



**UNITED STATES BANKRUPTCY COURT
Eastern District of California
Honorable René Lastreto II
Wednesday, October 12, 2022
Department B – Courtroom #13
Fresno, California**

Unless otherwise ordered, all hearings before Judge Lastreto are simultaneously: (1) **IN PERSON** in Courtroom #13 (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.

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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.

Post-Publication Changes: 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 any possible updates.

9:30 AM

1. [20-10216](#)-B-13 **IN RE: MARIA GONZALEZ**
[SJS-4](#)

MOTION FOR COMPENSATION FOR SUSAN J. SALEHI, DEBTORS
ATTORNEY(S)
9-6-2022 [[50](#)]

SUSAN SALEHI/ATTY. FOR DBT.

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Granted as modified.

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

Susan J. Salehi ("Applicant"), attorney for Maria Rivas Gonzalez
("Debtor"), requests compensation of \$2,520.00 in additional fees for
services rendered to the Debtor between October 27, 2021 through August
5, 2022. Doc. #50.

Debtor signed a statement dated November 19, 2021, agreeing that the
requested compensation is reasonable and should be paid. *Id.*, at 2.

No party in interest timely filed written opposition. However, this
motion will be called as scheduled because Debtor's statement of
consent is dated before some of the services subject to this
application were rendered. The court is inclined GRANT AS MODIFIED
this motion.

This motion was set for hearing on 28 days' notice as required by
Local Rule of Practice ("LBR") 9014-1(f)(1) and Fed. R. Bankr. P.
("Rule") 2002(a)(6). The failure of the creditors, the chapter 13
trustee, the U.S. Trustee, or any other party in interest to file
written opposition at least 14 days prior to the hearing as required
by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the
granting of the motion. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir.
1995). Therefore, the defaults of the above-mentioned parties in
interest are entered. Upon default, factual allegations will be taken
as true (except those relating to amounts of damages). *Televideo Sys.,
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.

As a preliminary matter, the motion does not procedurally comply with
the LBR. First, LBR 9004-2(d) requires exhibits to be filed as a

separate document, include an exhibit index at the start of the document identifying by exhibit number or letter each exhibit with the page number at which it is located, and use consecutively numbered exhibit pages, including any separator, cover, or divider sheets. Here, the exhibit is both filed separately and attached to the motion. Docs. #50; #52. Although the exhibit pages are consecutively numbered, neither copy contains an exhibit index identifying by exhibit number or letter each exhibit with the page number at which it is located.

Second, the notice of hearing contains the court's Zoom information published on the first page of each pre-hearing disposition. Doc. #51. While most of this information is up-to-date and accurate, the notice includes a video web address, meeting ID, and password that have all expired. Those provided in the notice of hearing appear to be from the court's September 8, 2022 calendar. Though the telephone number is a constant, a new Zoom video link, meeting ID, and password are generated for each calendar. As a result, the Zoom information provided in the notice is not accurate and should have been omitted. Parties wishing to appear at the hearing by Zoom should check the first page of the court's October 12, 2022 pre-hearing dispositions to find current Zoom information.

Debtor filed chapter 13 bankruptcy on January 22, 2020. Doc. #1. Section 3.05 of the *Chapter 13 Plan* dated January 22, 2020, confirmed July 14, 2020, provides that Applicant was paid \$1,500.00 prior to filing the case and additional fees of \$2,500.00 shall be paid through the plan by complying with LBR 2016-1(c).

In this District, there are two options for payment of a chapter 13 debtor's attorney's fees: (1) the "no look" fee of LBR 2016-1(c) or (2) by filing and serving a motion in accordance with 11 U.S.C. §§ 329 and 330, and Rules 2002, 2016, and 2017. The flat "no look" fee is generally intended to compensate counsel fully and fairly for the legal services rendered in the case. LBR 2016-1(c)(3). Counsel may apply for additional fees if the flat fee is not sufficient, and only in instances where substantial and unanticipated post-confirmation work is necessary. Additional compensation must be requested pursuant to §§ 329, 330, Rule 2002(a)(6), and subject to court approval.

Here, the former box was checked, and Applicant was paid \$1,500.00 pre-petition and \$2,500.00 post-petition through the chapter 13 plan. Docs. #3; #22; #50. The *Rights and Responsibilities of Chapter 13 Debtors and Their Attorneys* form, EDC 3-096, provides the same: initial fees in this case are \$4,000.00, but \$1,500.00 of this amount was paid pre-petition. Doc. #4.

As of this writing, no modified plans providing for payment of additional fees have been filed.

Applicant claims to have cause to increase the fees in this case beyond the "no look" fee because substantial and unanticipated post-confirmation work was necessary. Doc. #50. The motion states that

Debtor became delinquent on her post-petition mortgage payments. *Id.* Debtor was able to reach an agreement with the lender to modify the mortgage, which was granted by *ex parte* application on November 12, 2021.^{0F1} *Id.*, citing Doc. #38. Applicant was required to review loan modification agreements and prepare, file, and serve documents to approve such modification. Applicant appears to satisfy the requirements to opt-out of the "no look fee" due to this substantial and unanticipated post-confirmation work.

This is applicant's first fee application due to receipt of the "no look" fee. Applicant performed 9.2 billable hours of legal services at a rate of \$350.00 per hour, resulting in \$3,220.00 in fees. Doc. #52. However, Applicant has limited the application to requesting fees for 7.2 billable hours, reducing the amount requested to **\$2,520.00**. Doc. #50.

The time records indicate that Applicant performed 5.7 hours of services between October 27, 2021 and November 12, 2021, totaling \$1,995.00 in fees. Doc. #52. Debtor consented on November 19, 2021. Doc. #50, at 2.

Then, on August 5, 2022, Applicant performed an additional 3.5 hours, \$1,225.00 in fees, bringing the total fees to \$3,220.00. This was reduced to the \$2,520.00 requested here. But as a result of the intermediate consent, Debtor has not consented to \$525.00 of the fees requested.

11 U.S.C. § 330(a)(1)(A) & (B) permits approval of "reasonable compensation for actual necessary services rendered by . . . [a] professional person" and "reimbursement for actual, necessary expenses." In determining the amount of reasonable compensation to be awarded to a professional person, the court shall consider the nature, extent, and value of such services, considering all relevant factors, including those enumerated in subsections (a)(3)(A) through (E). § 330(a)(3).

Applicant's services included, without limitation: (1) reviewing proposed modification agreement and communicating with the Debtor and chapter 13 trustee regarding the same and preparing an *ex parte* application to approve the modification (SJS-1); (2) reviewing a proposed loan refinance, communicating with Debtor and the trustee, and preparing, filing, and serving an *ex parte* application to approve the refinance (SJS-3); and (3) preparing, filing, and serving this fee application (SJS-4). Doc. #52. The court finds the services and expenses actual, reasonable, and necessary. As noted above, Debtor has consented to payment of \$1,995.00 of the requested fees.

No party in interest timely filed written opposition. Accordingly, this motion will be GRANTED AS MODIFIED. Applicant shall be awarded \$1,995.00 in fees on a final basis pursuant to 11 U.S.C. § 330. Debtor will be authorized to pay Applicant, in Debtor's discretion, \$1,995.00

for services rendered to the bankruptcy estate from October 27, 2021 through November 19, 2022. If Applicant provides an updated client consent either before the hearing, or attached to the proposed order, the court will authorize payment of the full \$2,520.00 requested here.

¹ Additionally, on September 6, 2022, the court approved an *ex parte* application to approve mortgage loan refinance, which will pay off the plan with a 100% distribution from the loan proceeds. Doc. #49.

2. [22-11416](#)-B-13 **IN RE: LAURA SHOLES**
[PBB-1](#)

MOTION TO VALUE COLLATERAL OF ONEMAIN CONSUMER LOAN, INC.
9-9-2022 [[12](#)]

LAURA SHOLES/MV
PETER BUNTING/ATTY. FOR DBT.

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

DISPOSITION: Granted.

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

Laura Elaine Sholes ("Debtor") requests an order valuing a 2015 GMC Terrain SLE with 96,050 miles ("Vehicle") at \$13,084.00. Doc. #12. The Vehicle is the collateral of a loan incurred in July 2021 in favor OneMain Consumer Loan, Inc. ("Creditor"), which Debtor claims is a non-purchase money security interest.¹*F² Id. Cf. Claim No. 4.*

No party in interest timely filed written opposition. This motion will be GRANTED.

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 chapter 13 trustee, 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 amounts of damages). *Televideo Sys., 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.

11 U.S.C. § 1325(a) (*) (the hanging paragraph) states that 11 U.S.C. § 506 is not applicable to claims described in that paragraph if (1) the creditor has a purchase money security interest securing the debt that is the subject of the claim, (2) the debt was incurred within 910 days preceding the filing of the petition, and (3) the collateral is a motor vehicle acquired for the personal use of the debtor.

Here, Debtor declares that the Vehicle is secured by a loan incurred in July 2021 that is a non-purchase money security interest.^{2F} Doc. #14. Thus, the elements of § 1325(a) (*) are not met and § 506 is applicable.

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."

11 U.S.C. § 506(a) (2) 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" 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."

Debtor declares that the replacement value of Vehicle was \$13,084.00 as of the petition date. Doc. #14. This valuation is reflected in Debtor's *Schedule A/B* and Debtor's proposed *Chapter 13 Plan* dated August 18, 2022 (Doc. #3), which was sent to Creditor on August 27, 2022 and includes Creditor's claim as a Class 2(B) claim reduced based on the value of the collateral. Doc. #11. In contrast, Creditor estimates the value of Property in Claim 4 to be \$15,500.00. Claim 4.

Debtor is competent to testify as to the replacement value of the Vehicle as its owner. Fed. R. Evid. 701. 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).

No party in interest timely filed written opposition. Accordingly, this motion will be GRANTED. Creditor's secured claim will be fixed at \$13,084.00. The proposed order shall specifically identify the collateral and the proof of claim to which it relates. The order will be effective upon confirmation of the chapter 13 plan.

² Debtor complied with Fed. R. Bankr. P. 7004(b) (3) by serving CT Corporation System, Creditor's registered agent for service of process, via regular U.S.

mail on August 9, 2022. Doc. #16. However, since the pleadings are dated September 8, 2022, the "8-9-22" date on the certificate of service appears to be a transpositional clerical error. *Id.*; cf. Docs. ##12-14. It appears that Creditor and its agent were served on September 8, 2022, not August 9, 2022. ³ Attachment 1 to Claim 4 indicates that Creditor will be given a "purchase money security interest *if property is being purchased with the proceeds* . . ." Claim 1, Attach. 1, at 2 (emphasis added). However, this appears to be a personal loan in which Debtor granted Creditor a security interest in the Vehicle, which was owned by Debtor prior to incurring the loan.

3. [22-11330](#)-B-13 **IN RE: GENEVA FARR**
[MHM-1](#)

OBJECTION TO DEBTOR'S CLAIM OF EXEMPTIONS
9-9-2022 [[36](#)]

MICHAEL MEYER/MV
DUSHAWN JOHNSON/ATTY. FOR DBT.

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

DISPOSITION: Sustained.

ORDER: Objecting party shall submit an order conforming to
the ruling below.

Chapter 13 Trustee Michael Meyer ("Trustee") objects to Debtor Geneva Farr's ("Debtor") claim of a homestead exemption on two real properties in Madera County, California. Debtor did not oppose. For the reasons stated below, the objection is SUSTAINED.

This objection 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 sustaining of the objection. *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 objecting 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 amounts of damages). *Televideo Sys., 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 objecting party has done here.

According to her schedules, Debtor owns or has an interest in three properties:

- 3116 Glade ("Glade Property") where Debtor resides. (Doc. #1)
- 26757 Ave. 18 ½ ("18 ½ Property") where Debtor operates a sole proprietorship known as "Farr's Family Facility." *Id.*
- 104 Sassafras Dr. ("Sassafras Property") co-owned by Debtor and Noah Farr, Sr. Mr. Farr apparently resides there. *Id.*

Debtor claimed the "California Exemptions" and asserted in her Schedule C that the 18 ½ and Sassafras Properties were collectively exempt in the amount of \$299,000, which represents the debtor's "equity" in the two properties under Cal. Civ. Proc. Code ("CCP") § 704.730.

Trustee challenges the claim, contending that Debtor does not reside at either the 18 ½ or Sassafras Properties as of the date of the petition, August 2, 2022. Doc. #1.

Federal Rule of Bankruptcy Procedure 4003(b) allows a party in interest to file an objection to a claim of exemption within 30 days after the § 341 meeting of creditors is held or within 30 days after any amendment to *Schedule C* is filed, whichever is later.

Here, Debtor filed chapter 13 bankruptcy on August 2, 2022. Doc. #1. The § 341 meeting was held on September 20, 2022 and continued to October 11, 2022. Doc. #28. Trustee filed this objection on September 9, 2022, Doc. #36, which is within the 30-day timeframe.

The Eastern District of California Bankruptcy Court in *In re Pashenee*, 531 B.R. 834, 837 (Bankr. E.D. Cal. 2015), held that "the debtor, as the exemption claimant, bears the burden of proof which requires her to establish by a preponderance of the evidence that [the property] claimed as exempt in Schedule C is exempt under [relevant California law] and the extent to which that exemption applies." Debtor here did not oppose the objection. So, Debtor presented no evidence that she resides at either the 18 ½ or Sassafras Properties.

CCP 704.710 (a) defines "Dwelling" as a place where a person resides. "Homestead" means "the principal dwelling in which the judgment debtor . . . resided on the date the judgment creditor's lien attached to the dwelling. . ." CCP § 704.710 (c). For purposes of our analysis the relevant date is the petition date (see below). There is no evidence Debtor resided at either Sassafras or 18 ½ Properties when the petition was filed.

The bankruptcy court decides the merits of state exemptions, but the validity of the exemption is controlled by California law. *LaFortune v. Naval Weapons Ctr. Fed. Credit Union (In re LaFortune)*, 652 F.2d 842, 846 (9th Cir. 1981). The filing of the petition serves as both a hypothetical levy and the operative date of the exemption. *See, Wolfe v. Jacobson (In re Jacobson)*, 676 F.3d 1193, 1199 (9th Cir. 2012)

("bankruptcy exemptions are fixed at the time of the bankruptcy petition"). When exemptions are determined by state law, "'it is the entire state law applicable on the filing date that is determinative' of whether the exemption applies." *Id.* (citation omitted).

Under California law, the relevant factors for determining if a debtor resides in a property are the physical fact of occupancy of the property and the debtor's intention to live there. *Kelly v. Locke (In re Kelley)*, 300 B.R. 11, 21 (B.A.P. 9th Cir. 2003), citing *Ellsworth v. Marshall*, 196 Cal. App. 2d 471, 474 (1961). Debtor here has not provided any facts showing her physical occupancy of either the 18 ½ or Sassafras Properties. There is no testimony of her intent to live there. The only evidence, the petition, suggests Debtor's residence is the Glade Property.

Accordingly, the objection will be SUSTAINED.

4. [22-11035](#)-B-13 **IN RE: DONALD/STEPHANIE SALKIN**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES
9-26-2022 [[52](#)]

BENNY BARCO/ATTY. FOR DBT.
\$78.00 INSTALLMENT FEE PAID 9/26/22

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

DISPOSITION: The OSC will be vacated.

ORDER: The court will issue an order.

The record shows that the installment fees now due have been paid.

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.

5. [22-11035](#)-B-13 **IN RE: DONALD/STEPHANIE SALKIN**
[BDB-3](#)

MOTION TO DISMISS CASE
9-23-2022 [\[46\]](#)

STEPHANIE SALKIN/MV
BENNY BARCO/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 hearing.

Donald Lee Salkin and Stephanie Austin Salkin (collectively "Debtors") move for an order voluntarily dismissing this case pursuant to 11 U.S.C. § 1307(b). Doc. #46.

Written opposition was not required and may be presented at the hearing. In the absence of opposition, this motion will be GRANTED.

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.

11 U.S.C. § 1307 provides:

(b) On request of the debtor at any time, if the case has not been converted under section 706, 1112, or 1208 of this title, the court shall dismiss a case under this chapter. . . .

§ 1307(b). Debtors have an absolute right to dismiss under § 1307(b) provided that the case has not been previously converted. *Nichols v. Marana Stockyard & Livestock Mkt., Inc. (In re Nichols)*, 10 F.4th 956, 964 (9th Cir. 2021). This case has not been previously converted, so it may be dismissed. But Debtors do not have the right to dismiss *without prejudice*.

11 U.S.C. § 105(a) allows the court to issue an order, process, or judgment that is necessary or appropriate to carry out the provisions of the Bankruptcy Code. The court is not precluded from, *sua sponte*, taking any action or making any determination necessary or appropriate to enforce or implement orders, rules, or prevent an abuse of process. § 105(a).

11 U.S.C. § 349(a) affords the court judicial discretion to impose a variety of consequences of dismissal. *Duran v. Rojas (In re Duran)*, 630 B.R. 797, 809 (B.A.P. 9th Cir. 2021). For "cause," the court may "order otherwise" to impose in a dismissal a prohibition on the discharge of any debt that could have been discharged in the dismissed case or an injunction from filing future bankruptcy petitions. *Ibid.*; § 349(a).

"Cause" has not been defined, but typically § 349(a) requires a showing of egregious conduct. "Generally, only if a debtor engages in egregious behavior that demonstrates bad faith and prejudices creditors . . . will a bankruptcy court forever bar the debtor from seeking to discharge then existing debts." *In re Tomlin*, 105 F.3d 933, 936-37 (4th Cir. 1997).

The test to determine whether there is bad faith is the "totality of the circumstances" test. *Leavitt v. Soto (In re Leavitt)*, 209 B.R. 935, 939 (B.A.P. 9th Cir. 1997), citing *In re Eisen*, 14 F.3d 469, 470 (9th Cir. 1994). The court must consider the following four factors:

- (1) whether the debtor misrepresented facts in his petition or plan, unfairly manipulated the Bankruptcy Code, or otherwise filed his Chapter 13 petition or plan in an inequitable manner;
- (2) the debtor's history of filings and dismissals;
- (3) whether the debtor only intended to defeat state court litigation; and
- (4) whether egregious behavior is present.

Duran, 630 B.R. at 810, citing *Leavitt*, 171 F.3d at 1224; see also, *In re Goeb*, 675 F.2d 1386, 1390 (9th Cir. 1982); *In re Chinichian*, 784 F.2d 1440, 1445-46 (9th Cir. 1986). The burden is on the debtor to prove that the petition was filed in good faith. *In re Powers*, 135 B.R. 980, 997 (Bankr. C.D. Cal. 1991).

Here, Debtors previously filed a chapter 13 bankruptcy case on February 5, 2021, Case No. 21-10300 ("First Bankr."). First Bankr., Doc. #1. That case was dismissed on April 25, 2022 for failure to complete the terms of a confirmed plan, which required the Debtors to submit documents to the trustee as part of an annual review. First Bankr., Docs. ##86-87. Debtors unsuccessfully attempted to vacate the dismissal but failed to establish any extraordinary circumstances justifying relief under Civ. Rule 60(b)(1) or (b)(6). First Bankr., Docs. ##98-99.

This case was filed on June 22, 2022. Doc. #1. It has not been previously converted. The court ordered the extension of the automatic stay on July 20, 2022. Doc. #26. Debtors successfully prosecuted a motion to value collateral on August 31, 2022 and were directed to submit a proposed order, but no such conforming order has been lodged with the court. Doc. #41. The chapter 13 trustee objected to Debtors'

proposed chapter 13 plan. MHM-1. The continued hearing on that objection is set for October 26, 2022. Doc. #44.

Now, Debtors seek to voluntarily dismiss this case under § 1307(b) because the plan payments are not feasible, so Debtors believe they can better manage their finances outside of bankruptcy. Docs. #46; #48.

Nothing in the record suggests that Debtors have misrepresented facts in the petition or plan, unfairly manipulated the Bankruptcy Code, or otherwise filed the petition and plan in an inequitable manner. Though Debtors do have one previous case filing and dismissal, they promptly, albeit unsuccessfully, attempted to vacate such dismissal. There is also no indication that Debtors filed bankruptcy only to defeat state court litigation, or otherwise engaged in egregious behavior.

Accordingly, the hearing on this motion will be called and proceed as scheduled. Written opposition may be presented at the hearing. In the absence of opposition, the court is inclined to GRANT this motion, resulting in this case being DISMISSED WITHOUT PREJUDICE.

6. [22-11354](#)-B-13 **IN RE: CARLOS AVILA**
[MHM-1](#)

OBJECTION TO DEBTOR'S CLAIM OF EXEMPTIONS
9-9-2022 [\[18\]](#)

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

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

DISPOSITION: Sustained.

ORDER: The court will issue an order.

Chapter 13 trustee Michael H. Meyer ("Trustee") objects to Carlos Marcus Avila's ("Debtor") claim of exemption in real property located at 5654 Hillcrest Rd., Merced, CA, in Merced County, in the amount of \$460,000.00 under Cal. Code Civ. Proc. ("CCP") § 704.730(a)(1). Doc. #18.

Debtor did not oppose and no other parties in interest timely filed written opposition. This objection will be SUSTAINED.

This objection 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 sustaining of the objection. *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 objecting 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 amounts of damages). *Televideo Sys., 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 objecting party has done here.

Federal Rule of Bankruptcy Procedure 4003(b) allows a party in interest to file an objection to a claim of exemption within 30 days after the § 341 meeting of creditors is held or within 30 days after any amendment to *Schedule C* is filed, whichever is later.

Here, Debtor filed chapter 13 bankruptcy on August 9, 2022. Doc. #1. The § 341 meeting was held on September 20, 2022 and continued to October 11, 2022. Doc. #15. Trustee filed this objection on September 9, 2022, which is within the 30-day timeframe.

Debtor claimed a \$460,000.00 exemption in Property pursuant to CCP § 704.730, which provides:

(a) The amount of the homestead exemption is the greater of the following:

(1) The countywide median sale price for a single-family home in the calendar year prior to the calendar year in which the judgment debtor claims the exemption, not to exceed six hundred thousand dollars (\$600,000).

(2) Three hundred thousand dollars (\$300,000).

(b) The amounts specified in this section shall adjust annually for inflation, beginning on January 1, 2022, based on the change in the annual California Consumer Price Index for All Urban Consumers for the prior fiscal year, published by the Department of Industrial Relations.

CCP § 704.730. On January 1, 2022, this exemption was automatically updated to increase the minimum exemption to \$312,600.00, and the maximum countywide median sale price for a single-family home exemption to \$625,200.00 based on the change in the annual Consumer Price Index (4.2%).

Trustee objects because Debtor has not established, by a preponderance of the evidence, that the countywide median sale price for a single-family home in Merced County in 2021 was at least \$460,000.00.

The Eastern District of California Bankruptcy Court in *In re Pashenee*, 531 B.R. 834, 837 (Bankr. E.D. Cal. 2015) held that "the debtor, as the exemption claimant, bears the burden of proof which requires her to establish by a preponderance of the evidence that [the property]

claimed as exempt in Schedule C is exempt under [relevant California law] and the extent to which that exemption applies." Since Debtor is asserting a homestead exemption exceeding the \$312,600.00 minimum, Debtor bears the burden of proof on showing that the claimed exemption is within the countywide median sale price for single-family homes in Merced County in the 2021 calendar year (the calendar year preceding the 2022 calendar year in which Debtor filed this bankruptcy).

Debtor did not file opposition to this objection and Debtor's default is entered. Debtor has not established entitlement to an exception exceeding \$312,600.00. Therefore, Trustee's objection will be SUSTAINED. Debtor's homestead exemption in Property will be limited to \$312,600.00.

7. [22-11354](#)-B-13 **IN RE: CARLOS AVILA**
[RAS-1](#)

AMENDED OBJECTION TO CONFIRMATION OF PLAN BY PHH MORTGAGE
CORPORATION
9-28-2022 [[24](#)]

PHH MORTGAGE CORPORATION/MV
JAMES PIXTON/ATTY. FOR DBT.
FANNY WAN/ATTY. FOR MV.

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

DISPOSITION: Continued to November 16, 2022 at 9:30 a.m.

ORDER: The court will issue an order.

PHH Mortgage Corporation ("Creditor") objects to confirmation of the *Chapter 13 Plan* filed August 24, 2022 by Carlos Marcus Avila ("Debtor") pursuant to Local Rule of Practice ("LBR") 3015-1(c)(4).^{3F4} Docs. #22; #24. Creditor objects because: (i) the plan attempts to modify the rights of a secured creditor whose interest is secured by an interest in Debtor's principal resident in violation of 11 U.S.C. § 1322(b)(2); and (ii) the plan is not feasible as required by 11 U.S.C. § 1325(a)(6). *Id.*

This objection will be CONTINUED to November 16, 2022 at 9:30 a.m.

Unless this case is voluntarily converted to chapter 7, dismissed, or Creditor's objection to confirmation is withdrawn, the Debtor shall file and serve a written response not later than November 2, 2022. 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 the Debtor's position. Creditor shall file and serve a reply, if any, by November 9, 2022.

If the Debtor elects to withdraw the 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 9, 2022. If the Debtor does not timely file a modified plan or a written response, this objection will be sustained on the grounds stated in the objection without a further hearing.

⁴ Creditor timely objection to plan confirmation on September 27, 2022 but that objection was not set for hearing. Doc. #21. The next day, Creditor filed this amended objection. Doc. #24.

8. [17-13466](#)-B-13 **IN RE: SHERENE MONTES**
[FW-4](#)

MOTION FOR COMPENSATION BY THE LAW OFFICE OF FEAR WADDELL,
P.C. FOR GABRIEL J. WADDELL, DEBTORS ATTORNEY(S)
9-13-2022 [[43](#)]

GABRIEL WADDELL/ATTY. FOR DBT.

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

DISPOSITION: Granted.

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

Gabriel J. Waddell of Fear Waddell, P.C. ("Applicant"), attorney for Sherene Montes ("Debtor"), seeks compensation in the sum of \$3,000.00 on a final basis under 11 U.S.C. § 330. Doc. #43. This amount consists of \$2,823.94 in fees as reasonable compensation for services rendered and of \$176.06 for reimbursement of actual, necessary expenses from January 1, 2022 through September 9, 2022. *Id.*

Debtor executed a statement dated September 12, 2022 that Debtor has read the fee application and approves the same. Doc. #47, *Ex. E*. Further, Debtor understands that the fees reserved in the plan are insufficient to cover the amount of fees incurred by Applicant. Rather than raising the plan payments to cover those additional fees, Debtor has agreed that any fees approved by the court that are not paid through the plan will be non-dischargeable as provided in the plan. *Id.* Debtor met with Mr. Waddell on September 12, 2022 to discuss which fees will be paid through the plan and those to be paid following discharge.

No party in interest timely filed written opposition. This motion will be GRANTED.

This motion was set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1) and Fed. R. Bankr. P.

("Rule") 2002(a)(6). The failure of the creditors, the chapter 13 trustee, 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 amounts of damages). *Televideo Sys., 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.

Debtor filed chapter 13 bankruptcy on September 10, 2017. Doc. #1. The *First Modified Chapter 13 Plan* dated June 7, 2022, confirmed August 12, 2022, is the operative plan in this case. Docs. #30; #42.

Section 3.05 of the plan provides that Debtor paid \$440.00 prior to filing the case and, subject to court approval, an additional \$3,560.00 shall be paid through the plan by complying with LBR 2016-1(c).

In this District, there are two options for payment of a chapter 13 debtor's attorney's fees: (1) the "no look" fee of LBR 2016-1(c) or (2) by filing and serving a motion in accordance with 11 U.S.C. §§ 329 and 330, and Rules 2002, 2016, and 2017. The flat "no look" fee is generally intended to compensate counsel fully and fairly for the legal services rendered in the case. LBR 2016-1(c)(3). Counsel may apply for additional fees if the flat fee is not sufficient, and only in instances where substantial and unanticipated post-confirmation work is necessary. Additional compensation must be requested pursuant to §§ 329, 330, Rule 2002(a)(6), and subject to court approval.

Here, the former box was checked, and Debtor's prior counsel, David R. Jenkins, was paid \$440.00 pre-petition and \$3,560.00 post-petition through the chapter 13 plan. Docs. #30; #42; #43. The *Rights and Responsibilities of Chapter 13 Debtors and Their Attorneys* form, EDC 3-096, provides the same: initial fees in this case are \$4,000.00, but \$440.00 of this amount was paid pre-petition. Doc. #7.

On February 15, 2022, the court approved Applicant's substitution as attorney of record for Debtor in place of Mr. Jenkins. Doc. #25. Applicant modified the plan to account for a pre-petition claim and to include language making fees approved pursuant to § 330 but remaining unpaid through the plan to be non-dischargeable pursuant to 11 U.S.C. § 1322(a)(2) and *In re Johnson*, 334 B.R. 104 (B.A.P. 9th Cir. 2006). Doc. #42.

The motion indicates that the \$440.00 pre-petition payment was paid to Mr. Jenkins, Debtor's former attorney. Doc. #43, § 8(13). Some portion of the remaining \$3,560.00 in fees was paid to Mr. Jenkins through the chapter 13 plan. Whatever remains in the plan will be paid to Applicant and any outstanding balance will be paid by Debtor.

Applicant claims to have cause to increase the fees in this case beyond the "no look" fee because substantial and unanticipated post-confirmation work was necessary. Doc. #47, Ex. A. Applicant was required to substitute in for Debtor's previous counsel due to medical reasons. Additionally, Debtor had a pre-petition litigation claim, so Applicant was required to seek approval of a settlement of that claim and modify the plan to account for it. Applicant appears to satisfy the requirements to opt-out of the "no look fee" due to this substantial and unanticipated post-confirmation work.

This is applicant's first fee application. Applicant's firm performed 14.5 billable hours of legal services at the following rates, totaling \$3,745.50:

Professional	Rate	Hours	Fees
Gabriel J. Waddell (2022)	\$345	9.40	\$3,243.00
Gabriel J. Waddell (no charge)	\$0	0.50	\$0.00
Kayla Schlaak (2022)	\$125	3.70	\$462.50
Kayla Schlaak (no charge)	\$0	0.40	\$0.00
Laurel Guenther (2022)	\$100	0.40	\$40.00
Laurel Guenther (no charge)	\$0	0.10	\$0.00
Total Hours & Fees		14.50	\$3,745.50

Doc. #47, Exs. B, C. Applicant and Debtor agreed to limit the request for fees to **\$2,823.94**. Applicant also incurred **\$176.06** in expenses:

Postage	\$67.31
Copying	+ \$108.75
Total Costs	= \$176.06

Id. These combined fees and expenses total \$3,921.56. However, Applicant and Debtor have agreed to limit this application, so the total fees and expenses requested is **\$3,000.00**.

11 U.S.C. § 330(a)(1)(A) & (B) permits approval of "reasonable compensation for actual necessary services rendered by . . . [a] professional person" and "reimbursement for actual, necessary expenses." In determining the amount of reasonable compensation to be awarded to a professional person, the court shall consider the nature, extent, and value of such services, considering all relevant factors, including those enumerated in subsections (a)(3)(A) through (E). § 330(a)(3).

Applicant's services included, without limitation: (1) substituting in as attorney of record for the Debtor (FW-1); (2) modifying the chapter 13 plan (FW-2); (3) obtaining approval of a settlement agreement (FW-3); performing work necessary to complete the discharge process and case closing; and (4) preparing and filing this fee application (FW-4). Doc. #47, *Ex. A*. The court finds the services and expenses actual, reasonable, and necessary. No party in interest filed opposition and Debtor has consented to payment of the proposed fees. *Id.*, *Ex. E*.

Accordingly, this motion will be GRANTED. Applicant shall be awarded \$2,823.94 in fees and \$176.06 in expenses on a final basis under 11 U.S.C. § 330. Trustee will be authorized, in Trustee's discretion and to the extent possible as provided in the plan, to pay Applicant up to \$3,000.00 in accordance with the confirmed plan for services rendered to and expenses incurred for the estate from January 1, 2022 through September 9, 2022. Debtor will be authorized to pay directly to Applicant any outstanding balance that remains unpaid through the plan.

9. [19-13474](#)-B-13 **IN RE: STEPHANIE LOCASCIO**
[RSW-1](#)

MOTION TO REFINANCE
9-22-2022 [[38](#)]

STEPHANIE LOCASCIO/MV
ROBERT WILLIAMS/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.

Stephanie Eileen Locascio ("Debtor") requests an order to enter into a home loan modification agreement with Sun West Mortgage ("Creditor") to refinance the first deed of trust encumbering Debtor's residence at 23800 Coyote Court, Tehachapi, California ("Property"). Doc. #38. Debtor wishes to refinance the mortgage because it will allow Debtor to pay off the balance of this chapter 13 bankruptcy, as well as the bankruptcy of Debtor's spouse, Christopher Locasio, in Case No. 19-13473-A-13.4F⁵

Written opposition was not required and may be presented at the hearing. In the absence of opposition, the court is inclined to GRANT this motion.

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.

As a preliminary matter, the motion does not comply with Fed. R. Bankr. P. ("Rule") 2002(a)(2) as required by LBR 3015-1(h)(E). Since the refinance constitutes proposed use, sale, or lease of property of the estate other than in the ordinary course of business, Debtor was required to provide at least 21 days of notice to the trustee and all creditors absent the filing of an order shortening time. Rule 2002(a)(2).

Here, Debtor filed this motion on September 22, 2022, which is 20 days before this hearing on October 12, 2022. Doc. #38. The motion and supporting documents were sent to parties in interest on September 22, 2022. Doc. #41. An amended notice correcting the case number, date, time, and location of the hearing was filed and served on September 26, 2022, which is 14 days before the hearing. Docs. ##44-45. No requests for an order to shorten time have been filed.

Since this refinance will pay off both Debtor's and Mr. Locasio's bankruptcy cases and because Mr. Locasio's refinance has already been approved, denial on this basis would cause undue delay on completing both cases that provide for a 100% dividend to allowed, unsecured claims. Therefore, the court will shorten the notice required for this motion to the 14 days provided in the amended notice of hearing.

LBR 3015-1(h)(1)(C) allows a debtor, *ex parte* and with court approval, to refinance existing debts encumbering the debtor's residence if the written consent of the chapter 13 trustee is filed with or as part of the motion. The trustee's approval is certification to the court that: (i) all chapter 13 plan payments are current; (ii) the chapter 13 plan is not in default; (iii) the debtor has demonstrated an ability to pay all future plan payments, projected living expenses, and the refinanced debt; (iv) the new debt is a single loan incurred only to refinance existing debt encumbering the debtor's residence; (v) the only security for the new debt is the debtor's existing residence; (vi) all creditors with liens and security interests encumbering the debtor's residence will be paid in full from the proceeds of the new debt and in a manner consistent with the plan; and (vii) the monthly payment will not exceed the greater of the debtor's current monthly payments on the existing debt, or \$2,500.

If the trustee will not give consent, or if a debtor wishes to incur new debt on terms and conditions not authorized by subsection (h)(1)(C), the debtor may still seek court approval under LBR 3015-1(h)(1)(E) by filing and serving a motion on the notice required by Rule 2002 and LBR 9014-1.

Here, Debtor declares that the refinance provides for a new principal balance of \$381,562.00 to be amortized at a fixed 4.375% interest rate over 30 years. Doc. #40. The new monthly payment, including principal, interest, taxes, and insurance, will be approximately \$2,591.00. The proceeds from this refinance will be used to pay off this bankruptcy case and Mr. Locasio's bankruptcy case with a 100% distribution to allowed, non-priority unsecured claims. *Id.* The new debt appears to be a single loan incurred only to refinance the existing debt encumbering Property, and the only security for the new debt will be Property.

Debtor has not established, as required by LBR 3015-1(h), whether (i) all plan payments are current and (ii) the plan is not in default. Additionally, a copy of the refinance agreement was not included with this motion.

According to *Schedules I and J*, Debtor's monthly mortgage payment will increase from \$2,124.00 to \$2,591.00. However, Debtor currently has \$3,638.47 in monthly net income, so Debtor will be able to afford the plan payment. Doc. #1.

This matter will be called and proceed as scheduled. In the absence of opposition at the hearing and if Debtor is current on the chapter 13 plan payments and the plan is not in default, then this motion may be GRANTED. If granted, the court will order the time for notice required under Rule 2002(a)(2) shortened to 14 days. Any order approving the refinance shall provide that Debtor is authorized, *but not required*, to enter into a loan modification agreement with Creditor.

⁵ The Honorable Jennifer E. Niemann approved this agreement with respect to Mr. Locasio on October 6, 2022. See Case No. 19-13473-A-13, Docs. ##116-17.

11:00 AM

1. [17-14112](#)-B-13 **IN RE: ARMANDO NATERA**
[20-1035](#)

CONTINUED PRE-TRIAL CONFERENCE RE: AMENDED COMPLAINT
12-23-2020 [[92](#)]

NATERA V. BARNES ET AL
GABRIEL WADDELL/ATTY. FOR PL.
RESPONSIVE PLEADING

Since posting the original pre-hearing dispositions, the court has changed its intended ruling on this matter.

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

DISPOSITION: Continued to November 16, 2022 at 11:00 a.m.

ORDER: The court will issue an order.

This status conference was continued so defendant Parker Foreclosure Services, LLC ("Parker Foreclosure") could file a corporate ownership statement as required by Fed. R. Bankr. P. ("Rule") 7007.1. Docs. #337; #341. Parker Foreclosure filed a corporate ownership statement on October 11, 2022. Doc. #349.

This status conference will be further continued to November 16, 2022 at 11:00 a.m. to be heard with the status and scheduling conferences in the parties' related proceedings.

2. [17-14112](#)-B-13 **IN RE: ARMANDO NATERA**
[20-1035](#) [CAE-1](#)

STATUS CONFERENCE CONTINUED RE: AMENDED THIRD-PARTY
COMPLAINT
8-5-2022 [[327](#)]

NATERA V. BARNES ET AL
WILLIAM WINFIELD/ATTY. FOR PL.

Since posting the original pre-hearing dispositions, the court has changed its intended ruling on this matter.

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

DISPOSITION: Continued to November 16, 2022 at 11:00 a.m.

ORDER: The court will issue an order.

This status conference was continued to allow Third-Party Plaintiff Parker Foreclosure Services, LLC ("Parker Foreclosure") and Third-Party Defendant WFG National Title Insurance Company ("WFG") to file corporate ownership statements as required by Fed. R. Bankr. P. ("Rule") 7007.1. Docs. #336; #340. WFG filed a corporate ownership statement on September 30, 2022. Doc. #344. Parker Foreclosure filed a corporate ownership statement on October 11, 2022. Doc. #349.

This status conference will be further continued to November 16, 2022 at 11:00 a.m. to be heard with the status and scheduling conferences in the parties' related proceedings.

3. [13-11337](#)-B-13 **IN RE: GREGORY/KARAN CARVER**
[22-1001](#)

CONTINUED ORDER TO SHOW CAUSE REGARDING DISMISSAL OF
ADVERSARY PROCEEDING
6-2-2022 [[27](#)]

CARVER ET AL V. SETERUS INC. ET AL
RESPONSIVE PLEADING

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

DISPOSITION: Vacated.

ORDER: The court will issue an order.

This *Order to Show Cause* ("OSC") why this adversary proceeding should not be dismissed was initially issued for lack of prosecution and failure to follow court orders under Fed. R. Civ. 41(b), *incorporated by* Fed. R. Bankr. P. 7041. Doc. #27. The OSC was continued so that debtors Gregory Thomas Carver and Karan Ann Carver (collectively "Plaintiffs") could set a default prove-up hearing. Docs. #49; #50. Since then, Plaintiffs filed a motion for entry of default judgment, which is set for hearing in matter #4 below. Though that motion was withdrawn following a joint stipulation to set aside defendant Gregory Funding, LLC's default and to allow an addition 21 days to respond to the complaint, Plaintiffs have otherwise complied with the OSC. Accordingly, this OSC will be VACATED.

4. [13-11337](#)-B-13 **IN RE: GREGORY/KARAN CARVER**
[22-1001](#) [CAE-1](#)

MOTION FOR ENTRY OF DEFAULT JUDGMENT
9-1-2022 [\[53\]](#)

CARVER ET AL V. SETERUS INC. ET AL
NANCY KLEPAC/ATTY. FOR MV.

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

DISPOSITION: Withdrawn; taken off calendar.

NO ORDER REQUIRED.

Plaintiffs Gregory Thomas Carver and Karan Ann Carver (collectively "Plaintiffs") requested entry of a default judgment against defendants Nationstar Mortgage, LLC d/b/a Mr. Cooper, its successors and/or assigns, and Gregory Funding, LLC ("Gregory Funding"). Doc. #53.

On September 26, 2022, the parties filed a joint stipulation to (a) set aside Gregory Funding's default entered on July 8, 2022; (b) provide a 21-day extension of time to file an answer or other responsive pleading to the complaint from the date of the order approving the stipulation; and (c) withdraw this motion. Doc. #59. The stipulation was approved on September 30, 2022. Doc. #63. Accordingly, this motion for default judgment will be dropped and taken off calendar pursuant to the parties' stipulated withdrawal.

The court will SET A HEARING for a status conference to be held on November 16, 2022 at 11:00 a.m. Not later than November 9, 2022, Plaintiffs shall, and Defendant may, file a joint or unilateral status conference statement(s), and the parties shall provide initial disclosures to each other as required by Fed. R. Civ. P. 26(a)(1) (Fed. R. Bankr. P. 7026).

5. [21-12473](#)-B-7 **IN RE: BLAIN FARMING CO., INC.**
[22-1015](#) [CAE-1](#)

STATUS CONFERENCE RE: COMPLAINT
8-24-2022 [\[8\]](#)

SALVEN V. BLAIN ET AL
GABRIEL WADDELL/ATTY. FOR PL.

NO RULING.