

UNITED STATES BANKRUPTCY COURT  
Eastern District of California  
Honorable René Lastreto II  
Hearing Date: Wednesday, November 6, 2019  
Place: Department B – 510 19th Street  
Bakersfield, 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.**

**9:00 AM**

1. [18-14600](#)-B-13     **IN RE: DOROTEO IBARRA-PEREA AND ENEDELIA RUIZ DE IBARRA**  
[PK-2](#)

MOTION FOR COMPENSATION FOR PATRICK KAVANAGH, DEBTORS ATTORNEY(S)  
9-27-2019    [\[55\]](#)

PATRICK KAVANAGH

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

**DISPOSITION:**       Denied 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 DENIED WITHOUT PREJUDICE for failure to comply with the Local Rules of Practice ("LBR").

LBR 9014-1(e)(1) requires "[s]ervice of all pleadings and documents filed in support of, or in opposition to, a motion shall be made on or before the date they are filed with the court."

The proof of service (doc. #57) only shows that the notice of motion was served. But the motion and exhibits must also be served on the chapter 13 trustee, the debtor and those requesting notice. Though the notice was served, the parties who may be directly affected by the relief requested are to be served with all necessary documents. LBR 9014-1(d)(3)(B)(iv). That was not done here. The motion is DENIED WITHOUT PREJUDICE.

2. [19-12504](#)-B-13     **IN RE: PEGGY JAMES**  
[RSW-1](#)

CONTINUED MOTION TO VALUE COLLATERAL OF MR. COOPER  
8-19-2019    [\[37\]](#)

PEGGY JAMES/MV  
ROBERT WILLIAMS  
RESPONSIVE PLEADING

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

DISPOSITION:     Continued to December 4, 2019 at 9:00 a.m.

ORDER:             The court will issue the order.

The debtor and respondent appear to have resolved the issue, but the chapter 13 trustee was not a party to the stipulation. The chapter 13 trustee should be heard and be a part of the resolution. See 11 U.S.C. § 1302(b)(2)(A). If a stipulation is entered between the parties and the chapter 13 trustee before the continued hearing, the continued hearing may be dropped from calendar.

3. [18-12305](#)-B-13     **IN RE: CORINA NIETO**  
[PK-1](#)

MOTION FOR COMPENSATION FOR PATRICK KAVANAGH, DEBTORS ATTORNEY(S)  
10-10-2019    [\[24\]](#)

PATRICK KAVANAGH

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").

LBR 9014-1(f)(2)(C) states that motions filed on less than 28 days' notice, but at least 14 days' notice, require the movant to notify the respondent or respondents that no party in interest shall be required to file written opposition to the motion. Opposition, if any, shall be presented at the hearing on the motion. If opposition is presented, or if there is other good cause, the Court may continue the hearing to permit the filing of evidence and briefs.

This motion was served and filed on October 10, 2019 and set for hearing on November 6, 2019. Doc. #25, 27. November 6, 2019 is 27 days after October 10, 2019, and therefore this hearing was set on less than 28 days' notice under LBR 9014-1(f)(2). The notice stated that written opposition was required and must be filed at least 14 days preceding the date of the hearing. Doc. #25. That is incorrect. Because the hearing was set on less than 28 days' notice, the notice

should have stated that no written opposition was required. Because this motion was filed, served, and noticed on less than 28 days' notice, the language of LBR 9014-1(f)(2)(C) needed to have been included in the notice.

4. [19-13306](#)-B-13     **IN RE: SATIN BRUFF**  
[MHM-1](#)

MOTION TO DISMISS CASE  
9-27-2019    [\[25\]](#)

MICHAEL MEYER/MV  
VINCENT GORSKI  
RESPONSIVE PLEADING

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

DISPOSITION:                    Dropped from calendar.

NO ORDER REQUIRED:            Movant withdrew the motion. Doc. #39.

5. [19-13306](#)-B-13     **IN RE: SATIN BRUFF**  
[MHM-2](#)

MOTION TO DISMISS CASE  
10-8-2019    [\[29\]](#)

MICHAEL MEYER/MV  
VINCENT GORSKI  
RESPONSIVE PLEADING

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

DISPOSITION:                    Dropped from calendar.

NO ORDER REQUIRED:            Movant withdrew the objection. Doc. #41.

6. [18-13708](#)-B-13     **IN RE: LEONARDO CHAVEZ**  
[NSV-2](#)

MOTION TO MODIFY PLAN  
10-3-2019    [\[36\]](#)

LEONARDO CHAVEZ/MV  
NIMA VOKSHORI

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

DISPOSITION:     Denied 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 DENIED WITHOUT PREJUDICE for failure to comply with  
the Local Rules of Practice ("LBR").

LBR 3015-1(d)(2) states that for modified plans proposed after  
confirmation

Notice of the motion shall comply with Fed. R. Bankr. P.  
3015(h), which requires twenty-one (21) days of notice of  
the time fixed for filing objections, as well as LBR  
9014-1(f)(1). LBR 9014-1(f)(1) requires twenty-eight (28)  
days' notice of the hearing and notice that opposition  
must be filed fourteen (14) days prior to the hearing. In  
order to comply with both Fed. R. Bankr. P. 3015(g) and  
LBR 9014-1(f)(1), parties in interest shall be served at  
least thirty-five (35) days prior to the hearing.

This motion was filed and served on October 3, 2019. Doc. #39. The  
motion was set for hearing on November 6, 2019. November 6, 2019 is  
34 days after October 3, 2019. No order shortening notice was  
requested or granted. The notice therefore was not on 35 days'  
notice as required by LBR 9014-1(f)(1) and Fed. R. Bankr. P. 3015(g)  
and is DENIED WITHOUT PREJUDICE.

7. [19-13411](#)-B-13     **IN RE: ADAM CHAVEZ**  
[MHM-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY TRUSTEE MICHAEL H. MEYER  
9-26-2019    [\[13\]](#)

NEIL SCHWARTZ

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

DISPOSITION:        Continued to December 4, 2019 at 9:00 a.m.

ORDER:                The court will issue an order.

The chapter 13 trustee ("Trustee") has filed a detailed objection to debtor's plan confirmation. Unless this case is voluntarily converted to chapter 7, dismissed, or Trustee's objection to confirmation is withdrawn, the debtor shall file and serve a written response not later than November 20, 2019. The response shall specifically address each issue raised in the opposition to confirmation, state whether the issue is disputed or undisputed, and include admissible evidence to support the debtor's position. Trustee shall file and serve a reply, if any, by November 27, 2019.

If the debtor elects to withdraw this plan and file a modified plan in lieu of filing a response, then a confirmable modified plan shall be filed, served, and set for hearing, not later than November 27, 2019. If the debtor does not timely file a modified plan or a written response, this motion will be denied on the grounds stated in the opposition without a further hearing.

8. [19-13316](#)-B-13     **IN RE: CURTIS ROSS**  
[MHM-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY TRUSTEE MICHAEL H. MEYER  
9-26-2019    [\[16\]](#)

ROBERT WILLIAMS

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

DISPOSITION:        Continued to December 4, 2019 at 9:00 a.m.

ORDER:                The court will issue an order.

Debtor failed to appear at the § 341 meeting of creditors on September 24, 2019 and as such the chapter 13 trustee has not yet had an opportunity to interview the debtor. The continued § 341 meeting is scheduled for November 7, 2019. Therefore this objection is continued to December 4, 2019 at 9:00 a.m.

9. [19-13316](#)-B-13     **IN RE: CURTIS ROSS**  
[MHM-2](#)

MOTION TO DISMISS CASE  
10-7-2019    [\[23\]](#)

MICHAEL MEYER/MV  
ROBERT WILLIAMS  
RESPONSIVE PLEADING

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

DISPOSITION:                    Dropped from calendar.

NO ORDER REQUIRED:            Movant withdrew the motion. Doc. #31.

10. [19-13316](#)-B-13     **IN RE: CURTIS ROSS**  
[MRG-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY LOANDEPOT.COM LLC  
9-24-2019    [\[13\]](#)

LOANDEPOT.COM LLC/MV  
ROBERT WILLIAMS  
KRISTIN ZILBERSTEIN/ATTY. FOR MV.  
WITHDRAWN

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

DISPOSITION:                    Dropped from calendar.

NO ORDER REQUIRED:            The objection was withdrawn. Doc. #27.

11. [19-13021](#)-B-13     **IN RE: ANNA SOLIS**  
[MHM-1](#)

CONTINUED OBJECTION TO CONFIRMATION OF PLAN BY TRUSTEE MICHAEL  
H. MEYER  
9-9-2019    [\[13\]](#)

ROBERT WILLIAMS  
WITHDRAWN

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

DISPOSITION:                    Dropped from calendar.

NO ORDER REQUIRED:            The objection was withdrawn. Doc. #30.

12. [19-13021](#)-B-13     **IN RE: ANNA SOLIS**  
[MHM-2](#)

OBJECTION TO DEBTOR'S CLAIM OF EXEMPTIONS  
9-11-2019    [\[17\]](#)

MICHAEL MEYER/MV  
ROBERT WILLIAMS  
WITHDRAWN

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

DISPOSITION:                    Dropped from calendar.

NO ORDER REQUIRED:            The objection was withdrawn. Doc. #32.

13. [19-13021](#)-B-13     **IN RE: ANNA SOLIS**  
[MHM-3](#)

MOTION TO DISMISS CASE  
10-7-2019    [\[26\]](#)

MICHAEL MEYER/MV  
ROBERT WILLIAMS  
RESPONSIVE PLEADING

TENTATIVE RULING:            This matter will proceed as scheduled.

DISPOSITION:                    Denied.

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

This motion is DENIED.

The chapter 13 trustee ("Trustee") asks the court to dismiss this bankruptcy case for cause under 11 U.S.C. § 1307(c) for debtor's failure to make all payments under the plan. Doc. #26. Trustee states that as of October 7, 2019, "payments are delinquent in the amount of \$931.00" and prior to this hearing a payment of \$936.00 will come due on October 25, 2019. Doc. #28.

Debtor opposed, one day late and without leave of the court to file late opposition, stating that debtor mistakenly sent her August plan payment to her mortgage lender, Ocwen. Doc. #36. The money order company stopped the payment on October 16, but it could take up to seven days to issue a refund, at which point she would send that payment to Trustee. Id. Debtor stated that her September and October plan payments have been paid. Id.

This matter will be called to verify the status of debtor's payments. If debtor is current, the motion will be DENIED. If debtor is not current, the court may grant the motion.



14. [19-12724](#)-B-13     **IN RE: RICHARD/KATHLEEN KOHLER**  
[PLG-1](#)

MOTION TO CONFIRM PLAN  
9-5-2019    [\[29\]](#)

RICHARD KOHLER/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.

15. [19-12929](#)-B-13     **IN RE: HERBERT/CECILIA JUAREZ**  
[MHM-1](#)

CONTINUED OBJECTION TO CONFIRMATION OF PLAN BY TRUSTEE MICHAEL  
H. MEYER  
9-9-2019    [\[18\]](#)

ROBERT WILLIAMS

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

DISPOSITION:        Sustained.

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

This objection is SUSTAINED. By prior order of the court (doc. #29), debtor had either until October 23, 2019 to file and serve a written response to the chapter 13 trustee's objection to confirmation, or until October 30, 2019 to file, serve, and set for hearing a confirmable modified plan or the objection would be sustained on the grounds therein. Debtor has neither responded to the objection nor filed a modified plan. Therefore pursuant to the court's previous order, this objection is SUSTAINED.

16. [18-12731](#)-B-13     **IN RE: MARK/ALICIA GARAY**  
[PK-2](#)

CONTINUED MOTION TO MODIFY PLAN  
8-5-2019    [\[26\]](#)

MARK GARAY/MV  
PATRICK KAVANAGH  
RESPONSIVE PLEADING

TENTATIVE RULING:        This matter will proceed as scheduled.

DISPOSITION:        Denied 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 DENIED WITHOUT PREJUDICE.

The court continued this motion to allow debtor to respond to the chapter 13 trustee's ("Trustee") objection to modification. Debtor timely responded pursuant to the court's order (doc. #40), stating that "a correction of the amount paid to Santander and attorney fees are adjusted by less than \$40.00," then confirmation should be proper. Doc. #43. Trustee replied, stating among other things that Santander would need to consent to debtor's proposed treatment. Doc. #45.

The current Plan classifies Santander is Class 2A. Debtors state Santander has been paid \$4,693.32. But, only \$2,277.63 has been paid. The court cannot consider this a minor modification without Santander's consent. Santander has filed a claim and the debtors have not objected to its' allowance.

The court has not seen Santander's consent, and failure to oppose does not equal consent.

This matter will be called to verify whether debtor has obtained Santander's consent.

17. [19-13437](#)-B-13     **IN RE: JOSE REYES**  
[MHM-1](#)

MOTION TO DISMISS CASE  
10-8-2019    [[14](#)]

MICHAEL MEYER/MV  
ROBERT WILLIAMS  
RESPONSIVE PLEADING

TENTATIVE RULING:        This matter will proceed as scheduled.

DISPOSITION:                Denied.

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

This motion is DENIED.

The chapter 13 trustee ("Trustee") asks the court to dismiss this bankruptcy case for cause under 11 U.S.C. § 1307(c) for debtor's failure to make all payments under the plan. Doc. #14. Trustee states that as of October 8, 2019, "payments are delinquent in the amount of \$1,327.00" and prior to this hearing a payment of \$1,327.00 will come due on October 25, 2019. Doc. #16.

Debtor timely opposed (without evidence), stating that debtor "has a \$1,327.00 TFSBillPay.com payment scheduled for October 24, 2019 . . . which will bring him current through September. He will make another \$1,327.00 payment via Moneygram before the hearing date for the October payment." Doc. #18.

This matter will be called to verify the status of debtor's payments. If debtor is current, the motion will be DENIED. If debtor is not current, the court may grant the motion.

18. [19-13541](#)-B-13     **IN RE: LETICIA JASSO DE NUNEZ**  
[MHM-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY TRUSTEE MICHAEL H. MEYER  
10-16-2019    [\[17\]](#)

VINCENT GORSKI

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

DISPOSITION:     Continued to December 4, 2019 at 9:00 a.m.

ORDER:             The court will issue an order.

The chapter 13 trustee ("Trustee") has filed a detailed objection to the debtor's plan confirmation. Unless this case is voluntarily converted to chapter 7, dismissed, or Trustee's opposition to confirmation is withdrawn, the debtor shall file and serve a written response not later than November 20, 2019. The response shall specifically address each issue raised in the opposition to confirmation, state whether the issue is disputed or undisputed, and include admissible evidence to support the debtor's position. Trustee shall file and serve a reply, if any, by November 27, 2019.

If the debtor elects to withdraw this plan and file a modified plan in lieu of filing a response, then a confirmable modified plan shall be filed, served, and set for hearing, not later than November 27, 2019. If the debtor does not timely file a modified plan or a written response, this motion will be denied on the grounds stated in the opposition without a further hearing.

19. [19-13343](#)-B-13     **IN RE: CHRISTINA CORONEL**  
[MHM-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY TRUSTEE MICHAEL H. MEYER  
9-26-2019    [\[18\]](#)

ROBERT WILLIAMS

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

DISPOSITION:     Continued to December 4, 2019 at 9:00 a.m.

ORDER:             The court will issue an order.

The chapter 13 trustee ("Trustee") has filed a detailed objection to the debtor's plan confirmation. Unless this case is voluntarily converted to chapter 7, dismissed, or Trustee's opposition to confirmation is withdrawn, the debtor shall file and serve a written response not later than November 20, 2019. The response shall specifically address each issue raised in the opposition to confirmation, state whether the issue is disputed or undisputed, and include admissible evidence to support the debtor's position. Trustee shall file and serve a reply, if any, by November 27, 2019.

If the debtor elects to withdraw this plan and file a modified plan in lieu of filing a response, then a confirmable modified plan shall be filed, served, and set for hearing, not later than November 27, 2019. If the debtor does not timely file a modified plan or a written response, this motion will be denied on the grounds stated in the opposition without a further hearing.

20. [19-12345](#)-B-13     **IN RE: PAOLA ZAVALA**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES  
10-7-2019    [[30](#)]

THOMAS GILLIS  
FINAL INSTALLMENT PAYMENT OF \$77.00 ON 10/11/19

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 in full on October 11, 2019. Therefore, the Order to Show Cause will be vacated.

21. [18-12252](#)-B-13     **IN RE: JOSE GUERRA**  
[RSW-1](#)

MOTION TO MODIFY PLAN  
9-9-2019    [[28](#)]

JOSE GUERRA/MV  
ROBERT WILLIAMS

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.

22. [19-13659](#)-B-13     **IN RE: LUANNA NELSON**  
[MHM-1](#)

MOTION TO DISMISS CASE  
10-8-2019    [\[15\]](#)

MICHAEL MEYER/MV  
THOMAS MOORE

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

DISPOSITION:     Granted.

ORDER:             The court will issue an order.

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

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

The record shows that there has been unreasonable delay by the debtor that is prejudicial to creditors (11 U.S.C. § 1307(c)(1)). The debtor has failed to make all payments due under the plan (11 U.S.C. § 1307(c)(1) and (c)(4)). Accordingly, the case will be dismissed.

23. [19-13659](#)-B-13     **IN RE: LUANNA NELSON**  
[MHM-2](#)

OBJECTION TO CONFIRMATION OF PLAN BY TRUSTEE MICHAEL H. MEYER  
10-17-2019    [[20](#)]

THOMAS MOORE

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

DISPOSITION:        Overruled as moot.

ORDER:                The court will issue an order.

This objection is OVERRULED AS MOOT. The case is dismissed on the chapter 13 trustee's motion, MHM-1, matter #22 above.

24. [19-12366](#)-B-13     **IN RE: CLINT/JUDITH HARRISON**  
[MHM-2](#)

MOTION TO DISMISS CASE  
10-7-2019    [[33](#)]

CLINT HARRISON/MV  
ROBERT WILLIAMS  
RESPONSIVE PLEADING

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

DISPOSITION:        Dropped from calendar.

NO ORDER REQUIRED:    Movant withdrew the motion. Doc. #47.

25. [19-12368](#)-B-13     **IN RE: JONATHAN LEACH**  
[MHM-1](#)

MOTION TO DISMISS CASE  
9-18-2019    [[24](#)]

MICHAEL MEYER/MV  
ROBERT WILLIAMS  
RESPONSIVE PLEADING

TENTATIVE RULING:    This matter will proceed as scheduled.

DISPOSITION:        Denied.

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

This motion is DENIED.

The chapter 13 trustee ("Trustee") asks the court to dismiss this bankruptcy case for cause under 11 U.S.C. § 1307(c) for debtor's failure to make all payments under the plan. Doc. #24. Trustee states that as of September 18, 2019, "payments are delinquent in the amount of \$1,660.00" and prior to this hearing two payments of \$830.00 will come due on September 25 and October 25, 2019. Doc. #26.

Debtor timely opposed (without evidence), stating that debtor "has filed a motion to confirm a modified plan which is set for hearing on December 4. TFSBillPay.com showed a payment of \$830.00 on October 18, 2019, but it failed for an unknown reason. Therefore, he will be current when that payment clears, pursuant to his First Modified Plan." Doc. #41.

This matter will be called to verify the status of debtor's payments. If debtor is current, the motion will be DENIED. If debtor is not current, the court may grant the motion.

26. [19-12368](#)-B-13     **IN RE: JONATHAN LEACH**  
[RSW-2](#)

MOTION TO VALUE COLLATERAL OF WELLS FARGO DEALER SERVICES  
10-22-2019    [\[28\]](#)

JONATHAN LEACH/MV  
ROBERT WILLIAMS

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

DISPOSITION:     Denied 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 DENIED 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).

The motion is DENIED WITHOUT PREJUDICE.

The declaration does not contain the debtor's opinion of the relevant value. 11 U.S.C. § 506(a)(2) requires the valuation to be "replacement value," not the debtor's opinion of the vehicle's "worth," which is not specific enough.



27. [16-13670](#)-B-13     **IN RE: FRANCISCO/REBECCA MENDOZA**  
[RSW-1](#)

MOTION FOR CONSENT TO ENTER INTO LOAN MODIFICATION AGREEMENT  
10-7-2019    [\[54\]](#)

FRANCISCO MENDOZA/MV  
ROBERT WILLIAMS

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. Debtors are authorized, but not required, to enter into the proposed loan modification agreement with Kern Schools Federal Credit Union.

28. [18-14673](#)-B-13     **IN RE: KEVIN MOONEY AND CHRISTY TURNER**  
[RSW-3](#)

MOTION TO MODIFY PLAN  
9-16-2019    [\[48\]](#)

KEVIN MOONEY/MV  
ROBERT WILLIAMS

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.

29. [19-13474](#)-B-13     **IN RE: STEPHANIE LOCASCIO**  
[CDR-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY CALIFORNIA FRANCHISE TAX  
BOARD  
10-1-2019    [\[16\]](#)

CALIFORNIA FRANCHISE TAX BOARD/MV  
ROBERT WILLIAMS  
CRAIG RUST/ATTY. FOR MV.  
RESPONSIVE PLEADING

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 objection is OVERRULED WITHOUT PREJUDICE. Creditor California Franchise Tax Board ("Creditor") objects to plan confirmation because the plan does not purportedly comply with 11 U.S.C. § 1322(a)(2). Doc. #16. 11 U.S.C. § 1322(a)(2) requires the plan to "provide for the full payment, in deferred cash payments, of all claims entitled to priority under section 507 of this title, unless the holder of a particular claim agrees to a different treatment of such claim . . . ."

Creditor filed its claim on September 27, 2019 in the amount of \$5,754.12. Claim #8. \$5,346.86 is entitled to priority status under 11 U.S.C. § 507(a)(8), with the remainder an allowed general unsecured claim. So far, there is no objection to allowance of the claim.

Debtor responded, stating that the objection has been resolved by language to be included in the Order Confirming Plan. Doc. #19.

This matter will be called to confirm the resolution of the objection.

30. [19-13474](#)-B-13     **IN RE: STEPHANIE LOCASCIO**  
[MHM-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY TRUSTEE MICHAEL H. MEYER  
9-26-2019    [\[12\]](#)

ROBERT WILLIAMS

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

DISPOSITION:        Continued to December 4, 2019 at 9:00 a.m.

ORDER:                The court will issue an order.

Debtor failed to appear at the § 341 meeting of creditors on September 24, 2019 and as such the chapter 13 trustee has not yet had an opportunity to interview the debtor. Doc. #12. The continued § 341 meeting is scheduled for November 7, 2019. Therefore, this objection is continued to December 4, 2019 at 9:00 a.m.

31. [19-13682](#)-B-13     **IN RE: SALVADOR TEJEDA**  
[MHM-1](#)

MOTION TO DISMISS CASE  
10-8-2019    [\[18\]](#)

SALVADOR TEJEDA/MV  
SALVADOR TEJEDA/ATTY. FOR MV.

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

DISPOSITION:        Granted.

ORDER:                The court will issue an order.

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

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

The record shows that there has been unreasonable delay by the debtor that is prejudicial to creditors (11 U.S.C. § 1307(c)(1)). The debtor has failed to make all payments due under the plan (11 U.S.C. § 1307(c)(1) and (c)(4)). Accordingly, the case will be dismissed.

32. [19-13682](#)-B-13     **IN RE: SALVADOR TEJEDA**  
[MHM-2](#)

OBJECTION TO CONFIRMATION OF PLAN BY TRUSTEE MICHAEL H. MEYER  
10-17-2019    [\[22\]](#)

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

DISPOSITION:        Overruled as moot.

ORDER:                The court will issue an order.

This objection is OVERRULED AS MOOT. The case is dismissed on the chapter 13 trustee's motion, MHM-1, matter #31 above.

33. [19-12791](#)-B-13     **IN RE: ROBINSON/MARIA POLANCO**  
[MHM-3](#)

MOTION TO DISMISS CASE  
10-7-2019    [\[85\]](#)

MICHAEL MEYER/MV  
RICHARD STURDEVANT

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

DISPOSITION:        Granted.

ORDER:                The court will issue an order.

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

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

The record shows that there has been unreasonable delay by the debtors that is prejudicial to creditors (11 U.S.C. § 1307(c)(1)). The debtors have failed to make all payments due under the plan (11 U.S.C. § 1307(c)(1) and (c)(4)). Accordingly, the case will be dismissed.

34. [19-12896](#)-B-13     **IN RE: ANDREA EYRE**  
[MHM-2](#)

MOTION TO DISMISS CASE  
9-18-2019    [\[24\]](#)

MICHAEL MEYER/MV  
ROBERT WILLIAMS  
RESPONSIVE PLEADING

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 court will issue  
the order.

This motion is GRANTED.

The chapter 13 trustee ("Trustee") asks the court to dismiss this bankruptcy case for cause under 11 U.S.C. § 1307(c) for debtor's failure to make all payments under the plan. Doc. #24. Trustee states that as of September 18, 2019, "payments are delinquent in the amount of \$2,173.00" and prior to this hearing two payments of \$2,173.00 will come due on September 25 and October 25, 2019. Doc. #26.

Debtor opposed (without evidence, one day late, and without leave of the court to file late opposition), stating that debtor "paid a payment this month but counsel has not been able to reach her about the delinquency." Doc. #31.

This matter will be called to verify the status of debtor's payments. If debtor is current, the motion will be denied. If debtor is not current, the court may grant the motion.

10:00 AM

1. [11-15004](#)-B-7     **IN RE: EUFRACIO/RAQUEL HINOJOSA**  
[JSP-2](#)

MOTION TO AVOID LIEN OF HOUSEHOLD FINANCE CORPORATION OF  
CALIFORNIA  
10-2-2019     [\[31\]](#)

EUFRACIO HINOJOSA/MV  
JOSEPH PEARL

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. In order to avoid a lien under 11 U.S.C. § 522(f)(1) the movant must establish four elements: (1) there must be an exemption to which the debtor would be entitled under § 522(b); (2) the property must be listed on the debtor's schedules as exempt; (3) the lien must impair the exemption; and (4) the lien must be either a judicial lien or a non-possessory, non-purchase money security interest in personal property listed in § 522(f)(1)(B). § 522(f)(1); Goswami v. MTC Distrib. (In re Goswami), 304 B.R. 386, 390-91 (9th Cir. BAP 2003), quoting In re Mohring, 142 B.R. 389, 392 (Bankr. E.D. Cal. 1992), aff'd 24 F.3d 247 (9th Cir. 1994).

A judgment was entered against the debtor in favor of Household Finance Corporation of California in the sum of \$23,279.70 on May 18, 2010. Doc. #34. The abstract of judgment was recorded with Kern County on July 19, 2010. Id. That lien attached to the debtor's interest in a residential real property in Bakersfield, CA. The

motion will be granted pursuant to 11 U.S.C. § 522(f)(1)(A). The subject real property had an approximate value of \$135,000.00 as of the petition date. Doc. #12. The unavoidable liens totaled \$148,570.00 on that same date, consisting of a first deed of trust in favor of American Home Mortgage Service. Id. The debtor claimed an exemption pursuant to Cal. Civ. Proc. Code § 703.140(b)(5) in the amount of \$1,000.00. Id.

Movant has established the four elements necessary to avoid a lien under § 522(f)(1). After application of the arithmetical formula required by 11 U.S.C. § 522(f)(2)(A), there is no equity to support the judicial lien. Therefore, the fixing of this judicial lien impairs the debtor's exemption of the real property and its fixing will be avoided subject to 11 U.S.C. § 349(b)(1)(B).

2. [19-13214](#)-B-7      **IN RE: BRYAN/SIRINA RESENDEZ**  
[WFZ-2](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY AND/OR MOTION FOR ADEQUATE PROTECTION  
10-9-2019    [\[30\]](#)

KINECTA FEDERAL CREDIT UNION/MV  
STEPHEN LABIAK  
MARK BLACKMAN/ATTY. FOR MV.

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").

LBR 9014-1(f)(1)(B) states that Motions filed on at least 28 days' notice require the movant to notify the respondent or respondents that any opposition to motions filed on at least 28 days' notice must be in writing and must be filed with the court at least fourteen (14) days preceding the date or continued date of the hearing.

This motion was filed and served on October 9, 2019 and set for hearing on November 6, 2019. Doc. #30, 36. November 6, 2019 is 28 days after October 9, 2019, and therefore this hearing was set on 28 days' notice under LBR 9014-1(f)(1). The notice stated that written opposition was not required, and opposition, if any, must be presented at the hearing. Doc. #31. That is incorrect. Because the hearing was set on 28 days' notice, the notice should have stated that written opposition, if any, must be filed and served at least 14 days prior to the hearing.

LBR 9014-1(f)(2)(C) states: "[w]hen fewer than twenty-eight (28) days' notice of a hearing is given, no party in interest shall be required to file written opposition to the motion." Only motions



that have actually been noticed on fewer than 28 days may properly use the language under 9014-1(f)(2)(C).

Because this motion was filed, served, and noticed on 28 days' notice, the language of LBR 9014-1(f)(1)(B) needed to have been included in the notice.

The court notes the Debtor and the Trustee have not filed non-opposition, although the Trustee has filed a report of no distribution. So, the local rule issues remain germane.

3. [19-13637](#)-B-7     **IN RE: RAYMOND/ILSE VAN ZANT**  
[DWE-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY  
9-27-2019     [\[13\]](#)

FREEDOM MORTGAGE CORPORATION/MV  
ASHTON DUNN  
DANE EXNOWSKI/ATTY. FOR MV.

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 for relief from stay was fully noticed in compliance with the Local Rules of Practice and there was no opposition. The debtors' and the trustee's defaults will be entered. 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 collateral is a parcel of real property commonly known as 300 Mesquite Ave, Ridgecrest, CA 93555. Doc. #16. The collateral has a value of \$227,368.00 and the amount owed is \$213,883.70. Doc. #18.

If the motion involves a foreclosure of real property in California, then the order shall also provide that the bankruptcy proceeding has been finalized for purposes of California Civil Code § 2923.5.

A waiver of Federal Rule of Bankruptcy Procedure 4001(a)(3) will not be granted. The movant has shown no exigency.

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).

4. [19-12543](#)-B-7     **IN RE: CECILIA SALDANA**  
[RSW-1](#)

MOTION TO AVOID LIEN OF TWO JINN INC.  
10-9-2019    [\[15\]](#)

CECILIA SALDANA/MV  
ROBERT WILLIAMS

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").

LBR 9014-1(f)(1)(B) states that Motions filed on at least 28 days' notice require the movant to notify the respondent or respondents that any opposition to motions filed on at least 28 days' notice must be in writing and must be filed with the court at least fourteen (14) days preceding the date or continued date of the hearing.

This motion was filed served on October 9, 2019. Doc. #19. The hearing was set for November 6, 2019. Doc. #16. November 6, 2019 is 28 days after October 9, 2019 and therefore this hearing was set on 28 days' notice under LBR 9014-1(f)(1). The notice stated that opposition, if any, may be presented at the hearing. Doc. #16. That is incorrect. Because the hearing was set on 28 days' notice, the notice should have stated that opposition, if any, must be written and filed and served at least 14 days prior to the hearing. Because this motion was filed, served, and noticed on 28 days' notice, the language of LBR 9014-1(f)(1)(B) needed to have been included in the notice.

5. [19-12543](#)-B-7     **IN RE: CECILIA SALDANA**  
[RSW-2](#)

MOTION TO AVOID LIEN OF ADILENE GONZALES  
10-9-2019    [\[20\]](#)

CECILIA SALDANA/MV  
ROBERT WILLIAMS

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").

LBR 9014-1(f)(1)(B) states that Motions filed on at least 28 days' notice require the movant to notify the respondent or respondents that any opposition to motions filed on at least 28 days' notice must be in writing and must be filed with the court at least fourteen (14) days preceding the date or continued date of the hearing.

This motion was filed served on October 9, 2019. Doc. #24. The hearing was set for November 6, 2019. Doc. #21. November 6, 2019 is 28 days after October 9, 2019 and therefore this hearing was set on 28 days' notice under LBR 9014-1(f)(1). The notice stated that opposition, if any, may be presented at the hearing. Doc. #24. That is incorrect. Because the hearing was set on 28 days' notice, the notice should have stated that opposition, if any, must be written and filed and served at least 14 days prior to the hearing. Because this motion was filed, served, and noticed on 28 days' notice, the language of LBR 9014-1(f)(1)(B) needed to have been included in the notice.

6. [18-12561](#)-B-7     **IN RE: CARLOS SOLIS AND BEATRIZ ALVAREZ**  
[LNH-2](#)

MOTION TO COMPROMISE CONTROVERSY/APPROVE SETTLEMENT AGREEMENT  
WITH JESSE GUTIERREZ AND AZUCENA ALVAREZ GUTIERREZ  
10-9-2019    [[32](#)]

JEFFREY VETTER/MV  
OSCAR SWINTON  
LISA HOLDER/ATTY. FOR MV.

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. It appears from the moving papers that the chapter 7 trustee ("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 Trustee's business judgment. The order should be limited to the claims compromised as described in the motion.

Trustee requests approval of a settlement agreement between the estate and Jesse Gutierrez and Azucena Alvarez Gutierrez (collectively, "Gutierrez").

Under the terms of the compromise, Gutierrez will pay Trustee \$18,500.00 in full satisfaction of the avoidance claims related to debtors' transfers to Gutierrez of 1230 Griffith Avenue and 1999 Bay Meadows Drive (collectively, "Property"), both located in Wasco, CA; Gutierrez paid \$1,850.00 as a good faith deposit and must pay the balance due within 30 days after approval of this motion, subject to reasonable time extensions in Trustee's business judgment, and; adversary proceeding no. 19-01086 shall be dismissed with prejudice.

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: Trustee was certain that he would prevail if the adversary proceeding were to go to trial; however, collection may not have been easy as prevailing a trial due to Gutierrez's potential to file bankruptcy, and that the Property may not be worth as much as originally expected; the litigation is not incredibly complex, though factually intensive, but moving forward would decrease the net to the estate due to the legal fees; and the creditors will greatly benefit from the net to the estate, that would otherwise not exist; 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 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.

10:30 AM

1. [18-14663](#)-B-11     **IN RE: 3MB, LLC**

CONFIRMATION HEARING RE: AMENDED/MODIFIED PLAN  
7-25-2019    [[221](#)]

LEONARD WELSH

NO RULING.

2. [18-14663](#)-B-11     **IN RE: 3MB, LLC**

CONTINUED STATUS CONFERENCE RE: CHAPTER 11 VOLUNTARY PETITION  
11-19-2018    [[1](#)]

LEONARD WELSH

NO RULING.

3. [18-14663](#)-B-11     **IN RE: 3MB, LLC**  
    [LKW-10](#)

CONTINUED OBJECTION TO CLAIM OF US BANK NATIONAL ASSOCIATION,  
CLAIM NUMBER 1  
6-18-2019    [[171](#)]

3MB, LLC/MV  
LEONARD WELSH

NO RULING.

11:00 AM

1. [17-11028](#)-B-11     **IN RE: PACE DIVERSIFIED CORPORATION**  
[18-1006](#)

CONTINUED STATUS CONFERENCE RE: COMPLAINT  
2-5-2018    [[1](#)]

PACE DIVERSIFIED CORPORATION ET AL V. MACPHERSON OIL  
T. BELDEN/ATTY. FOR PL.  
RESPONSIVE PLEADING

NO RULING.

2. [18-12561](#)-B-7     **IN RE: CARLOS SOLIS AND BEATRIZ ALVAREZ**  
[19-1086](#)

CONTINUED STATUS CONFERENCE RE: COMPLAINT  
7-16-2019    [[1](#)]

VETTER V. GUTIERREZ ET AL  
LISA HOLDER/ATTY. FOR PL.

NO RULING.

3. [19-10093](#)-B-7     **IN RE: REYANTHONY/ELAINE BRACAMONTE**  
[19-1051](#)

CONTINUED STATUS CONFERENCE RE: COMPLAINT  
5-21-2019    [[1](#)]

BRACAMONTE ET AL V. CACH, LLC ET AL  
PATRICK KAVANAGH/ATTY. FOR PL.

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. #16.

11:30 AM

1. [19-12219](#)-B-7     **IN RE: IVAN BRIBIESCACARDENAS AND MAYRA CORONADO FLORES**

PRO SE REAFFIRMATION AGREEMENT WITH ALTAONE FEDERAL CREDIT UNION  
9-27-2019    [[26](#)]

OSCAR SWINTON

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

DISPOSITION:     Denied.

ORDER:             The court will issue an order.

Debtors' counsel will inform debtors that no appearance is necessary.

Both the reaffirmation agreement and the bankruptcy schedules show that reaffirmation of this debt creates a presumption of undue hardship which has not been rebutted in the reaffirmation agreement. In this case, the debtors' attorney affirmatively represented that he could not recommend the reaffirmation agreement. Therefore, the agreement does not meet the requirements of 11 U.S.C. §524(c) and is not enforceable.

2. [19-13840](#)-B-7     **IN RE: STEPHANIE WINN**

PRO SE REAFFIRMATION AGREEMENT WITH FORD MOTOR CREDIT COMPANY  
10-11-2019    [[16](#)]

NO RULING.

3. [19-13446](#)-B-7     **IN RE: SALVADOR TEJEDA ARAMBULA AND CONCEPCION TEJEDA**

PRO SE REAFFIRMATION AGREEMENT WITH WELLS FARGO BANK N.A.  
10-15-2019    [[26](#)]

NO RULING.

4. [19-13579](#)-B-7     **IN RE: RAY/LUCINDA OKIDA**

PRO SE REAFFIRMATION AGREEMENT WITH ALTAONE FEDERAL CREDIT UNION  
10-7-2019    [[14](#)]



WILLIAM SMYTH

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

DISPOSITION: Dropped.

ORDER: The court will issue an order.

Debtors' counsel will inform debtors that no appearance is necessary.

The court is not approving or denying approval of the reaffirmation agreement. Debtors were represented by counsel when they entered into the reaffirmation agreement. Pursuant to 11 U.S.C. §524(c)(3), if the debtor is represented by counsel, the agreement must be accompanied by an affidavit of the debtor's attorney attesting to the referenced items before the agreement will have legal effect. *In re Minardi*, 399 B.R. 841, 846 (Bankr. N.D. Ok, 2009) (emphasis in original). The reaffirmation agreement, in the absence of a declaration by debtors' counsel, does not meet the requirements of 11 U.S.C. §524(c) and is not enforceable. The debtors shall have 14 days to refile the reaffirmation agreement properly signed and endorsed by the attorney.