



UNITED STATES BANKRUPTCY COURT  
Eastern District of California  
Honorable Jennifer E. Niemann  
Hearing Date: Thursday, October 10, 2024  
Department A – Courtroom #11  
Fresno, California

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

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

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

Please also note the following:

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

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

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

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

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

## INSTRUCTIONS FOR PRE-HEARING DISPOSITIONS

Each matter on this calendar will have one of three possible designations: No Ruling, Tentative Ruling, or Final Ruling. These instructions apply to those designations.

**No Ruling:** All parties will need to appear at the hearing unless otherwise ordered.

**Tentative Ruling:** If a matter has been designated as a tentative ruling it will be called, and all parties will need to appear at the hearing unless otherwise ordered. The court may continue the hearing on the matter, set a briefing schedule, or enter other orders appropriate for efficient and proper resolution of the matter. The original moving or objecting party shall give notice of the continued hearing date and the deadlines. The minutes of the hearing will be the court's findings and conclusions.

**Final Ruling:** Unless otherwise ordered, there will be no hearing on these matters. The final disposition of the matter is set forth in the ruling and it will appear in the minutes. The final ruling may or may not finally adjudicate the matter. If it is finally adjudicated, the minutes constitute the court's findings and conclusions.

**Orders:** Unless the court specifies in the tentative or final ruling that it will issue an order, the prevailing party shall lodge an order within 14 days of the final hearing on the matter.

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

9:30 AM

1. [24-11303](#)-A-13     **IN RE: JAMES ELLIS**  
[EAM-1](#)

CONTINUED OBJECTION TO CONFIRMATION OF PLAN BY YOSEMITE LAKES OWNERS  
ASSOCIATION  
8-9-2024    [[32](#)]

YOSEMITE LAKES OWNERS ASSOCIATION/MV  
PETER BUNTING/ATTY. FOR DBT.  
ERIN MALONEY/ATTY. FOR MV.  
RESPONSIVE PLEADING  
WITHDRAWN

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

DISPOSITION:                    Dropped from calendar.

NO ORDER REQUIRED.

Movant withdrew the objection to confirmation of the plan on October 7, 2024.  
Doc. #79.

2. [24-11303](#)-A-13     **IN RE: JAMES ELLIS**  
[LGT-1](#)

CONTINUED OBJECTION TO CONFIRMATION OF PLAN BY TRUSTEE LILIAN G. TSANG  
8-13-2024    [[36](#)]

LILIAN TSANG/MV  
PETER BUNTING/ATTY. FOR DBT.  
WITHDRAWN

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

DISPOSITION:                    Dropped from calendar.

NO ORDER REQUIRED.

Movant withdrew the objection to confirmation of the plan on September 13,  
2024. Doc. #74.

3. [24-11303](#)-A-13     **IN RE: JAMES ELLIS**  
[PBB-1](#)

OBJECTION TO CLAIM OF DEPARTMENT OF THE TREASURY-INTERNAL REVENUE SERVICE,  
CLAIM NUMBER 13  
8-27-2024    [[42](#)]

JAMES ELLIS/MV  
PETER BUNTING/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 to claim is OVERRULED AS MOOT. The creditor filed an amended proof of claim on September 5, 2024. Claim 13-2.

4. [24-12319](#)-A-13     **IN RE: ALLEN ACKLEY**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES  
9-17-2024    [[20](#)]

MARK ZIMMERMAN/ATTY. FOR DBT.  
DISMISSED 10/1/24

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

DISPOSITION:     Dropped as moot.

NO ORDER REQUIRED.

An order dismissing this case was entered on October 1, 2024. Doc. #28. Therefore, this order to show cause will be DROPPED AS MOOT.

5. [24-12319](#)-A-13     **IN RE: ALLEN ACKLEY**  
[LGT-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY LILIAN G. TSANG  
9-19-2024    [[21](#)]

LILIAN TSANG/MV  
MARK ZIMMERMAN/ATTY. FOR DBT.  
DISMISSED 10/1/24

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

DISPOSITION:     Overruled as moot.

ORDER:             The court will issue an order.

An order dismissing this case was entered on October 1, 2024. Doc. #28. Therefore, this objection to confirmation of the plan is OVERRULED AS MOOT.

6. [24-12232](#)-A-13     **IN RE: FRANCISCO MORENO**  
[LGT-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY TRUSTEE LILIAN G. TSANG  
9-19-2024    [\[13\]](#)

JERRY LOWE/ATTY. FOR DBT.

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

DISPOSITION:                    Dropped from calendar.

NO ORDER REQUIRED.

Movant withdrew the objection to confirmation of the plan on October 9, 2024.  
Doc. #17.

7. [24-12339](#)-A-13     **IN RE: LAURIE MATA**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES  
9-18-2024    [\[27\]](#)

JOSHUA STERNBERG/ATTY. FOR DBT.

TENTATIVE RULING:            This matter will proceed as scheduled.

DISPOSITION:                    The minutes of the hearing will be the court's findings  
and conclusions.

ORDER:                            The court will issue an order.

This matter will proceed as scheduled. If the fees due at the time of the  
hearing have not been paid prior to the hearing, the case will be dismissed on  
the grounds stated in the order to show cause.

If the installment fees due at the time of hearing are paid before the hearing,  
the order permitting the payment of filing fees in installments will be  
modified to provide that if future installments are not received by the due  
date, the case will be dismissed without further notice or hearing.

8. [24-10556](#)-A-13     **IN RE: VINCE/VANIDA CHITTAPHONG**  
[JDW-1](#)

MOTION TO CONFIRM PLAN  
8-16-2024    [\[30\]](#)

VANIDA CHITTAPHONG/MV  
JOEL WINTER/ATTY. FOR DBT.  
RESPONSIVE PLEADING

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

DISPOSITION:                    Denied without prejudice.

ORDER:                            The court will issue an order.

There is no attachment to the certificate of service filed with the motion (Doc. #34) showing the parties and addresses on which the motion and supporting documents were served. Local Rule of Practice 3015-1(d)(1) requires the motion to be served at least 35 days prior to the hearing date. However, the court cannot determine whether the proper parties were served and whether that service was timely.

Accordingly, this motion is DENIED WITHOUT PREJUDICE for improper service.

9. [24-10556](#)-A-13     **IN RE: VINCE/VANIDA CHITTAPHONG**  
[LGT-1](#)

CONTINUED MOTION TO DISMISS CASE  
7-26-2024    [\[26\]](#)

LILIAN TSANG/MV  
JOEL WINTER/ATTY. FOR DBT.

NO RULING.

10. [20-13964](#)-A-13     **IN RE: LAURA SILVA**  
[LGT-1](#)

MOTION TO DISMISS CASE  
9-11-2024    [\[56\]](#)

LILIAN TSANG/MV  
STEPHEN LABIAK/ATTY. FOR DBT.

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

DISPOSITION:                    Dropped from calendar.

NO ORDER REQUIRED.

Movant withdrew the motion on September 27, 2024. Doc. #60.

11. [24-12268](#)-A-13     **IN RE: CHRIS ALCANTARA**  
[AP-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY U.S. BANK NATIONAL ASSOCIATION  
9-4-2024    [\[12\]](#)

U.S. BANK NATIONAL ASSOCIATION/MV  
WENDY LOCKE/ATTY. FOR MV.

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

DISPOSITION:                    Continued to November 14, 2024 at 9:30 a.m.

ORDER:                            The court will issue an order.

Chris Alcantara ("Debtor") filed a voluntary petition under chapter 13 and a chapter 13 plan ("Plan") on August 6, 2024. Doc. #1, 5. U.S. Bank National Association ("Creditor") objects to confirmation of the Plan because the Plan: (1) does not provide for the full value of Creditor's claim; (2) does not promptly cure Creditor's pre-petition arrears; and (3) is not feasible. Doc. #12.

This objection will be continued to November 14, 2024 at 9:30 a.m. Unless this case is voluntarily converted to chapter 7, dismissed, or Creditor's objection to confirmation is withdrawn, Debtor shall file and serve a written response no later than October 31, 2024. The response shall specifically address each issue raised in the objection to confirmation, state whether the issue is disputed or undisputed, and include admissible evidence to support Debtor's position. Creditor shall file and serve a reply, if any, by November 7, 2024.

If 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 November 7, 2024. If Debtor does not timely file a modified plan or a written response, this objection to confirmation will be denied on the grounds stated in Creditor's opposition without a further hearing.

12. [24-12268](#)-A-13     **IN RE: CHRIS ALCANTARA**  
[LGT-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY LILIAN G. TSANG  
9-19-2024    [\[16\]](#)

LILIAN TSANG/MV

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

DISPOSITION:     Continued to November 14, 2024 at 9:30 a.m.

ORDER:             The court will issue an order.

Chris Alcantara ("Debtor") filed a voluntary petition under chapter 13 and a chapter 13 plan ("Plan") on August 6, 2024. Doc. #1, 5. The chapter 13 trustee ("Trustee") objects to confirmation of the Plan because: (1) Debtor has failed to provide 2023 tax returns and failed to provide copies of Debtor's pay advices; and (2) Debtor's 341 meeting of creditors has not been concluded. Doc. #16. Debtor's 341 meeting of creditors has been continued to October 22, 2024 at 1:00 p.m. See court docket entry entered on September 18, 2024.

This objection will be continued to November 14, 2024 at 9:30 a.m. Unless this case is voluntarily converted to chapter 7, dismissed, or Trustee's objection to confirmation is withdrawn, Debtor shall file and serve a written response no later than October 31, 2024. The response shall specifically address each issue raised in the objection to confirmation, state whether the issue is disputed or undisputed, and include admissible evidence to support Debtor's position. Trustee shall file and serve a reply, if any, by November 7, 2024.

If 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 November 7, 2024. If Debtor does not timely file a modified plan or a written response, this objection to confirmation will be denied on the grounds stated in Trustee's opposition without a further hearing.

13. [24-11876](#)-A-13     **IN RE: TONY SAUCEDO**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES  
9-11-2024    [\[38\]](#)

\$313.00 FILING FEE PAID 9/11/24

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

DISPOSITION:        The order to show cause will be vacated.

ORDER:                The court will issue an order.

The record shows that the filing fees due have been paid in full. Therefore, the order to show cause will be vacated and the case shall remain pending.

14. [24-11876](#)-A-13     **IN RE: TONY SAUCEDO**  
[JCW-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY U.S. BANK NATIONAL ASSOCIATION  
9-16-2024    [\[44\]](#)

U.S. BANK NATIONAL ASSOCIATION/MV  
JENNIFER WONG/ATTY. FOR MV.

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.

As an informative matter, the movant incorrectly completed Section 6 of the court's mandatory Certificate of Service form. In Section 6, the declarant marked that service was effectuated by Rule 5 and Rules 7005, 9036 Service. Doc. #47. However, Federal Rules of Bankruptcy Procedure 3015(f) and 9014 require service of an objection to confirmation of plan be made pursuant to Federal Rule of Bankruptcy Procedure 7004, which was done. In Section 6, the declarant should have checked the appropriate box under Section 6A, not Section 6B.

Tony Saucedo ("Debtor") filed a voluntary petition under chapter 13 on July 8, 2024, and a chapter 13 plan ("Plan") on July 25, 2024. Doc. #1, 11. U.S. Bank National Association ("Creditor") objects to confirmation of the Plan on the ground that the Plan fails to provide for the full cure amount of pre-petition arrears owed to Creditor in accordance with 11 U.S.C. §1322(b)(5). Doc. #44.



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 5, 2024. Claim 2.

Here, Creditor objects to the Plan on the basis that Debtor's Plan states the arrears owed to Creditor is in the amount of \$35,000.00 but the actual arrears owed are in the amount of \$41,355.25. Doc. #44; Claim 2. Debtor would need to increase his monthly plan payment to pay for the increased arrear amount. Doc. #44. However, it does not appear Debtor has sufficient funds available to cure the arrears or fund the Plan. Doc. #44; Schedule I & J, Doc. #1. Therefore, the Plan fails to account for Creditor's claim. Claim 2.

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

15. [24-11584](#)-A-13      **IN RE: THOMAS/BRENDA FULLERTON**  
[JRL-1](#)

MOTION TO VALUE COLLATERAL OF LAFAYETTE FEDERAL CREDIT UNION  
9-4-2024    [\[16\]](#)

BRENDA FULLERTON/MV  
JERRY LOWE/ATTY. FOR DBT.

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 shall submit a proposed order after the hearing.

This motion was set for hearing on 28 days' notice prior to the hearing date pursuant to Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of creditors, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Therefore, the defaults of the non-responding parties in interest are entered. This matter will proceed to address a new analysis of law as set forth below.

Thomas Michael Fullerton and Brenda Carol Fullerton (together, "Debtors"), the debtors in this chapter 13 case, move the court for an order valuing the Debtors' swimming pool ("Property"), which is the collateral of Lafayette Federal Credit Union. ("Creditor"). Doc. #16; Decl. of Brenda Carol Fullerton, Doc. #18.

11 U.S.C. § 1325(a)(\*) (the hanging paragraph) permits the debtor to value property of the debtor at its current value pursuant to 11 U.S.C. § 506, as opposed to the amount due on the loan, if the collateral for the debt acquired consists of any other thing of value and the debt was incurred during the 1-year period preceding that value. 11 U.S.C. § 506(a)(1) limits a secured creditor's claim "to the extent of the value of such creditor's interest in the estate's interest in such property . . . and is an unsecured claim to the extent that the value of such creditor's interest . . . is less than the amount

of such allowed claim." Section 506(a)(2) of the Bankruptcy Code states that the value of personal property securing an allowed claim shall be determined based on the replacement value of such property as of the petition filing date. "Replacement value" where the personal property is "acquired for personal, family, or household purposes" means "the price a retail merchant would charge for property of that kind considering the age and condition of the property at the time value is determined." 11 U.S.C. § 506(a)(2).

Debtors assert the Property was purchased almost two years before the filing of this case. Doc. #16; Fullerton Decl., Doc. #18. Debtors also assert the replacement value of the Property is \$5,000.00 pursuant to § 506(a)(2) because the Property could not be easily taken out of the ground to be sold. Id. Debtors ask the court for an order valuing the Property at \$5,000.00 pursuant to § 506(a)(2). Id.

However, it does not appear that § 506(a)(2) applies to the Property because § 506(a)(2) only applies to personal property. Here, the court presumes the Property is an in-ground pool because Debtors state that the Property could not be easily taken out of the ground to be sold. Fullerton Decl., Doc. #18. If the Property is an in-ground swimming pool, then the Property would be a fixture attached to the real property and not personal property. Under California law, a fixture is a good that has become so related to particular real property that an interest in that good arises under real property law. Cal. Comm. Code § 9102(41).

While relief cannot be found pursuant to § 506(a)(2), the court finds that the facts set forth in the motion allow the court to grant relief pursuant to § 506(a)(1). The United States Supreme Court has determined that the appropriate value to use under § 506(a)(1) when the debtor has exercised the § 1325(a)(5)(B) "cram down" option is the replacement value of the collateral. Assoc. Com. Corp. v. Eash, 520 U.S. 953, 965 (1997) (interpreting § 506(a), now § 506(a)(1)). Debtors used the replacement value for the Property in the motion but cited to § 506(a)(2), not § 506(a)(1). Debtors are competent to testify as to the value of the Property. Given the absence of contrary evidence, Debtors' opinion of value may be conclusive. Enewally v. Wash. Mut. Bank (In re Enewally), 368 F.3d 1165, 1173 (9th Cir. 2004).

Accordingly, the court is inclined to GRANT this motion. Creditor's secured claim will be fixed at \$5,000.00. 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.

16. [24-12486](#)-A-13     **IN RE: TIFFANY BUTTS**  
[RLG-2](#)

MOTION TO VALUE COLLATERAL OF KIA MOTORS FINANCE  
9-20-2024     [\[13\]](#)

TIFFANY BUTTS/MV  
STEVEN ALPERT/ATTY. FOR DBT.

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 shall submit a proposed order after the hearing.

This motion was filed and served on at least 14 days' notice prior to the hearing date 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.

Tiffany Marie Butts ("Debtor"), the debtor in this chapter 13 case, moves the court for an order valuing Debtor's 2021 Kia LX Sportage X Sport Utility 4D ("Vehicle"), which is the collateral of Kia Motors Finance ("Creditor"). Doc. #13.

11 U.S.C. § 1325(a)(\*) (the hanging paragraph) permits the debtor to value a motor vehicle acquired for the personal use of the debtor at its current value, as opposed to the amount due on the loan, if the loan was a purchase money security interest secured by the property and the debt was not incurred within the 910-day period preceding the date of filing. 11 U.S.C. § 506(a)(1) limits a secured creditor's claim "to the extent of the value of such creditor's interest in the estate's interest in such property . . . and is an unsecured claim to the extent that the value of such creditor's interest . . . is less than the amount of such allowed claim." Section 506(a)(2) of the Bankruptcy Code states that where the debtor is in individual in a chapter 13 case, the value of personal property securing an allowed claim shall be determined based on the replacement value of such property as of the petition filing date. "Replacement value" where the personal property is "acquired for personal, family, or household purposes" means "the price a retail merchant would charge for property of that kind considering the age and condition of the property at the time value is determined." 11 U.S.C. § 506(a)(2).

Debtor asserts the Vehicle was purchased more than 910 days before the filing of this case. Decl. of Tiffany Marie Butts, Doc. #16. Debtor asserts a replacement value of the Vehicle of \$16,740.00 and asks the court for an order valuing the Vehicle at \$16,740.00. Id. Debtor is competent to testify as to the value of the Vehicle. The Property is currently encumbered with a security claim from Creditor in the amount of \$19,892.00. Schedule D, Doc. #1. Given the absence of contrary evidence, Debtor's opinion of value may be conclusive. Enewally v. Wash. Mut. Bank (In re Enewally), 368 F.3d 1165, 1173 (9th Cir. 2004).

Accordingly, pending opposition being raised at the hearing, the motion will be GRANTED. Creditor's secured claim will be fixed at \$16,740.00. 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.

MOTION TO DISMISS CASE  
8-27-2024    [\[54\]](#)

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

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

DISPOSITION:     Granted.

ORDER:             The court will issue an order.

Unless the trustee's motion is withdrawn before the hearing, the motion will be granted without oral argument for cause shown.

This motion was set for hearing on at least 28 days' notice prior to the hearing date pursuant to Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of the debtor 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 default of the debtor is entered and the matter will be resolved without oral argument. Upon default, factual allegations will be taken as true (except those relating to amount of damages). Televideo Systems, Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires a movant make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

Here, the chapter 13 trustee asks the court to dismiss this case under 11 U.S.C. § 1307(c)(1) and (c)(4) for unreasonable delay by the debtor that is prejudicial to creditors. Doc. #54. Specifically, Trustee asks the court to dismiss this case for the debtor's failure to: (1) confirm a chapter 13 plan pursuant to 11 U.S.C. § 1307(c); and (2) make all payments due under the plan. The debtor is delinquent in the amount of \$3,045.00 as of August 27, 2024. Decl. of Mai Vang, Doc. #56. The debtor did not oppose the motion.

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 debtor failed to confirm a chapter 13 plan. Cause also exists under 11 U.S.C. § 1307(c)(4) to dismiss this case as the debtor has failed to make all payments due under the plan.

A review of the debtor's Schedules A/B, C and D shows that the debtor's primary asset, a vehicle, is over encumbered, and Debtor exempts his remaining assets in full. Because there is no equity to be realized for the benefit of the estate, dismissal, rather than conversion to chapter 7, is in the best interests of creditors and the estate.

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

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

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

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

ORDER:     The court will issue an order.

Pursuant to the joint status report filed on October 1, 2024 (Doc. #181), the status conference will be continued to December 12, 2024 at 11:00 a.m.

The parties shall file either joint or unilateral status report(s) not later than December 5, 2024.

2. [20-10945](#)-A-12     **IN RE: AJITPAL SINGH AND JATINDERJEET SIHOTA**  
[22-1023](#)

ORDER TO SHOW CAUSE  
8-29-2024     [[72](#)]

BANK OF AMERICA, N.A. V. MEYER ET AL  
RESPONSIVE PLEADING

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

DISPOSITION:     The OSC will be vacated.

ORDER:     The court will issue an order.

On August 29, 2024, this court issued an order to show cause ("OSC") why this adversary proceeding should not be dismissed for lack of prosecution for the failure of counsel for the remaining defendants to appear at the continued status conference held on August 29, 2024. Doc. #72.

On September 11, 2024, counsel for the remaining defendants filed a joint stipulated response explaining that, for unknown reasons, neither attorney had this hearing on calendar. Doc. #77. The court notes that this adversary proceeding was trailing another adversary proceeding between the two remaining defendants (Adv. Proc. No. 20-1041), and that adversary proceeding had been closed prior to the August 29, 2024 hearing date.

Based on the explanation provided by counsel for the remaining defendants and taking notice of the stipulation subsequently filed by the remaining defendants in this adversary proceeding (Doc. #78), the court finds that the failure of counsel for the remaining defendants to appear at the August 29, 2024 continued status conference to be inadvertent, and the court will not dismiss the

adversary proceeding for lack of prosecution as set forth in the OSC. The OSC is vacated.

3. [20-10945](#)-A-12     **IN RE: AJITPAL SINGH AND JATINDERJEET SIHOTA**  
[22-1023](#)     [CAE-1](#)

CONTINUED STATUS CONFERENCE RE: COMPLAINT  
10-5-2022     [\[1\]](#)

BANK OF AMERICA, N.A. V. MEYER ET AL  
RESPONSIVE PLEADING

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

DISPOSITION:     Continued to November 14, 2024 at 11:00 a.m.

ORDER:     The court will issue an order.

By agreement of the parties, dismissal of this interpleader adversary proceeding depends upon the distribution of funds currently held by the court. Doc. #77. Those funds likely will be disbursed by the court later this month. Accordingly, the status conference is continued to November 14, 2024 at 11:00 a.m. to permit the funds held by the court to be disbursed and this adversary proceeding to be dismissed.

4. [20-10569](#)-A-12     **IN RE: BHAJAN SINGH AND BALVINDER KAUR**  
[22-1022](#)

ORDER TO SHOW CAUSE  
8-29-2024     [\[61\]](#)

BANK OF AMERICA, N.A. V. MEYER ET AL  
RESPONSIVE PLEADING

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

DISPOSITION:     The OSC will be vacated.

ORDER:     The court will issue an order.

On August 29, 2024, this court issued an order to show cause ("OSC") why this adversary proceeding should not be dismissed for lack of prosecution for the failure of counsel for the remaining defendants to appear at the continued status conference held on August 29, 2024. Doc. #61.

On September 11, 2024, counsel for the remaining defendants filed a joint stipulated response explaining that, for unknown reasons, neither attorney had this hearing on calendar. Doc. #65. The court notes that this adversary proceeding was trailing another adversary proceeding between the two remaining defendants (Adv. Proc. No. 20-1042), and that adversary proceeding had been closed prior to the August 29, 2024 hearing date.

Based on the explanation provided by counsel for the remaining defendants and taking notice of the stipulation subsequently filed by the remaining defendants in this adversary proceeding (Doc. #66), the court finds that the failure of counsel for the remaining defendants to appear at the August 29, 2024 continued

status conference to be inadvertent, and the court will not dismiss the adversary proceeding for lack of prosecution as set forth in the OSC. The OSC is vacated.

5. [20-10569](#)-A-12     **IN RE: BHAJAN SINGH AND BALVINDER KAUR**  
[22-1022](#)     [CAE-1](#)

CONTINUED STATUS CONFERENCE RE: COMPLAINT  
10-5-2022     [\[1\]](#)

BANK OF AMERICA, N.A. V. MEYER ET AL  
RESPONSIVE PLEADING

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

DISPOSITION:     Continued to November 14, 2024 at 11:00 a.m.

ORDER:     The court will issue an order.

By agreement of the parties, dismissal of this interpleader adversary proceeding depends upon the distribution of funds currently held by the court. Doc. #65. Those funds likely will be disbursed by the court later this month. Accordingly, the status conference is continued to November 14, 2024 at 11:00 a.m. to permit the funds held by the court to be disbursed and this adversary proceeding to be dismissed.

6. [17-13776](#)-A-7     **IN RE: JESSICA GREER**  
[18-1017](#)     [CAE-1](#)

CONTINUED STATUS CONFERENCE RE: COMPLAINT  
4-23-2018     [\[1\]](#)

SALVEN V. CALIFORNIA DEPARTMENT OF FOOD & AG  
SHARLENE ROBERTS-CAUDLE/ATTY. FOR PL.  
RESPONSIVE PLEADING

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

DISPOSITION:     Continued to October 31, 2024 at 11:00 a.m.

ORDER:     The court will issue an order.

Pursuant to the joint status report filed on October 2, 2024 (Doc. #128) and the court's schedule, the status conference is continued to October 31, 2024 at 11:00 a.m.

The parties shall file either joint or unilateral status report(s) not later than October 24, 2024.

7. [21-10679](#)-A-13     **IN RE: SYLVIA NICOLE**  
[23-1029](#)     [CAE-1](#)

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

NICOLE V. LOS BANOS TRANSPORT & TOWING ET AL

NO RULING.