

UNITED STATES BANKRUPTCY COURT  
Eastern District of California  
Honorable René Lastreto II  
Hearing Date: Thursday, October 25, 2018  
Place: Department B - Courtroom #13  
Fresno, California

**INSTRUCTIONS FOR PRE-HEARING DISPOSITIONS**

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

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

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

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

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

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

**9:30 AM**

1. [15-10039](#)-B-12    **IN RE: ANGELA PIMENTEL**  
[GMW-3](#)

MOTION BY G. MICHAEL WILLIAMS TO WITHDRAW AS ATTORNEY  
9-17-2018    [[210](#)]

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

DISPOSITION:        Denied without prejudice.

ORDER:                The court will issue an order.

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

The notice did not contain the language required under LBR 9014-1(d)(3)(B)(iii). LBR 9014-1(d)(3)(B), which is about noticing requirements, requires movants to notify respondents that they can determine whether the matter has been resolved without oral argument or if the court has issued a tentative ruling by checking the Court's website at [www.caeb.uscourts.gov](http://www.caeb.uscourts.gov) after 4:00 p.m. the day before the hearing.

2. [13-11054](#)-B-12    **IN RE: MARIA BRASIL**  
[WW-5](#)

MOTION FOR ENTRY OF DISCHARGE  
9-19-2018    [[75](#)]

MARIA BRASIL/MV  
RILEY WALTER

TENTATIVE RULING:        This matter will proceed as scheduled.

DISPOSITION:        Denied without prejudice. Pursuant to LBR 9014-1(j), the debtor may orally request a continuance at the hearing.

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

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

LBR 9014-1(j) states that continuances must be approved by the court. Requests for continuances may be made orally at the hearing or in writing in advance of the hearing.

This motion was originally set for hearing on October 17, 2018 at 9:00 a.m. Doc. #76. An amended notice of hearing was filed on September 21, 2018, setting the hearing for October 25, 2018 at 9:30 a.m. Doc. #80. This continuance was not approved by the court.

Pursuant to LBR 9014-1(j), counsel may appear at the hearing and orally request a continuance.

3. [18-11166](#)-B-11     **IN RE: JOSE/MARY VALADAO**  
[BAS-3](#)

MOTION FOR COMPENSATION FOR BRADLEY A. SILVA, CREDITOR COMM.  
ATY(S)  
9-27-2018    [[190](#)]

RILEY WALTER

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

DISPOSITION:        Granted.

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

This motion was set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of the creditors, the debtor, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014- 1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument. Upon default, factual allegations will be taken as true (except those relating to amount of damages). Televideo Systems, Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires that a plaintiff make a prima facie showing that they are entitled to the relief sought, which the movant has done here.

The motion will be GRANTED. The attorney for the creditor's committee, Bradley A. Silva, requests fees of \$14,875.00 and costs of \$446.39 for a total of \$15,321.39 for services rendered from May 2, 2018 through August 15, 2018.

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." Movant's services included, without limitation: (1) Attended and participated in the meeting of creditors, (2) Examined operating reports and relief from stay motions, (3) Analyzing the disclosure statement, (4) Meeting preparation and conferences with the Creditors Committee, and (5) Prepared fee and employment applications. The court finds the services reasonable and necessary and the expenses requested actual and necessary.

Movant shall be awarded \$14,875.00 in fees and \$446.39 in costs.

4. [18-11166](#)-B-11 **IN RE: JOSE/MARY VALADAO**  
[WW-1](#)

FURTHER INTERIM HEARING RE: MOTION TO USE CASH COLLATERAL  
4-2-2018 [[15](#)]

JOSE VALADAO/MV  
RILEY WALTER

NO RULING.

5. [18-13677](#)-B-9 **IN RE: COALINGA REGIONAL MEDICAL CENTER, A  
CALIFORNIA LOCAL HEALTH CARE DISTRICT**  
[WW-2](#)

MOTION FOR ENTRY OF AN ORDER DIRECTING AND APPROVING FORM OF  
NOTICE OF COMMENCEMENT AND/OR MOTION FOR ENTRY OF ORDER AN  
SETTING DEADLINE FOR FILING OBJECTIONS TO PETITION  
9-27-2018 [[18](#)]

COALINGA REGIONAL MEDICAL  
CENTER, A CALIFORNIA LOCAL  
RILEY WALTER

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

DISPOSITION: Granted.

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

This motion was set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of the creditors, the debtor, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument. Upon default, factual allegations will be taken as true (except those relating to amount of damages).

Televideo Systems, Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires that a plaintiff make a prima facie showing that they are entitled to the relief sought, which the movant has done here.

This motion is GRANTED. The form of Notice of Commencement, as outlined in the attached exhibit B is approved. The deadline for filing objections to the petition is December 7, 2018.

6. [18-13678](#)-B-11      **IN RE: VERSA MARKETING, INC.**

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

RILEY WALTER

NO RULING.

7. [18-13678](#)-B-11      **IN RE: VERSA MARKETING, INC.**  
[WW-2](#)

MOTION TO EMPLOY RILEY C. WALTER AS ATTORNEY(S)  
9-21-2018    [[19](#)]

VERSA MARKETING, INC./MV  
RILEY WALTER

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

DISPOSITION:      Granted.

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

This motion was set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of the creditors, the debtor, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument. Upon default, factual allegations will be taken as true (except those relating to amount of damages). Televideo Systems, Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires that a plaintiff make a prima facie showing that they are entitled to the relief sought, which the movant has done here.

This motion is GRANTED. Movant is authorized to employ the Walter Wilhelm Law Group as its bankruptcy counsel.

8. [18-13678](#)-B-11     **IN RE: VERSA MARKETING, INC.**  
[WW-3](#)

MOTION TO EMPLOY TERENCE J. LONG AS CONSULTANT(S)  
9-21-2018    [[14](#)]

VERSA MARKETING, INC./MV  
RILEY WALTER  
RESPONSIVE PLEADING

TENTATIVE RULING:            This matter will proceed as scheduled.

DISPOSITION:                This matter will proceed as a scheduling  
conference.

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

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 be prepared  
for the court to set an early evidentiary hearing.

The court notes the reply filed by the debtor-in-possession  
essentially admitting that Mr. Long was not aware of the existence  
of the alleged PACA claimants. The questions raised include not only  
the debtor-in-possession's access and use of information but Fresno  
First Bank's available information concerning PACA claims at the  
time of the meeting on August 23, 2018.

9. [18-13678](#)-B-11     **IN RE: VERSA MARKETING, INC.**  
[WW-4](#)

MOTION TO EMPLOY C. FREDRICK MEINE III AS SPECIAL COUNSEL  
9-27-2018    [[31](#)]

VERSA MARKETING, INC./MV  
RILEY WALTER

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

DISPOSITION:        Granted.

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

This motion was set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of the creditors, the debtor, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument. Upon default, factual allegations will be taken as true (except those relating to amount of damages). Televideo Systems, Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires that a plaintiff make a prima facie showing that they are entitled to the relief sought, which the movant has done here.

This motion is GRANTED. Movant is authorized to employ Coleman & Horowitt, LLP as special counsel in its bankruptcy counsel.

10. [18-13678](#)-B-11     **IN RE: VERSA MARKETING, INC.**  
[WW-6](#)

MOTION TO EMPLOY MATTHEWS, WALLACE & CO. AS ACCOUNTANT(S)  
9-27-2018    [[26](#)]

VERSA MARKETING, INC./MV  
RILEY WALTER

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

DISPOSITION:        Granted.

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

This motion was set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of the

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

This motion is GRANTED. Movant is authorized to employ Matthews, Wallace & Co. as its accountants.

11. [17-13797](#)-B-9     **IN RE: TULARE LOCAL HEALTHCARE DISTRICT**  
[BPC-1](#)

CONTINUED MOTION TO COMPEL ASSUMPTION OR REJECTION OF  
EQUIPMENT LEASES, MOTION TO DIRECT PAYMENT OF POST-PETITION  
ADMINISTRATIVE RENT, MOTION FOR RELIEF FROM AUTOMATIC STAY  
6-29-2018    [[581](#)]

WELLS FARGO VENDOR FINANCIAL  
SERVICES, LLC/MV  
RILEY WALTER  
JEANNIE KIM/ATTY. FOR MV.  
RESPONSIVE PLEADING

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

DISPOSITION:                   Continued to November 29, 2018 at 9:30 a.m.

NO ORDER REQUIRED:           An order has already been entered. Doc. #815.



12. [17-13797](#)-B-9      **IN RE: TULARE LOCAL HEALTHCARE DISTRICT**  
[WW-55](#)

MOTION TO REJECT LEASE OR EXECUTORY CONTRACT  
9-27-2018    [[767](#)]

TULARE LOCAL HEALTHCARE  
DISTRICT/MV  
RILEY WALTER

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

DISPOSITION:      Granted.

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

This motion was set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of the creditors, the debtor, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014- 1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument. Upon default, factual allegations will be taken as true (except those relating to amount of damages). Televideo Systems, Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires that a plaintiff make a prima facie showing that they are entitled to the relief sought, which the movant has done here.

This motion is GRANTED. 11 U.S.C. § 365(a) states that "subject to the court's approval, [the debtor in possession] may assume...any...unexpired lease of the debtor."

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

The presumption has not been rebutted, and so the court finds that the debtor-in-possession's decision to reject the 50 physician contracts designated in the attached exhibit is consistent with the business judgment rule and Ninth Circuit precedent.

The debtor-in-possession is authorized to reject the designated physician contracts designated in exhibit A.

13. [17-13797](#)-B-9      **IN RE: TULARE LOCAL HEALTHCARE DISTRICT**  
[WW-56](#)

MOTION TO REJECT LEASE OR EXECUTORY CONTRACT  
9-27-2018    [\[778\]](#)

TULARE LOCAL HEALTHCARE  
DISTRICT/MV  
RILEY WALTER

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

DISPOSITION:      Granted.

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

This motion was set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of the creditors, the debtor, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014- 1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument. Upon default, factual allegations will be taken as true (except those relating to amount of damages). Televideo Systems, Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires that a plaintiff make a prima facie showing that they are entitled to the relief sought, which the movant has done here.

This motion is GRANTED. 11 U.S.C. § 365(a) states that "subject to the court's approval, [the debtor in possession] may assume...any...unexpired lease of the debtor."

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

The presumption has not been rebutted, and so the court finds that the debtor-in-possession's decision to reject the physician contracts designated in the attached exhibit is consistent with the business judgment rule and Ninth Circuit precedent.

The debtor-in-possession is authorized to reject the designated physician contracts designated in exhibit A.

14. [17-13797](#)-B-9     **IN RE: TULARE LOCAL HEALTHCARE DISTRICT**  
[WW-57](#)

MOTION TO REJECT LEASE OR EXECUTORY CONTRACT  
10-11-2018    [[798](#)]

TULARE LOCAL HEALTHCARE  
DISTRICT/MV  
RILEY WALTER

TENTATIVE RULING:            This matter will proceed as scheduled.

DISPOSITION:                  Granted.

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

This motion was filed and served pursuant to Local Rule of Practice ("LBR") 9014-1(f)(2) and will proceed as scheduled. Unless opposition is presented at the hearing, the court intends to enter the respondents' defaults and grant the motion. If opposition is presented at the hearing, the court will consider the opposition and whether further hearing is proper pursuant to LBR 9014-1(f)(2). The court will issue an order if a further hearing is necessary.

This motion is GRANTED. 11 U.S.C. § 365(a) states that "subject to the court's approval, [the debtor in possession] may assume...any...unexpired lease of the debtor."

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

The presumption has not been rebutted, and so the court finds that the debtor-in-possession's decision to reject the contracts designated in the attached exhibit is consistent with the business judgment rule and Ninth Circuit precedent. These contracts consist mostly of supply and service agreements for medical equipment and products. Doc. #801.

The debtor-in-possession is authorized to reject the contracts designated in exhibit A.

15. [17-13797](#)-B-9      **IN RE: TULARE LOCAL HEALTHCARE DISTRICT**  
[WW-58](#)

MOTION TO REJECT LEASE OR EXECUTORY CONTRACT  
10-11-2018    [\[803\]](#)

TULARE LOCAL HEALTHCARE  
DISTRICT/MV  
RILEY WALTER

TENTATIVE RULING:            This matter will proceed as scheduled.

DISPOSITION:                Granted.

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

This motion was filed and served pursuant to Local Rule of Practice ("LBR") 9014-1(f)(2) and will proceed as scheduled. Unless opposition is presented at the hearing, the court intends to enter the respondents' defaults and grant the motion. If opposition is presented at the hearing, the court will consider the opposition and whether further hearing is proper pursuant to LBR 9014-1(f)(2). The court will issue an order if a further hearing is necessary.

This motion is GRANTED. 11 U.S.C. § 365(a) states that "subject to the court's approval, [the debtor in possession] may assume...any...unexpired lease of the debtor."

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

The presumption has not been rebutted, and so the court finds that the debtor-in-possession's decision to reject the contracts designated in the attached exhibit is consistent with the business judgment rule and Ninth Circuit precedent. These contracts consist mostly of supply and service agreements for medical equipment and products. Doc. #806.

The debtor-in-possession is authorized to reject the designated physician contracts designated in exhibit A.

16. [17-13797](#)-B-9     **IN RE: TULARE LOCAL HEALTHCARE DISTRICT**  
[WW-62](#)

MOTION TO REJECT LEASE OR EXECUTORY CONTRACT  
10-11-2018    [\[808\]](#)

TULARE LOCAL HEALTHCARE  
DISTRICT/MV  
RILEY WALTER

TENTATIVE RULING:            This matter will proceed as scheduled.

DISPOSITION:                    Granted.

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

This motion was filed and served pursuant to Local Rule of Practice ("LBR") 9014-1(f)(2) and will proceed as scheduled. Unless opposition is presented at the hearing, the court intends to enter the respondents' defaults and grant the motion. If opposition is presented at the hearing, the court will consider the opposition and whether further hearing is proper pursuant to LBR 9014-1(f)(2). The court will issue an order if a further hearing is necessary.

This motion is GRANTED. 11 U.S.C. § 365(a) states that "subject to the court's approval, [the debtor in possession] may assume...any...unexpired lease of the debtor."

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

The presumption has not been rebutted, and so the court finds that the debtor-in-possession's decision to reject the lease agreement with Impact Modular Lease Inc., A Nevada Corporation ("Lessor"), is consistent with the business judgment rule and Ninth Circuit precedent.

The debtor-in-possession is authorized to reject the lease agreement with Lessor.

1:30 PM

1. [16-12019](#)-B-13     **IN RE: MARIO/ESBEYDY MARTINEZ**  
[PLG-4](#)

MOTION TO MODIFY PLAN  
9-14-2018    [\[76\]](#)

MARIO MARTINEZ/MV  
RABIN POURNAZARIAN

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

DISPOSITION:     Granted.

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

This motion was set for hearing on 35 days' notice as required by Local Rule of Practice ("LBR") 3015-1(d)(1). The failure of the creditors, the debtor, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument. Upon default, factual allegations will be taken as true (except those relating to amount of damages). Televideo Systems, Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires that a plaintiff make a prima facie showing that they are entitled to the relief sought, which the movant has done here.

This motion is GRANTED. The confirmation order shall include the docket control number of the motion and it shall reference the plan by the date it was filed.

2. [17-10622](#)-B-13     **IN RE: JENNIFER RIVAS**  
[PK-6](#)

MOTION TO SELL AND/OR MOTION TO PAY  
9-14-2018    [\[155\]](#)

JENNIFER RIVAS/MV  
PATRICK KAVANAGH  
RESPONSIVE PLEADING

TENTATIVE RULING:        This matter will proceed as scheduled.

DISPOSITION:                Conditionally granted. Pursuant to LBR 9014-1(j), the debtor may orally request a continuance at the hearing. Hearing will be for higher and better bids only.

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

This motion is CONDITIONALLY GRANTED. Pursuant to LBR 9014-1(j), the debtor may orally request a continuance at the hearing. Hearing will be for higher and better bids only.

LBR 9014-1(j) states that continuances must be approved by the court. Requests for continuances may be made orally at the hearing or in writing in advance of the hearing.

This motion was originally set for hearing on October 11, 2018 at 1:30 p.m. Doc. #156. An amended notice of hearing was filed on October 10, 2018, setting the hearing for October 12, 2018 at 1:30 p.m. A second amended notice of hearing was filed on October 11, 2018, setting the hearing for October 25, 2018. Doc. #179. None of these continuances were approved by the court.

11 U.S.C. § 363(b)(1) allows the debtor-in-possession to "sell, or lease, other than in the ordinary course of business, property of the estate."

The chapter 13 debtor asks this court for authorization to sell her primary residence located at 5404 Tierra Abierta Drive in Bakersfield, CA to Jose Llamas, subject to higher and better bids at the hearing, for \$185,000.00.

The court notes the limited opposition of secured creditor Wells Fargo Bank, N.A. ("Wells Fargo"). Wells Fargo "is not opposed to the granting of the Motion" so long as the court's order contains the following language: "Wells Fargo will be paid in full subject to a proper payoff quote." Movant's proposed order must contain the above language.

The court authorizes debtor to sell the real property to the buyer and to pay up to 3% of the purchase price towards the buyer's closing and non-recurring costs. Debtor is also authorized to pay a 6% real estate commission to buyer's agent, Miramar International.

The 14-day stay under Federal Rule of Bankruptcy Procedure 6004 is waived.

3. [18-10222](#)-B-13     **IN RE: DOMINIC BURRIEL**  
[FW-2](#)

MOTION TO CONFIRM PLAN  
9-13-2018    [[129](#)]

DOMINIC BURRIEL/MV  
PETER FEAR

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

DISPOSITION:        Granted.

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

This motion was set for hearing on 35 days' notice as required by Local Rule of Practice ("LBR") 3015-1(d)(1). The failure of the creditors, the debtor, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument. Upon default, factual allegations will be taken as true (except those relating to amount of damages). Televideo Systems, Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires that a plaintiff make a prima facie showing that they are entitled to the relief sought, which the movant has done here.

This motion is GRANTED. The confirmation order shall include the docket control number of the motion and it shall reference the plan by the date it was filed.



4. [18-10222](#)-B-13      **IN RE: DOMINIC BURRIEL**  
[FW-3](#)

MOTION TO COMPROMISE CONTROVERSY/APPROVE SETTLEMENT  
AGREEMENT WITH UNION TRUST FUNDS  
9-13-2018    [\[137\]](#)

DOMINIC BURRIEL/MV  
PETER FEAR

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

DISPOSITION:      Granted.

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

This motion was set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of the creditors, the debtor, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014- 1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument. Upon default, factual allegations will be taken as true (except those relating to amount of damages). Televideo Systems, Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires that a plaintiff make a prima facie showing that they are entitled to the relief sought, which the movant has done here.

It appears from the moving papers that the trustee has considered the standards of In re Woodson, 839 F.2d 610, 620 (9th Cir. 1987) and In re A & C Properties, 784 F.2d 1377, 1381 (9th Cir. 1986):

- a.     the probability of success in the litigation;
- b.     the difficulties, if any, to be encountered in the matter of collection;
- c.     the complexity of the litigation involved, and the expense, inconvenience and delay necessarily attending it; and
- d.     the paramount interest of the creditors and a proper deference to their reasonable views in the premises.

Accordingly, it appears that the compromise pursuant to Federal Rule of Bankruptcy Procedure 9019 is a reasonable exercise of the chapter 13 debtor's business judgment. The order should be limited to the claims compromised as described in the motion.

The debtor requests approval of a settlement agreement between the debtor and the Board of Trustees of the California Ironworkers Field Pension Trust, Board of Trustees of the California Ironworkers Field Welfare Plan, Board of Trustees of the California and Vicinity Field

Iron Workers Annuity Fund, Board of Trustees of the California Field Iron Worker Vacation Trust Fund, Board of Trustees of the California Field Iron Workers Apprenticeship Training and Journeyman Retraining Fund, Board of Trustees of the California Field Iron Workers Workers Compensation Trust, Board of Trustees of the California Field Iron Workers Administrative Trust, Board of Trustees of the California Field Iron Workers Labor Management Cooperative Trust, and Board of Trustees of the California Field Iron Worker Management Progressive Action Cooperative Trust (collectively known as the "Union Trust Funds"). The claims precipitated from a contract entered into between the parties that debtor allegedly withdrew from, but the Union Trust Funds states that debtor did not.

Under the terms of the compromise, the Union Trust Funds will have a \$25,000.00 priority claim in the bankruptcy case. The Union Trust Funds will waive any other claim against the bankruptcy estate or Debtor's corporation that was incurred prior to confirmation of the plan. The Union Trust Funds understand that Debtor's plan will reject the Union Agreements, so there will be no continuing liability related to the Union Agreements.

On a motion by the trustee and after notice and a hearing, the court may approve a compromise or settlement. Fed. R. Bankr. P. 9019. Approval of a compromise must be based upon considerations of fairness and equity. In re A & C Properties, 784 F.2d 1377, 1381 (9th Cir. 1986). The court must consider and balance four factors: 1) the probability of success in the litigation; 2) the difficulties, if any, to be encountered in the matter of collection; 3) the complexity of the litigation involved, and the expense, inconvenience, and delay necessarily attending it; and 4) the paramount interest of the creditors with a proper deference to their reasonable views. In re Woodson, 839 F.2d 610, 620 (9th Cir. 1988).

The court concludes that the Woodson factors balance in favor of approving the compromise. That is: the probability of success is not assured, though debtor believes he would prevail. But litigation is inherently risky, and attorney's fees could reach \$25,000.00 in litigating those matters; collection is not an issue because debtor is not attempting to collect; the litigation is not incredibly complex, but moving forward would decrease the net to the estate due to the legal fees; and the Union Trust Funds will greatly benefit from this settlement, and have agreed to it; the settlement is equitable and fair.

Therefore, the court concludes the compromise to be in the best interests of the creditors and the estate. The settlement is approved and claim number 3 of the Union Trust Funds is modified so that the total amount of the claim is \$25,000.00, all of which is priority pursuant to 11 U.S.C. § 507(a)(5). The court may give weight to the opinions of the trustee, the parties, and their attorneys. In re Blair, 538 F.2d 849, 851 (9th Cir. 1976). Furthermore, the law favors compromise and not litigation for its own sake. *Id.* Accordingly, the motion will be granted.

This ruling is not authorizing the payment of any fees or costs associated with the litigation.

5. [18-13126](#)-B-13     **IN RE: J JESUS MATA AND HILDA DE MATA**  
[MHM-2](#)

MOTION TO DISMISS CASE  
9-21-2018    [[17](#)]

MICHAEL MEYER/MV  
THOMAS GILLIS  
RESPONSIVE PLEADING

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

DISPOSITION:                    Dropped from calendar.

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

6. [18-12437](#)-B-13     **IN RE: ANDREA AFFRONTI**  
[MHM-1](#)

CONTINUED MOTION TO DISMISS CASE  
9-11-2018    [[18](#)]

MICHAEL MEYER/MV  
MARK ZIMMERMAN  
RESPONSIVE PLEADING

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

DISPOSITION:                    Continued to November 15, 2018 at 1:30 p.m.

ORDER:                            The court will issue an order.

By prior order of the court (doc. #32, 22), the trustee's office could only "submit the Order Confirming Plan...until an order is entered valuing the 2015 Nissan Rogue held by Nissan." The motion valuing the collateral was granted without oral argument on October 17, 2018. Doc. #35. No order has yet been submitted to the court. Therefore, this matter will be continued to November 15, 2018 at 1:30 p.m. If no order has been submitted by that date, the court will call this matter and debtor's counsel must explain to the court why this case should not be dismissed.

7. [18-13354](#)-B-13     **IN RE: DAHNE FRAKER**  
[TCS-2](#)

MOTION TO VALUE COLLATERAL OF NAVY FEDERAL CREDIT UNION  
9-27-2018    [\[23\]](#)

DAHNE FRAKER/MV  
TIMOTHY SPRINGER

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

DISPOSITION:        Granted.

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

This motion was set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of the creditors, the debtor, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014- 1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument. Upon default, factual allegations will be taken as true (except those relating to amount of damages). Televideo Systems, Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires that a plaintiff make a prima facie showing that they are entitled to the relief sought, which the movant has done here.

The debtor is competent to testify as to the value of the 2012 Kia Forte EX. Given the absence of contrary evidence, the debtor's opinion of value may be conclusive. Enewally v. Washington Mutual Bank (In re Enewally), 368 F.3d 1165, 1173 (9th Cir. 2004). The respondent's secured claim will be fixed at \$4,950.00. 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.

8. [18-11357](#)-B-13     **IN RE: ENRIQUE/GUADALUPE REYES**  
[JAM-4](#)

MOTION TO CONFIRM PLAN  
9-4-2018    [[103](#)]

ENRIQUE REYES/MV  
JAMES MICHEL

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

DISPOSITION:        Denied without prejudice. The court sets December 20, 2018 as the bar date by which a plan must be confirmed or the case will be dismissed.

ORDER:                The court will issue an order.

This motion is DENIED WITHOUT PREJUDICE.

First, this motion does not comply with Local Rule of Practice ("LBR") 9014-1(j), which states that continuances must be approved by the court. This motion was originally set for hearing on October 11, 2018 at 1:30 p.m. Doc. #104. An amended notice of hearing was filed on September 5, 2018, setting the hearing for October 25, 2018 at 1:30 p.m. Doc. #110. None of these continuances were approved by the court. Even though LBR 9014-1(j) permits the movant to orally request a continuance at the hearing, this motion is denied on additional grounds.

11 U.S.C. § 1325(b)(1) states that if the trustee or an unsecured creditor objects to the plan, then the court is only able to approve the proposed plan for certain reasons. The court notes that the trustee did not oppose the plan.

However, the record does not show that the amended plan filed on July 17, 2018 (doc. #71) was served on all creditors as required by Federal Ruled of Bankruptcy Procedure 3015(d). The certificate of service shows that the amended plan was served on only seven parties (doc. #73), yet the master address list and Schedule E/F lists 38 creditors. The court notes that the plan filed with the petition was served on all creditors (doc. #18) and that the dividend allotted to unsecured creditors has decreased from 9% from the first plan to 1% in this amended plan. Doc. #6, 71. Because a confirmed plan binds the creditors, due process requires that the creditors have an opportunity to review and object to confirmation. Rule provisions regarding limited notice either apply only in chapter 7 cases if the court directs (Fed. R. Bankr. P. 2002(h)) or otherwise by court order (Fed. R. Bankr. P. 2002(m)). Debtor must re-serve the amended plan on all creditors.

Pursuant to § 1324(b), the court will set December 20, 2018 as a bar date by which a chapter 13 plan must be confirmed or the case will be dismissed on the trustee's declaration.

9. [18-11357](#)-B-13     **IN RE: ENRIQUE/GUADALUPE REYES**  
[MHM-1](#)

CONTINUED MOTION TO DISMISS CASE  
8-27-2018    [[99](#)]

MICHAEL MEYER/MV  
JAMES MICHEL  
RESPONSIVE PLEADING

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

DISPOSITION:        Continued to December 20, 2018.

ORDER:                The court will issue an order.

The court has set December 20, 2018 as a bar date by which a chapter 13 plan must be confirmed or the case will be dismissed. Therefore, this motion will be continued to that date.

10. [18-12260](#)-B-13     **IN RE: ALVINA FISCHER**  
[JFL-1](#)

CONTINUED STATUS CONFERENCE RE: OBJECTION TO CONFIRMATION OF  
PLAN BY DITECH FINANCIAL LLC  
6-14-2018    [[8](#)]

DITECH FINANCIAL LLC/MV  
RABIN POURNAZARIAN  
JAMES LEWIN/ATTY. FOR MV.  
RESPONSIVE PLEADING

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

DISPOSITION:        Continued to November 29, 2018 at 1:30 p.m.

ORDER:                The court will issue the order.

Because the objection to claim (PLG-1, doc. #38) has been continued to November 29, 2018 at 1:30 p.m., this status conference is also continued.

11. [18-12260](#)-B-13     **IN RE: ALVINA FISCHER**  
[PLG-1](#)

OBJECTION TO CLAIM OF DITECH FINANCIAL LLC, CLAIM NUMBER 1  
9-11-2018    [[38](#)]

ALVINA FISCHER/MV  
RABIN POURNAZARIAN  
CONTINUED BY STIPULATION AND ORDER TO 11/29/18

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

DISPOSITION:                    Continued to November 29, 2018 at 1:30 p.m.

NO ORDER REQUIRED:        The court already issued an order. Doc. #52.

12. [18-13064](#)-B-13     **IN RE: STEVEN CHAVEZ**  
[MHM-1](#)

CONTINUED MOTION TO DISMISS CASE  
9-6-2018    [[26](#)]

MICHAEL MEYER/MV  
SHARLENE ROBERTS-CAUDLE

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

DISPOSITION:                    Denied as moot.

ORDER:                            The court will issue an order.

This motion is DENIED AS MOOT. MHM-2, matter number 13 below, is  
granted, rendering this motion to dismiss moot.

13. [18-13064](#)-B-13     **IN RE: STEVEN CHAVEZ**  
[MHM-2](#)

CONTINUED MOTION TO DISMISS CASE  
9-7-2018    [[30](#)]

MICHAEL MEYER/MV  
SHARLENE ROBERTS-CAUDLE  
RESPONSIVE PLEADING

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

DISPOSITION:                    Granted

ORDER:                            The court will issue the order.

This motion is GRANTED.

The trustee's status report indicated that debtor has still not complied with the trustee's request for documents, and lists approximately 20 categories of documents that they have requested, and yet have not received. Among those documents is the 2017 federal and state tax return.

11 U.S.C. § 1308(a) states that if the debtor was required to file a tax return under applicable nonbankruptcy law, the debtor must file the applicable tax returns with the appropriate agencies "not later than the day before the date" of the § 341 meeting of creditors.

11 U.S.C. § 1307(e) states that if the debtor does not comply with 11 U.S.C. § 1308(a), then "the court shall dismiss a case."

Based on the record before it, the court finds that debtor did not comply with § 1308(a), and therefore the case must be dismissed.

14. [18-12366](#)-B-13     **IN RE: LAURENCE/TUESDAY SHANNON**  
[TCS-2](#)

CONTINUED MOTION TO CONFIRM PLAN  
8-16-2018    [[39](#)]

LAURENCE SHANNON/MV  
TIMOTHY SPRINGER  
RESPONSIVE PLEADING

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

DISPOSITION:        Continued to November 8, 2018 at 9:00 a.m.

ORDER:                The court will issue an order.

This matter was continued to be heard in conjunction with debtor's motion to value collateral (TCS-3, matter #15 below). That motion has been granted without a hearing. Because the trustee cannot enter the order confirming plan without the order granting the motion to value collateral being signed by the judge, this motion will be continued to November 8, 2018 at 9:00 a.m. If by that time debtor's proposed order for TCS-3 has not been submitted to the court, this matter will be called and debtor must explain to the court why the motion to confirm plan should be granted.



15. [18-12366](#)-B-13     **IN RE: LAURENCE/TUESDAY SHANNON**  
[TCS-3](#)

MOTION TO VALUE COLLATERAL OF EDUCATIONAL EMPLOYEES CREDIT  
UNION  
9-27-2018    [\[59\]](#)

LAURENCE SHANNON/MV  
TIMOTHY SPRINGER

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

DISPOSITION:        Granted.

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

This motion was set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of the creditors, the debtor, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014- 1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument. Upon default, factual allegations will be taken as true (except those relating to amount of damages). Televideo Systems, Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires that a plaintiff make a prima facie showing that they are entitled to the relief sought, which the movant has done here.

The debtor is competent to testify as to the value of the 2007 Chevrolet Suburban. Given the absence of contrary evidence, the debtor's opinion of value may be conclusive. Enewally v. Washington Mutual Bank (In re Enewally), 368 F.3d 1165, 1173 (9th Cir. 2004). The respondent's secured claim will be fixed at \$10,065.00. 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. [18-13172](#)-B-13     **IN RE: MARIAN DIAZ**  
[MHM-2](#)

MOTION TO DISMISS CASE  
9-26-2018    [[17](#)]

MICHAEL MEYER/MV  
SCOTT SAGARIA  
RESPONSIVE PLEADING

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

DISPOSITION:                    Dropped from calendar.

NO ORDER REQUIRED:            Movant withdrew the motion. Doc. #25.

17. [18-12773](#)-B-13     **IN RE: IRAYDA BAUTISTA**  
[MHM-3](#)

OBJECTION TO CONFIRMATION OF PLAN BY MICHAEL H MEYER  
10-9-2018    [[43](#)]

MICHAEL MEYER/MV  
STEPHEN LABIAK

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

DISPOSITION:                    Dropped from calendar.

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

18. [18-12879](#)-B-13     **IN RE: GERALD STULLER AND BARBARA WILKINSON-  
STULLER**  
[AP-1](#)

CONTINUED OBJECTION TO CONFIRMATION OF PLAN BY WELLS FARGO  
BANK, N.A.  
8-27-2018    [[60](#)]

WELLS FARGO BANK, N.A./MV  
SCOTT SAGARIA  
WENDY LOCKE/ATTY. FOR MV.

TENTATIVE RULING:            This matter will proceed as scheduled.

DISPOSITION:                    Overruled without prejudice.

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

This motion is OVERRULED WITHOUT PREJUDICE. Constitutional due  
process requires that the movant make a *prima facie* showing that  
they are entitled to the relief sought. Here, the moving papers do

not present "sufficient factual matter, accepted as true, to 'state a claim to relief that is plausible on its face.'" In re Tracht Gut, LLC, 503 B.R. 804, 811 (9th Cir. BAP, 2014), citing Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009), and Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 570 (2007).

Creditor Wells Fargo Bank, N.A.'s ("Creditor") objection is on the grounds that the plan does not account for the entire amount of the pre-petition arrearages that debtors owes to creditor, that the plan does not promptly cure Creditor's pre-petition arrears as required by 11 U.S.C. § 1322(b)(5), and that the plan is not feasible. Doc. #60, claim #4.

Section 3.02 of the plan provides that it is the proof of claim, not the plan itself, that determines the amount that will be repaid under the plan. Doc. #4. Creditor's proof of claim, filed August 20, 2018, states a claimed arrearage of \$40,952.30. This claim is classified in class 1. The debtors may need to modify the plan to account for the arrearage. If they do not and the plan is confirmed, and debtor defaults on their plan payments, Creditor may file a motion for stay relief. If the plan is modified, then this objection may be moot.

Therefore, this objection is OVERRULED.

19. [11-10380](#)-B-13     **IN RE: RICHARD/JACKIE OROZCO**  
[FW-3](#)

CONTINUED MOTION FOR SANCTIONS FOR VIOLATION OF THE  
DISCHARGE INJUNCTION  
9-6-2018    [[95](#)]

RICHARD OROZCO/MV  
PETER FEAR  
RESPONSIVE PLEADING

TENTATIVE RULING:            This matter will proceed as scheduled.

DISPOSITION:                    This matter will proceed as a scheduling  
conference.

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

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 be prepared for the court to set an early evidentiary hearing.

Based on the record, the factual issues appear to include: to what extent did the creditor Ditech Financial LLC ("Creditor") violate the discharge injunction, if at all.

The legal issues appear to include: the amount and type of damages debtors could be entitled to if Creditor did violate the discharge injunction.

20. [18-10987](#)-B-13     **IN RE: ARTHUR/LEANN LOPEZ**  
[PBB-1](#)

MOTION TO MODIFY PLAN  
9-12-2018    [\[25\]](#)

ARTHUR LOPEZ/MV  
PETER BUNTING  
RESPONSIVE PLEADING

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

DISPOSITION:        Continued to November 29, 2018 at 1:30 p.m.

ORDER:                The court will issue an order.

This motion will be set for a continued hearing on November 29, 2018 at 1:30 p.m. The court will issue an order. No appearance is necessary.

The trustee has filed a detailed objection to the debtors' fully noticed motion to confirm a chapter 13 plan. Unless this case is voluntarily converted to chapter 7, dismissed, or the trustee's opposition to confirmation is withdrawn, the debtors shall file and serve a written response not later than November 15, 2018. The response shall specifically address each issue raised in the opposition to confirmation, state whether the issue is disputed or undisputed, and include admissible evidence to support the debtors' position. If the debtors elect 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 22, 2018. If the debtor do not timely file a modified plan or a written response, the motion to confirm the plan will be denied on the grounds stated in the opposition without a further hearing.

21. [18-12292](#)-B-13     **IN RE: FELIPE MARTINEZ**  
[HDN-2](#)

MOTION TO CONFIRM PLAN  
8-29-2018    [[47](#)]

FELIPE MARTINEZ/MV  
HENRY NUNEZ  
DISMISSED 9/5/18

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

DISPOSITION:                    Dropped from calendar.

NO ORDER REQUIRED:            An order dismissing the case has already been  
entered. Doc. #55.

22. [18-11094](#)-B-13     **IN RE: ESMERALDA ROCHA**  
[TGM-2](#)

MOTION TO COMPEL ABANDONMENT  
9-26-2018    [[44](#)]

ESMERALDA ROCHA/MV  
TRUDI MANFREDO

NO RULING.

23. [17-11398](#)-B-13     **IN RE: REYNALDO/MARIA PERALES**  
[ALG-1](#)

MOTION TO MODIFY PLAN  
8-30-2018    [[41](#)]

REYNALDO PERALES/MV  
JANINE ESQUIVEL  
RESPONSIVE PLEADING

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

DISPOSITION:                    Dropped from calendar.

NO ORDER REQUIRED:            Movant withdrew the motion.