

UNITED STATES BANKRUPTCY COURT  
Eastern District of California  
Honorable René Lastreto II  
Hearing Date: Wednesday, October 25, 2017  
Place: Department B - Courtroom #13  
Fresno, California

**INSTRUCTIONS FOR PRE-HEARING DISPOSITIONS**

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

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

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

**Final Ruling:** Unless otherwise ordered, there will be no hearing on these matters. The final disposition of the matter is set forth in the ruling and it will appear in the minutes. The final ruling may or may not finally adjudicate the matter. If it is finally adjudicated, the minutes constitute the court's findings and conclusions. If the parties stipulate to continue the hearing on the matter or agree to resolve the matter in a way inconsistent with the final ruling, then the court will consider vacating the final ruling only if the moving party notifies chambers before 4:00 p.m. at least one business day before the hearing date: Department A-Kathy Torres (559)499-5860; Department B-Jennifer Dauer (559)499-5870. If a party has grounds to contest a final ruling under FRCP 60(a) (FRBP 9024) because of the court's error ["a clerical mistake (by the court) or a mistake arising from (the court's) oversight or omission"] the party shall notify chambers (contact information above) and any other party affected by the final ruling by 4:00 p.m. one business day before the hearing.

**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 A.M.

1. [17-11028](#)-B-11 PACE DIVERSIFIED CORPORATION  
[BBR](#)-13 WAYNE LONG & COMPANY/MV  
T. BELDEN/Atty. for dbt.

MOTION FOR COMPENSATION FOR WAYNE LONG & COMPANY, ACCOUNTANT(S)  
10-4-17 [[302](#)]

**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.

This motion was filed and served pursuant to LRB 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.

2. [17-12857](#)-B-11 SAC DEVELOPMENT, INC.  
JUSTIN HARRIS/Atty. for dbt.

CONTINUED STATUS CONFERENCE RE: CHAPTER 11 VOLUNTARY PETITION  
7-26-17 [[1](#)]

**NO RULING.**

3. [17-12857](#)-B-11 SAC DEVELOPMENT, INC.  
[UST](#)-1 TRACY DAVIS/MV  
JUSTIN HARRIS/Atty. for dbt.  
ROBIN TUBESING/Atty. for mv.

MOTION TO DISMISS CASE  
10-4-17 [[46](#)]

**NO RULING.**

Counsel is reminded that new Local Rules became effective September 26, 2017. New Rule 9014-1(d)(3)(B) in particular requires the moving party to include more information in notices than the old Rule 9014-1(d)(3) did. The court urges counsel to review the new rules in order to be compliant in future matters. The new rules can be accessed on the court's website at <http://www.caeb.circ9.dcn/LocalRules.aspx>.

4. [17-13797](#)-B-9 TULARE LOCAL HEALTHCARE DISTRICT ORDER TO APPEAR AND SHOW CAUSE WHY A PATIENT CARE OMBUDSMAN SHOULD NOT BE APPOINTED  
10-3-17 [[8](#)]

RILEY WALTER/Atty. for dbt.

**NO RULING.**

5. [17-12998](#)-B-12 LJB FARMS, LLC MOTION FOR COMPENSATION BY THE  
[KDG](#)-4 LAW OFFICE OF KLEIN, DENATALE, GOLDNER, COOPER, ROSENLIB & KIMBALL, LLP FOR HAGOP T BEDOYAN, DEBTORS ATTORNEY(S)  
9-27-17 [[69](#)]

JACOB EATON/Atty. for dbt.  
RESPONSIVE PLEADING

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

**DISPOSITION:** Granted.

**ORDER:** No appearance is necessary. The Moving Party shall submit a proposed order in conformance with the ruling below.

This matter was fully noticed in compliance with the Local Rules of Practice and there is no opposition. 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. Accordingly, the respondents' defaults will be entered.

6. [17-12857](#)-B-11 SAC DEVELOPMENT, INC. MOTION FOR RELIEF FROM  
[CCR](#)-1 AUTOMATIC STAY  
TRA WETMORE LP/MV 10-19-17 [[59](#)]  
JUSTIN HARRIS/Atty. for dbt.  
CHERYL ROUSE/Atty. for mv.

**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.

This motion for relief from stay was noticed pursuant to LBR 9014-1(f)(2) and an order shortening notice and written opposition was not required. Unless opposition is presented at the hearing, the court intends to enter the debtor's and the trustee's defaults and enter the following ruling granting the motion for relief from stay. If opposition is presented at the hearing, the court will consider the opposition and whether further hearing is proper pursuant to LBR 9014-1(f)(2). The court will issue an order if a further hearing is necessary.

The automatic stay is terminated as it applies to the movant's right to enforce its remedies against the subject property under applicable nonbankruptcy law. The record shows that cause exists to terminate the automatic stay.

The proposed order shall specifically describe the property or action to which the order relates.

The order shall not contain any finding or reference that debtor is in bad faith or part of a scheme to hinder, delay or defraud movant.

The waiver of Federal Rule of Bankruptcy Procedure 4001(a)(3) will be granted. The moving papers show the purported deed of trust was filed fraudulently by an entity other than the debtor and for the purpose of stalling a foreclosure sale.

Unless the court expressly orders otherwise, the proposed order shall not include any other relief. If the proposed order includes extraneous or procedurally incorrect relief that is only available in an adversary proceeding then the order will be rejected. See *In re Van Ness*, 399 B.R. 897 (Bankr. E.D. Cal. 2009).

1:30 P.M.

1. [13-17324](#)-B-13 JOSE ARMENTA  
[NES](#)-4  
JOSE ARMENTA/MV  
NEIL SCHWARTZ/Atty. for dbt.

MOTION TO REFINANCE  
9-18-17 [[25](#)]

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

**DISPOSITION:**           Granted.

**ORDER:**                 No appearance is necessary. The Moving Party shall submit a proposed order in conformance with the ruling below.

This matter was fully noticed in compliance with the Local Rules of Practice and there is no opposition. 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. Accordingly, the respondents' defaults will be entered.

The refinance will be allowed but the debtor shall continue performing the confirmed plan. To the extent the re-financing is consistent with the Chapter 13 plan, the debtor shall continue to perform the plan until modified.

2. [16-13251](#)-B-13 JONATHAN YU  
[FW](#)-[3](#)

MOTION FOR COMPENSATION BY THE  
LAW OFFICE OF FEAR WADDELL,  
P.C. FOR GABRIEL J. WADDELL,  
DEBTORS ATTORNEY(S)  
9-26-17 [[72](#)]

GABRIEL WADDELL/Atty. for dbt.

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

**DISPOSITION:**           Granted.

**ORDER:**                 No appearance is necessary. The Moving Party shall submit a proposed order in conformance with the ruling below.

This matter was fully noticed in compliance with the Local Rules of

Practice and there is no opposition. 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. Accordingly, the respondents' defaults will be entered.

3. [17-13052](#)-B-13 MARIA SALVACION AGUJA-WEE MOTION TO DISMISS CASE  
[MHM](#)-1 9-21-17 [[25](#)]  
MICHAEL MEYER/MV  
ERIC ESCAMILLA/Atty. for dbt.

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

**DISPOSITION:** Granted.

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

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

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

4. [17-13152](#)-B-13 JOANNA SIMPSON MOTION TO APPROVE LOAN  
[JCW](#)-1 MODIFICATION  
JPMORGAN CHASE BANK, NATIONAL 9-25-17 [[15](#)]  
ASSOCIATION/MV  
LAUREN RODE/Atty. for dbt.  
JENNIFER WONG/Atty. for mv.

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

**DISPOSITION:** Granted.

**ORDER:** No appearance is necessary. The Moving Party shall submit a proposed order in conformance with the ruling

below.

This matter was fully noticed in compliance with the Local Rules of Practice and there is no opposition. 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. Accordingly, the respondents' defaults will be entered.

The court will approve the loan modification. However, if the loan modification necessitates a modification of the plan, the confirmed plan will control until modified by the court on the debtor's motion.

5. [13-14754](#)-B-13 ANTHONY/LESLIE AGUILAR MOTION FOR COMPENSATION FOR  
[NES](#)-5 NEIL E. SCHWARTZ, DEBTORS  
ATTORNEY(S)  
9-27-17 [[29](#)]

NEIL SCHWARTZ/Atty. for dbt.

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

**DISPOSITION:** Granted.

**ORDER:** No appearance is necessary. The Moving Party shall submit a proposed order in conformance with the ruling below.

This matter was fully noticed in compliance with the Local Rules of Practice and there is no opposition. 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. Accordingly, the respondents' defaults will be entered.

Counsel is reminded that new Local Rules became effective September 26, 2017. New Rule 9014-1(d)(3)(B) in particular requires the moving party to include more information in Notices than the old Rule 9014-1(d)(3) did. The court urges counsel to review the new rules in order to be compliant in future matters. The new rules can be accessed on the court's website at <http://www.caeb.circ9.dcn/LocalRules.aspx>.

6. [17-12465](#)-B-13 JOSEPH DESROSIERS  
[MHM](#)-3  
MICHAEL MEYER/MV  
JERRY LOWE/Atty. for dbt.

MOTION TO DISMISS CASE  
9-20-17 [[67](#)]

**NO ORDER REQUIRED.**      The matter will be dropped as moot.

An order dismissing the case has already been entered.

7. [13-15869](#)-B-13 LLOYD FRANKS  
[MHM](#)-1  
MICHAEL MEYER/MV

MOTION TO DETERMINE FINAL CURE  
AND MORTGAGE PAYMENT RULE  
3002.1  
9-12-17 [[44](#)]

JANINE ESQUIVEL/Atty. for dbt.

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

**DISPOSITION:**      Granted.

**ORDER:**      No appearance is necessary. The Moving Party shall submit a proposed order in conformance with the ruling below.

This matter was fully noticed in compliance with the Local Rules of Practice and there is no opposition. 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. Accordingly, the respondents' defaults will be entered.

8. [17-11570](#)-B-13 GREGGORY KIRKPATRICK  
[MHG](#)-2  
GREGGORY KIRKPATRICK/MV  
MARTIN GAMULIN/Atty. for dbt.  
RESPONSIVE PLEADING

CONTINUED MOTION TO CONFIRM  
PLAN  
7-14-17 [[32](#)]

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

**DISPOSITION:**      Denied as moot.

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

Debtor has complied with the court's October 3 order and filed an amended plan in place of a written response to trustee's opposition to this motion. The plan is therefore deemed withdrawn and the motion denied as moot.



9. [17-11570](#)-B-13 GREGGORY KIRKPATRICK  
[MHG](#)-3  
GREGGORY KIRKPATRICK/MV

MARTIN GAMULIN/Atty. for dbt.  
RESPONSIVE PLEADING

OBJECTION TO CLAIM OF  
CHRISTOPHER SCOTT CALLISON,  
CLAIM NUMBER 8  
9-8-17 [[64](#)]

**NO RULING.**

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, and set deposition dates if necessary. The parties shall be prepared for the court to set an early evidentiary hearing.

Based on the record, the factual issues appear to include: what amount of money is owed to the creditor under the terms of the Loan Agreement.

10. [17-11570](#)-B-13 GREGGORY KIRKPATRICK  
[RCA](#)-1  
CHRISTOPHER CALLISON/MV  
MARTIN GAMULIN/Atty. for dbt.  
ROBERT ABRAMS/Atty. for mv.

MOTION FOR RELIEF FROM  
AUTOMATIC STAY  
9-27-17 [[79](#)]

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

**DISPOSITION:**        Denied without prejudice.

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

This matter is denied without prejudice. Pursuant to 11 U.S.C. § 362(g)(1), the movant has the burden of proof on the issue of the debtor's equity in property. LBR 9014-1(d)(3)(D) requires every motion to be accompanied by evidence establishing its factual allegations and demonstrating that the movant is entitled to the relief requested.

Movant has not met the evidentiary burden imposed upon him by the rules because no declaration was submitted to provide foundation.

Additionally, the motion was not filed in compliance with LBR 9014-1(f)(1). The language in the notice requires written response within 14 days of the hearing, therefore the motion was also not filed in compliance with LBR 9014-1(f)(2). No order shortening or modifying notice was sought or obtained.

Counsel is reminded that new Local Rules became effective September 26, 2017. New Rule 9014-1(d)(3)(B) in particular requires the moving party to include more information in Notices than the old Rule 9014-1(d)(3) did. The court urges counsel to review the new rules in order to be compliant in future matters. The new rules can be accessed on the court's website at <http://www.caeb.circ9.dcn/LocalRules.aspx>.

11. [17-12979](#)-B-13 MERCED PEREZ  
[MHM](#)-1  
MICHAEL MEYER/MV  
SCOTT LYONS/Atty. for dbt.

MOTION TO DISMISS CASE  
9-20-17 [[40](#)]

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

**DISPOSITION:**         Granted.

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

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

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

12. [16-10391](#)-B-13 MICHAEL PFEIFFER  
[DMG](#)-5  
MICHAEL PFEIFFER/MV  
D. GARDNER/Atty. for dbt.

OBJECTION TO CLAIM OF DEBRA  
MCGUIRE, CLAIM NUMBER 9-2  
9-26-17 [[85](#)]

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

**DISPOSITION:**         Overruled without prejudice.

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

The objection fails to comply with LBR 3007-1(c) in effect until September 26, 2017 and thereafter. The movant may refile the objection and serve it correctly. The court would like to remind counsel that new noticing rules

came into effect on September 26, 2017. The new rules can be accessed on the court's website at <http://www.caeb.circ9.dcn/LocalRules.aspx>.