceed as scheduled.**

- This matter has been withdrawn. No appearance is necessary.

- This matter has been withdrawn. No appearance is necessary.

1:30 P.M.

1. [11-17001](#)-B-13 CATHY WILCOX
MHM-3
MICHAEL MEYER/MV
GLEN GATES/Atty. for dbt.

OBJECTION TO CLAIM OF U.S. BANK
N.A., CLAIM NUMBER 7
7-29-16 [[88](#)]

The objection will be sustained without oral argument based on well-pled facts. The objecting party shall submit a proposed order. No appearance is necessary.

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 claim will be disallowed in full/in part on the grounds stated in the objection. Based on the court's review of the record and the evidence submitted in support of the objection, the returned payments and the letters received by U.S. Bank, the amount of the claim is \$9,727.73.

2. [16-10302](#)-B-13 JASON/ASHLEY WILLIAMS
MHM-2
MICHAEL MEYER/MV
RANDY RISNER/Atty. for dbt.
CASE DISMISSED

CONTINUED MOTION TO DISMISS
CASE
6-20-16 [[44](#)]

This matter will be dropped from calendar. The case has already been dismissed. No appearance is necessary.

3. [16-10302](#)-B-13 JASON/ASHLEY WILLIAMS
RR-2
JASON WILLIAMS/MV
RANDY RISNER/Atty. for dbt.
CASE DISMISSED

CONTINUED MOTION TO CONFIRM
PLAN
5-26-16 [[35](#)]

This matter will be dropped from calendar. The case has already been dismissed. No appearance is necessary.

4. [15-14606](#)-B-13 ALEX/PRISCILLA PANG CONTINUED MOTION TO MODIFY PLAN
JRL-1 6-22-16 [[30](#)]
ALEX PANG/MV
JERRY LOWE/Atty. for dbt.
RESPONSIVE PLEADING

This objection to confirmation of the chapter 13 plan will be overruled without prejudice. No appearance is necessary.

The debtors have filed and set for hearing a modified plan. The plan that this objection relates to is deemed withdrawn.

5. [15-14606](#)-B-13 ALEX/PRISCILLA PANG CONTINUED MOTION TO DISMISS
MHM-1 CASE
MICHAEL MEYER/MV 5-11-16 [[20](#)]
JERRY LOWE/Atty. for dbt.
RESPONSIVE PLEADING

Unless it is withdrawn prior to the continued hearing, the trustee's motion will be continued to October 13, 2016, at 1:30 p.m., to be heard with the debtors' modified plan filed September 1, 2016. No appearance is necessary.

6. [16-11507](#)-B-13 JESUS SOTO CONTINUED MOTION TO DISMISS
MHM-1 CASE
MICHAEL MEYER/MV 6-20-16 [[13](#)]
DAVID JENKINS/Atty. for dbt.

Unless the motion is withdrawn, or the trustee filed a declaration stating that the debtor is not current on plan payments, this matter will proceed as scheduled. If such a declaration is filed then the case will be dismissed pursuant to the prior civil minute order and no appearance will be necessary.

7. [16-12308](#)-B-13 YELIZAVETA BENZA MOTION TO DISMISS CASE
MHM-1 8-12-16 [[19](#)]
MICHAEL MEYER/MV

This matter will be dropped from calendar. The case has already been dismissed. No appearance is necessary.

8. [16-10309](#)-B-13 MILO/LEANN HODGES
SL-1
MILO HODGES/MV
SCOTT LYONS/Atty. for dbt.

MOTION TO CONFIRM PLAN
7-28-16 [[39](#)]

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

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

9. [16-12309](#)-B-13 ELVIRA SABANGAN
FW-1
ELVIRA SABANGAN/MV
GABRIEL WADDELL/Atty. for dbt.

MOTION TO VALUE COLLATERAL OF
ONEMAIN FINANCIAL
8-17-16 [[25](#)]

The motion will be granted without oral argument based on well-pled facts. The moving party shall submit a proposed order consistent with this ruling. No appearance is necessary.

This motion to value respondent's collateral was fully noticed in compliance with the Local Rules of Practice and there is no opposition. Accordingly, the respondent's default will be entered. Federal Rule of Civil Procedure 55, made applicable by Federal Rule of Bankruptcy Procedure 7055, governs default matters and is applicable to contested matters under Federal Rule of Bankruptcy Procedure 9014(c). Upon default, factual allegations will be taken as true (except those relating to amount of damages). *Televideo Systems, Inc. v. Heidenthal* (826 F.2d 915, 917 (9th Cir., 1987)). Constitutional due process requires that a plaintiff make a prima facie showing that they are entitled to the relief sought, which the movant has done here.

The debtor is competent to testify as to the value of the 1999 Toyota 4Runner. Based on the evidence presented, the respondent's secured claim will be fixed at \$2,406. The proposed order shall specifically identify the collateral, and if applicable, the proof of claim to which it relates. The order will be effective upon confirmation of the chapter 13 plan.

10. [16-12309](#)-B-13 ELVIRA SABANGAN
MHM-1
MICHAEL MEYER/MV
GABRIEL WADDELL/Atty. for dbt.
RESPONSIVE PLEADING

MOTION TO DISMISS CASE
8-12-16 [[18](#)]

The trustee's motion has been withdrawn. No appearance is necessary.

11. [16-12610](#)-B-13 DAVID DOMINGO

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
8-23-16 [[15](#)]

MARK ZIMMERMAN/Atty. for dbt.

This matter will be called as scheduled. If the installment payment now due has not been paid by the time of the hearing, the case will be dismissed. If the installment payment now due is fully paid by the time of the hearing, the OSC will be vacated.

If any of the remaining installments are not paid when they come due then the case may be dismissed without further notice.

12. [16-10315](#)-B-13 LISA BANDY

MOTION TO MODIFY PLAN
8-1-16 [[22](#)]

VRP-1

LISA BANDY/MV

VARDUHI PETROSYAN/Atty. for dbt.

RESPONSIVE PLEADING

This matter will proceed as scheduled unless the trustee withdraws his objection or the debtor files a consent to the trustee's suggested change to the plan prior to the hearing. If the objection is withdrawn, or the debtor consents to the change to the plan, then no appearance will be necessary and the motion will be granted without oral argument based on well-pled facts, the Movant to submit a proposed order as specified below.

This motion to confirm or modify a chapter 13 plan was fully noticed in compliance with the Local Rules of Practice; the trustee's opposition has been resolved and the other respondents' defaults will be entered. The confirmation order shall include the docket control number of the motion and it shall reference the plan by the date it was filed.

13. [16-12421](#)-B-13 INEZ SEARS

MOTION TO DISMISS CASE
8-15-16 [[18](#)]

MHM-1

MICHAEL MEYER/MV

TIMOTHY SPRINGER/Atty. for dbt.

RESPONSIVE PLEADING

The trustee's motion has been withdrawn. No appearance is necessary.

14. [16-12324](#)-B-13 RAUL/LUCINA GONZALEZ MOTION TO DISMISS CASE
MHM-1 8-12-16 [[19](#)]
MICHAEL MEYER/MV
THOMAS GILLIS/Atty. for dbt.
RESPONSIVE PLEADING

Based on the trustee's reply to the debtor's opposition to the motion, this matter will proceed as scheduled.

15. [16-12425](#)-B-13 GENEVIEVE SANTOS MOTION TO DISMISS CASE
MHM-1 8-15-16 [[28](#)]
MICHAEL MEYER/MV
JANINE ESQUIVEL/Atty. for dbt.

The trustee's motion has been withdrawn. No appearance is necessary.

16. [13-16626](#)-B-13 KRIS HERSTEIN AND JASON BOYER MOTION TO MODIFY PLAN
JDW-2 8-1-16 [[28](#)]
KRIS HERSTEIN/MV

JOEL WINTER/Atty. for dbt.
RESPONSIVE PLEADING

This matter will proceed as scheduled. After hearing from the parties the court will determine if further hearing is necessary.

If a further hearing is scheduled, it will be set for October 13, 2016, at 1:30 p.m., and the following schedule will apply:

Unless the case is voluntarily converted to chapter 7 or dismissed or the trustee's opposition to confirmation has been withdrawn, the debtor shall file and serve a written response not later than September 29, 2016. 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 may file and serve a reply on October 6, 2016. 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 6, 2016. If the debtor does not timely file a modified plan or a written response, the motion to confirm the plan will be denied on the grounds stated in the opposition without a further hearing.

17. [16-12227](#)-B-13 RAMON MARTINEZ OBJECTION TO CONFIRMATION OF
EAT-1 PLAN BY CREDITOR WELLS FARGO
WELLS FARGO BANK, N.A./MV BANK, N.A.
8-8-16 [[22](#)]

SCOTT LYONS/Atty. for dbt.
DARLENE VIGIL/Atty. for mv.

This matter will be dropped from calendar. The court intends to dismiss this case on the trustee's fully noticed and unopposed motion below at calendar docket # 18 (MHM-1). No appearance is necessary.

18. [16-12227](#)-B-13 RAMON MARTINEZ MOTION TO DISMISS CASE
MHM-1 8-12-16 [[29](#)]
MICHAEL MEYER/MV
SCOTT LYONS/Atty. for dbt.

The trustee's motion has been withdrawn. No appearance is necessary.

19. [11-16631](#)-B-13 TONY/ELISA CARLOS
MHM-8
MICHAEL MEYER/MV
PETER FEAR/Atty. for dbt.
RESPONSIVE PLEADING

MOTION TO DISMISS CASE
8-16-16 [[148](#)]

The trustee's motion has been withdrawn. No appearance is necessary.

20. [16-12231](#)-B-13 AURORA TORRES
MHM-1
MICHAEL MEYER/MV
THOMAS GILLIS/Atty. for dbt.
RESPONSIVE PLEADING

MOTION TO DISMISS CASE
8-12-16 [[27](#)]

The trustee's motion has been withdrawn. No appearance is necessary.

21. [13-16433](#)-B-13 WALTER/VIRGINIA ELLIOTT
JDW-2
WALTER ELLIOTT/MV
JOEL WINTER/Atty. for dbt.
RESPONSIVE PLEADING

MOTION TO MODIFY PLAN
7-27-16 [[39](#)]

The hearing on this motion will be called as scheduled and will proceed as a scheduling conference.

This matter is now deemed to be a contested matter. Pursuant to Federal Rule of Bankruptcy Procedure 9014(c), the federal rules of discovery apply to contested matters. The parties shall immediately commence formal discovery, meet and confer, set deposition dates if necessary, and be prepared for the court to set an early evidentiary hearing.

22. [11-13738](#)-B-13 MARVIN BUCKLEY
MHM-1
MICHAEL MEYER/MV

OBJECTION TO CLAIM OF
CITIFINANCIAL SERVICES INC.,
CLAIM NUMBER 15
7-29-16 [[89](#)]

PHILLIP GILLET/Atty. for dbt.

The objection will be sustained without oral argument based on well-pled facts. The objecting party shall submit a proposed order. No appearance is necessary.

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 claim will be disallowed in full/in part on the grounds stated in the objection. Based on the court's review of the record and the evidence submitted in support of the objection, the amount of the claim is \$4,734.74.

23. [16-11038](#)-B-13 DANNY/TERI WATSON
MHM-1
MICHAEL MEYER/MV
PETER BUNTING/Atty. for dbt.
RESPONSIVE PLEADING

CONTINUED MOTION TO DISMISS
CASE
7-25-16 [[34](#)]

Unless the motion is withdrawn prior to the hearing, the trustee's motion to dismiss will be continued to October 13, 2016, at 1:30 p.m., to be heard with the debtors' continued objection at calendar #24 (PBB-2).

24. [16-11038](#)-B-13 DANNY/TERI WATSON
PBB-2
DANNY WATSON/MV
PETER BUNTING/Atty. for dbt.

OBJECTION TO CLAIM OF ALLY
FINANCIAL, CLAIM NUMBER 2
7-29-16 [[38](#)]

This objection will be continued to October 13, 2016, at 1:30 p.m., for submission of evidence of the value of the respondent's collateral, evidence to be submitted and served by September 29, 2016. The court will enter a civil minute order. No appearance is necessary.

The motion was filed without admissible supporting evidence as required by LBR 9014-1(d)(7). The debtor is competent to testify as to his or her opinion of the value of their property, however the debtors' declaration did not contain an opinion of that value but only a hearsay reference to the Kelley Blue Book.

25. [12-19942](#)-B-13 BRIAN YENNE
HDN-2
BRIAN YENNE/MV
HENRY NUNEZ/Atty. for dbt.
RESPONSIVE PLEADING

MOTION TO INCUR DEBT
8-17-16 [[64](#)]

The motion will be granted without oral argument based upon well-pled facts. The moving party shall submit a proposed order. No appearance is necessary.

This matter was noticed as a preliminary motion pursuant to LBR 9014-1(f)(2), however pursuant to LBR 3015-1(i)(1)(B), the debtor may request, by *ex parte* motion, authorization to incur debt if the trustee's written consent is filed with or as part of the motion. The trustee filed a written consent in this matter.

26. [16-12643](#)-B-13 LELA JOHNSON
MHM-1
MICHAEL MEYER/MV

MOTION TO DISMISS CASE
9-1-16 [[19](#)]

This matter will proceed as scheduled.

Unless opposition is presented at the hearing, the court intends to enter the respondent's default and dismiss the case on the trustee's motion.

27. [16-11347](#)-B-13 MIGUEL AGUIRRE

THOMAS GILLIS/Atty. for dbt.
INSTALLMENT PAID 8/31/16

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
8-23-16 [[33](#)]

The OSC will be vacated. The record shows that the required fee has been paid in full. No appearance is necessary.

28. [16-11647](#)-B-13 AMBARTSUM RAFAYELIAN
MHM-1
MICHAEL MEYER/MV
GLEN GATES/Atty. for dbt.
MICHAEL MEYER/Atty. for mv.
RESPONSIVE PLEADING

MOTION TO RECONVERT CASE FROM
CHAPTER 13 TO CHAPTER 7
8-18-16 [[65](#)]

The motion will be granted without oral argument based upon well-pled facts. The moving party shall submit a proposed order. No appearance is necessary.

This matter was fully noticed in compliance with the Local Rules of Practice and the debtor filed a notice of non-opposition. There is no other opposition, accordingly, the defaults of non-debtor respondents 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 case will be reconverted to chapter 7.

29. [16-12150](#)-B-13 JOSE ALCANTAR
SL-1
JOSE ALCANTAR/MV
SCOTT LYONS/Atty. for dbt.

MOTION TO CONFIRM PLAN
7-25-16 [[28](#)]

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

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

30. [16-12150](#)-B-13 JOSE ALCANTAR
SL-2
JOSE ALCANTAR/MV
SCOTT LYONS/Atty. for dbt.
RESPONSIVE PLEADING

MOTION TO VALUE COLLATERAL OF
PORTFOLIO SERVICES, INC.
8-23-16 [[36](#)]

Based on the respondent's opposition, this matter will be continued to October 20, 2016, at 1:30 p.m., for scheduling an evidentiary hearing. The court will issue a civil minute order. No appearance is necessary.

This matter is now deemed to be a contested matter. Pursuant to Federal Rule of Bankruptcy Procedure 9014(c), the federal rules of discovery apply to contested matters. The debtor shall make the subject property available for inspection on reasonable notice. The parties shall immediately commence formal discovery, exchange appraisals, meet and confer, set deposition dates if necessary, and be prepared for the court to set an early evidentiary hearing if the matter is not resolved by the continued hearing date. The court notes, the debtor claims the collateral is in "good" condition but presents no evidence why a higher "retail" value should not be used.

31. [16-11554](#)-B-13 BRIAN CHIARITO
JRL-1
BRIAN CHIARITO/MV
JERRY LOWE/Atty. for dbt.
RESPONSIVE PLEADING

RESCHEDULED HEARING RE: MOTION
TO CONFIRM PLAN
7-20-16 [[25](#)]

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

This motion to confirm or modify a chapter 13 plan was fully noticed in compliance with the Local Rules of Practice; based on the debtor's response, the trustee's opposition has been resolved and there is no other opposition. Accordingly, the defaults of non-debtor respondents will be entered. The confirmation order shall include the language resolving the trustee's opposition, the docket control number of the motion and it shall reference the plan by the date it was filed.

32. [16-11555](#)-B-13 ANTHONY/AMY THOMPSON
MHM-1
MICHAEL MEYER/MV
JERRY LOWE/Atty. for dbt.
RESPONSIVE PLEADING

MOTION TO DISMISS CASE
8-12-16 [[67](#)]

The trustee's motion to dismiss the debtors' case, for the failure to confirm a chapter 13 plan, will be continued to September 29, 2016, at 1:30 p.m., to be heard with the debtors' motion to confirm a plan. No appearance is necessary. The court will enter a civil minute order.

33. [16-12558](#)-B-13 WAYNE CUNNINGHAM
MHM-1
MICHAEL MEYER/MV

MOTION TO DISMISS CASE
9-1-16 [[22](#)]

This matter will proceed as scheduled. Unless opposition is presented at the hearing, the court intends to enter respondent's default and grant the motion to dismiss the case.

34. [16-12159](#)-B-13 MARIA OSEGUERA

SCOTT LYONS/Atty. for dbt.
INSTALLMENT PAID 8/31/16

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
8-22-16 [[18](#)]

The OSC will be vacated. No appearance is necessary. The required installment has been paid.

If any of the remaining installments are not paid when they come due then the case may be dismissed without further notice.

35. [16-10866](#)-B-13 MICHELLE YORK
MHM-2
MICHAEL MEYER/MV
DAVID JENKINS/Atty. for dbt.

OBJECTION TO CONFIRMATION OF
PLAN BY MICHAEL H. MEYER
8-15-16 [[97](#)]

This objection to confirmation of a chapter 13 plan will be overruled without prejudice. The court will issue a civil minute order. No appearance is necessary.

The debtor has withdrawn the plan. Within 14 days, the debtor shall file and serve a modified plan and set a confirmation hearing.

36. [16-10866](#)-B-13 MICHELLE YORK
MRG-1
STONEGATE MORTGAGE
CORPORATION/MV

CONTINUED STATUS CONFERENCE RE:
OBJECTION TO CONFIRMATION OF
PLAN BY STONEGATE MORTGAGE
CORPORATION
5-3-16 [[29](#)]

DAVID JENKINS/Atty. for dbt.
MICHELLE GHIDOTTI-GONSALVES/Atty. for mv.

This objection to confirmation of a chapter 13 plan will be overruled without prejudice. The court will issue a civil minute order. No appearance is necessary.

The debtor has withdrawn the plan. Within 14 days, the debtor shall file and serve a modified plan and set a confirmation hearing.

37. [16-10866](#)-B-13 MICHELLE YORK
PJL-1
PEOPLELEASE HOLDINGS, INC./MV

CONTINUED STATUS CONFERENCE RE:
OBJECTION TO CONFIRMATION OF
PLAN BY PEOPLELEASE LLC, PLC
SERVICES LLC, AND PEOPLELEASE
HOLDINGS, INC.
5-3-16 [[32](#)]

DAVID JENKINS/Atty. for dbt.
PAUL LAURIN/Atty. for mv.

This objection to confirmation of a chapter 13 plan will be overruled without prejudice. The court will issue a civil minute order. No appearance is necessary.

The debtor has withdrawn the plan. Within 14 days, the debtor shall file and serve a modified plan and set a confirmation hearing.

38. [16-11868](#)-B-13 PAUL/AMANDAH GUILLEN
PBB-1
PAUL GUILLEN/MV
PETER BUNTING/Atty. for dbt.

MOTION TO CONFIRM PLAN
7-21-16 [[19](#)]

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

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

39. [13-13769](#)-B-13 RICARDO/MARY GARCIA
ALG-3
RICARDO GARCIA/MV
JANINE ESQUIVEL/Atty. for dbt.

MOTION TO MODIFY PLAN
7-19-16 [[48](#)]

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

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

40. [16-11570](#)-B-13 ROBERTA RAMA
MHM-1
MICHAEL MEYER/MV
MARK HANNON/Atty. for dbt.

MOTION TO DISMISS CASE
7-19-16 [[13](#)]

Unless the trustee's motion is withdrawn, the motion will be granted without oral argument for cause shown. The court will issue a civil minute order. No appearance is necessary.

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 is a material default in the chapter 13 plan payments that has not been cured. Accordingly, the case will be dismissed.

41. [14-13573](#)-B-13 GREGORY/HEATHER VITUCCI
JB-1
STATE BOARD OF EQUALIZATION/MV

CONTINUED MOTION TO DISMISS
CASE AND/OR MOTION TO CONVERT
CASE FROM CHAPTER 13 TO CHAPTER
7
7-13-16 [[90](#)]

HENRY NUNEZ/Atty. for dbt.
JILL BOWERS/Atty. for mv.
RESPONSIVE PLEADING

This matter will proceed as scheduled. The court notes that no stipulation or order has been filed as was agreed in the August 11, 2016, hearing.

42. [16-11377](#)-B-13 SANJEEV ATHALE
PBB-2
SANJEEV ATHALE/MV
PETER BUNTING/Atty. for dbt.

MOTION TO CONFIRM PLAN
7-28-16 [[46](#)]

This matter will be dropped from calendar. The case has already been voluntarily dismissed by motion of the debtor. No appearance is necessary.

43. [16-11878](#)-B-13 SHANA SHIELDS
JDM-2
SHANA SHIELDS/MV

JAMES MILLER/Atty. for dbt.

MOTION TO VALUE COLLATERAL OF
AMERICAN HONDA FINANCE
CORPORATION
8-1-16 [[22](#)]

The motion will be denied without prejudice. The court will issue a civil minute order. No appearance is necessary.

The named respondent in the motion is "American Honda Finance Corporation dba Acura Financial Services." Based on the proof of claim, the holder of this lien appears to be Acura Financial Services. Acura Financial Services was not served pursuant to FRBP 7004. The claim was signed by a "collector" at Acura Financial Services. The proof of service does not show that it was served on an officer of Acura Financial Services or an officer of American Honda Finance Corporation, dba as Acura Financial Services.

44. [13-16394](#)-B-13 SHAWN LANGEVIN
JDW-1
SHAWN LANGEVIN/MV
JOEL WINTER/Atty. for dbt.
RESPONSIVE PLEADING

MOTION TO MODIFY PLAN
8-1-16 [[29](#)]

This matter will proceed as scheduled unless the trustee withdraws his objection or the debtor files a consent to the trustee's suggested change to the plan prior to the hearing. If the objection is withdrawn, or the debtor consents to the change to the plan, then no appearance will be necessary and the motion will be granted without oral argument based on well-pled facts, the Movant to submit a proposed order as specified below.

This motion to confirm or modify a chapter 13 plan was fully noticed in compliance with the Local Rules of Practice; if the trustee's opposition has been resolved and the other respondents' defaults will be entered. The confirmation order shall include the docket control number of the motion and it shall reference the plan by the date it was filed.

45. [14-15098](#)-B-13 SAMUEL ACEVEDO AND DEBBIE MOTION TO DISMISS CASE
MHM-4 SURROCK 7-18-16 [[81](#)]
MICHAEL MEYER/MV
PETER BUNTING/Atty. for dbt.

The case has already been voluntarily dismissed on the debtors' motion. No appearance is necessary.

46. [16-10098](#)-B-13 BEVERLY BARNARD MOTION TO AVOID LIEN OF CACH,
PBB-2 LLC
BEVERLY BARNARD/MV 8-2-16 [[57](#)]
PETER BUNTING/Atty. for dbt.

The motion will be granted without oral argument based upon well-pled facts. The moving party shall submit a proposed order. No appearance is necessary.

This matter was fully noticed in compliance with the Local Rules of Practice and there is no opposition. Accordingly, the respondents' defaults 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. It appears that the debtor may avoid this lien that impairs an exemption to which she is entitled under law.

47. 16-13083-B-13 DAVID PENA MOTION TO EXTEND AUTOMATIC STAY
SL-1 9-1-16 [9]
DAVID PENA/MV
SCOTT LYONS/Atty. for dbt.

This matter will be called as scheduled. Unless opposition is presented at the hearing, the court intends to grant the motion.

The Motion to Extend the Automatic Stay was properly set for hearing on the notice required by LBR 9014-1(f)(2). Consequently, the debtor, creditors, the trustee, the U.S. Trustee, and any other parties in interest were not required to file a written response or opposition to the motion. If any of these potential respondents appear at the hearing and offer opposition to the motion, the court will set a briefing schedule and a final hearing unless there is no need to develop the record further. If no opposition is offered at the hearing, the court will take up the merits of the motion.

Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter.

Courts consider many factors - including those used to determine good faith under §§ 1307 and 1325(a) - but the two basic issues to determine good faith under 11 U.S.C. § 362(c)(3) are:

1. Why was the previous plan filed?
 2. What has changed so that the present plan is likely to succeed?
- In re Elliot-Cook*, 357 B.R. 811, 814-15 (Bankr. N.D. Cal.2006)

In this case the presumption of bad faith does not arise. "Where there is no presumption of bad faith and no party objects, a request to extend the stay should be liberally granted." *In re Elliott-Cook*, 357 B.R. 811, 814 (Bankr. N.D. Cal. 2006), citing *In re Warneck*, 336 B.R. 181, 182 (Bankr.S.D.N.Y.2006).

The debtor's prior case was dismissed for failure to timely confirm a chapter 13 plan however the debtor was current on the proposed plan payments. The record seems to indicate that the plan was objectionable because it did not provide for the full amount of the class 1 arrearages and the debtor's schedules I and J did not show evidence that the debtor could propose a feasible plan which did so.

In the current case the debtor's income has increased as well as the value of the debtor's equity in his home.

Based on the moving papers and the record, and in the absence of opposition, the court is persuaded that the debtor's petition was filed in good faith and intends to grant the motion to extend/impose the automatic stay. The motion will be granted and the automatic stay extended for all purposes, as to all parties who received notice, unless terminated by further order of this court. 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 a civil minute order after the hearing.