



UNITED STATES BANKRUPTCY COURT
Eastern District of California
Honorable Jennifer E. Niemann
Hearing Date: Thursday, November 7, 2024
Department A - 510 19th street
Bakersfield, California

At this time, when in-person hearings in Bakersfield will resume is to be determined. No persons are permitted to appear in court for the time being. All appearances of parties and attorneys shall be as instructed below.

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

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

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

Please also note the following:

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

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

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

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

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

INSTRUCTIONS FOR PRE-HEARING DISPOSITIONS

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

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

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

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

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

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

9:00 AM

1. [24-12712](#)-A-13 **IN RE: LUCIA LOPEZ**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES
9-26-2024 [[12](#)]

DISMISSED 10/7/2024

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

DISPOSITION: Dropped as moot.

NO ORDER REQUIRED.

An order dismissing the case was entered on October 7, 2024. Doc. #18. The order to show cause will be dropped as moot. No appearance is necessary.

2. [24-12629](#)-A-13 **IN RE: MICHAEL LOPEZ**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES
10-2-2024 [[27](#)]

TENTATIVE RULING: This matter will proceed as scheduled.

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

ORDER: The court will issue an order.

This matter will proceed as scheduled. An amended creditor matrix (Doc. #14) was filed by the debtor on September 18, 2024, which added creditors who were not listed on the previously filed creditor matrix. A fee of \$34.00 was required at the time of filing because the amended creditor matrix added creditors. The fee was not paid. A notice of payment due was served on the debtor on September 25, 2024. Doc. #22.

If the filing fee of \$34.00 is not paid prior to the hearing, the amended creditor matrix (Doc. #14) may be stricken, and sanctions may be imposed on the debtor on the grounds stated in the order to show cause.

3. [24-11841](#)-A-13 **IN RE: HEATHER CORONADO**
[RSW-2](#)

MOTION TO CONFIRM PLAN
9-9-2024 [[25](#)]

HEATHER CORONADO/MV
ROBERT WILLIAMS/ATTY. FOR DBT.
RESPONSIVE PLEADING

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. The debtor filed a modified plan on November 6, 2024 (RSW-3, Doc. #46), with a motion to confirm the modified plan set for hearing on January 9, 2025 at 9:30 a.m. Doc. ##40-44.

4. [17-13543](#)-A-13 **IN RE: ELOY RODRIGUEZ AND ANGELA VASS-RODRIGUEZ**

MOTION FOR PAYMENT OF UNCLAIMED FUNDS IN THE AMOUNT OF \$2766.42 WITH
SHEWVAN KNOX-BOWMAN
8-22-2024 [[131](#)]

PATRICK KAVANAGH/ATTY. FOR DBT.
CLOSED: 05/12/2023

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Granted.

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

Shewvan Knox-Bowman ("Movant") has filed an application for payment of unclaimed funds and seeks to recoup the sum of \$2,766.42 from the unclaimed dividends paid into the court in the underlying chapter 13 bankruptcy case of Eloy Manuel Rodriguez and Angela Vass-Rodriguez (together, "Debtors"). Doc. #131.

Debtors filed their chapter 13 bankruptcy case on September 15, 2017. Doc. #1. On June 29, 2022, Michael H. Meyer, the chapter 13 trustee assigned to Debtors' case ("Trustee"), filed a notice indicating that Debtors had completed all plan payments. Doc. #105. On February 27, 2023, Trustee filed a Turnover of Unclaimed Funds advising the court that \$2,766.42 in "Unclaimed Creditor Funds" relating to proof of claim number 7 filed by Movant in Debtors' bankruptcy case had been deposited into the Treasury Registry. Doc. #118.

On August 22 and September 12, 2024, Movant filed her application for payment of unclaimed funds and supplemental pleadings accompanied by, among other things, proof of the identity of Movant, a completed Request for Taxpayer Identification Number and Certification, and a certificate of service indicating that the United States Attorney's Office was properly served. Doc. ##131, 134.

The court is satisfied that Movant has demonstrated the entitlement to the unclaimed funds.

Consistent with its internal procedures, the Clerk's Office generated a Notice of Hearing on Application for Payment of Unclaimed Funds on September 17, 2024. Doc. #136. Although this matter was set on at least 28 days' notice prior to the hearing, the notice contains none of the language pertaining to the requirement of a written response when a matter is set for hearing under LBR 9014-1(f)(1). In light of Movant's reliance on court-generated documents in her filing, the court is inclined to overlook any procedural defects. The moving papers include a court-generated certificate of service which indicates that Movant properly served the U.S. Attorney's Office as required by 28 U.S.C. § 2042. Doc. #134. Accordingly, this matter will proceed as scheduled, and any opposition may be presented at the hearing. In the absence of any such opposition, this motion will be GRANTED.

5. [24-11549](#)-A-13 **IN RE: GILBERT BERLANGA**
[LGT-1](#)

CONTINUED OBJECTION TO CONFIRMATION OF PLAN BY LILIAN G. TSANG
7-22-2024 [\[13\]](#)

ROBERT WILLIAMS/ATTY. FOR DBT.
RESPONSIVE PLEADING

NO RULING.

6. [24-11549](#)-A-13 **IN RE: GILBERT BERLANGA**
[RSW-2](#)

MOTION TO VALUE COLLATERAL OF ONE MAIN FINANCIAL
10-9-2024 [\[38\]](#)

GILBERT BERLANGA/MV
ROBERT WILLIAMS/ATTY. FOR DBT.

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Granted.

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

This motion was filed and served on at least 14 days' notice prior to the hearing date pursuant to Local Rule of Practice ("LBR") 9014-1(f)(2) and will proceed as scheduled. Unless opposition is presented at the hearing, the court intends to enter the respondents' defaults and grant the motion. If opposition is presented at the hearing, the court will consider the opposition and whether further hearing is proper pursuant to LBR 9014-1(f)(2). The court will issue an order if a further hearing is necessary.

As an informative matter, the movant incorrectly completed Section 6 of the court's mandatory Certificate of Service form. In Section 6, the declarant marked that service was effectuated by Rule 5 and Rules 7005, 9036 Service. Doc. #42. However, Federal Rule of Bankruptcy Procedure ("Rule") 9014 requires

service of a motion to value collateral to be made pursuant to Rule 7004, which was done. In Section 6, the declarant should have checked the appropriate box under Section 6A, not Section 6B, of the court's mandatory Certificate of Service form.

Gilbert Berlanga ("Debtor"), the debtor in this chapter 13 case, moves the court for an order valuing Debtor's 2008 Mazda 6 ("Vehicle"), which is the collateral of OneMain Financial ("Creditor"), at \$1,500.00. Doc. #38.

11 U.S.C. § 1325(a) (*) (the hanging paragraph) permits the debtor to value a motor vehicle acquired for the personal use of the debtor at its current value, as opposed to the amount due on the loan, if the loan is not a purchase money security interest secured by the property. Here, the current loan is based on a refinance made in April 2023, so Creditor does not hold a purchase money security interest in the Vehicle. Thus, the hanging paragraph of 11 U.S.C. § 1325 does not preclude Debtor from bifurcating Creditor's claim.

11 U.S.C. § 506(a)(1) limits a secured creditor's claim "to the extent of the value of such creditor's interest in the estate's interest in such property . . . and is an unsecured claim to the extent that the value of such creditor's interest . . . is less than the amount of such allowed claim." Section 506(a)(2) of the Bankruptcy Code states that the value of personal property securing an allowed claim shall be determined based on the replacement value of such property as of the petition filing date. "Replacement value" where the personal property is "acquired for personal, family, or household purposes" means "the price a retail merchant would charge for property of that kind considering the age and condition of the property at the time value is determined." 11 U.S.C. § 506(a)(2).

Debtor asserts the loan on the Vehicle was refinanced through Creditor in April 2023. Decl. of Gilbert Berlanga, Doc. #40. At the time Debtor filed this bankruptcy case, the Vehicle had 125,000 miles on it and had been in an accident. Id. Debtor asserts the Vehicle is worth \$1,500.00 and asks the court for an order valuing the Vehicle at \$1,500.00. Id. As the owner, Debtor's opinion of value is evidence of the value of the Vehicle. See Fed. R. Evid. 701; see also Enewally v. Wash. Mut. Bank (In re Enewally), 368 F.3d 1165, 1173 (9th Cir. 2004).

Creditor filed a proof of claim on July 12, 2024, which asserted a value for the Vehicle of \$7,175.00. Claim 3. It is not clear whether Creditor's assertion of value takes into account that the Vehicle, as testified to by Debtor, was in an accident pre-petition.

Pending opposition being raised at the hearing, the motion will be GRANTED. Creditor's secured claim will be fixed at \$1,500.00. 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.

7. [24-12250](#)-A-13 **IN RE: CLINTON CLASSEN**
[LGT-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY TRUSTEE LILIAN G. TSANG
9-24-2024 [[12](#)]

ROBERT WILLIAMS/ATTY. FOR DBT.

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

DISPOSITION: Continued to December 5, 2024 at 9:00 a.m.

ORDER: The court will issue an order.

Clinton Gene Classen ("Debtor") filed a voluntary petition under chapter 13 and a chapter 13 plan ("Plan") on August 4, 2024. Doc. #1, 3. The chapter 13 trustee ("Trustee") objects to confirmation of the Plan because Debtor's plan fails to comply with the provisions of chapter 13 and with other applicable provisions of title 11. Doc. #12.

This objection will be continued to December 5, 2024 at 9:00 a.m. Unless this case is voluntarily converted to chapter 7, dismissed, or Trustee's objection to confirmation is withdrawn, Debtor shall file and serve a written response no later than November 20, 2024. The response shall specifically address each issue raised in the objection to confirmation, state whether the issue is disputed or undisputed, and include admissible evidence to support Debtor's position. Trustee shall file and serve a reply, if any, by November 27, 2024.

If Debtor elects to withdraw this plan and file a modified plan in lieu of filing a response, then a confirmable modified plan shall be filed, served, and set for hearing, not later than November 27, 2024. If Debtor does not timely file a modified plan or a written response, this objection to confirmation will be denied on the grounds stated in Trustee's opposition without a further hearing.

8. [24-11952](#)-A-13 **IN RE: SEAN CEALLIG**
[LGT-1](#)

MOTION TO DISMISS CASE
9-27-2024 [[24](#)]

ROBERT WILLIAMS/ATTY. FOR DBT.
RESPONSIVE PLEADING

NO RULING.

9. [24-11564](#)-A-13 **IN RE: JALAIN BEEMS**
[APD-1](#)

MOTION TO CONFIRM PLAN
10-2-2024 [[34](#)]

JALAIN BEEMS/MV
ANTHONY DIEHL/ATTY. FOR DBT.

NO RULING.

10. [24-12384](#)-A-13 **IN RE: CRYSTAL JOHNSON**
[LGT-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY LILIAN G. TSANG
9-26-2024 [[13](#)]

LILIAN TSANG/MV
ROBERT WILLIAMS/ATTY. FOR DBT.

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

DISPOSITION: Continued to December 5, 2024 at 9:00 a.m.

ORDER: The court will issue an order.

Crystal Sheena Johnson ("Debtor") filed a voluntary petition under chapter 13 and a chapter 13 plan ("Plan") on August 18, 2024. Doc. #1, 3. The chapter 13 trustee ("Trustee") objects to confirmation of the Plan because Debtor's meeting of creditors has not been concluded. Doc. #13. Debtor's 341 meeting of creditors has been continued to November 19, 2024 at 10:00 a.m. See court docket entry entered on October 22, 2024.

This objection will be continued to December 5, 2024 at 9:00 a.m. Unless this case is voluntarily converted to chapter 7, dismissed, or Trustee's objection to confirmation is withdrawn, Debtor shall file and serve a written response no later than November 20, 2024. The response shall specifically address each issue raised in the objection to confirmation, state whether the issue is disputed or undisputed, and include admissible evidence to support Debtor's position. Trustee shall file and serve a reply, if any, by November 27, 2024.

If Debtor elects to withdraw this plan and file a modified plan in lieu of filing a response, then a confirmable modified plan shall be filed, served, and set for hearing, not later than November 27, 2024. If Debtor does not timely file a modified plan or a written response, this objection to confirmation will be denied on the grounds stated in Trustee's opposition without a further hearing.

11. [24-10893](#)-A-13 **IN RE: CECELIA MCNABB**
[RSW-2](#)

CONTINUED MOTION TO CONFIRM PLAN
7-25-2024 [[26](#)]

CECELIA MCNABB/MV
ROBERT WILLIAMS/ATTY. FOR DBT.
RESPONSIVE PLEADING

NO RULING.

1. [24-11507](#)-A-7 **IN RE: JOHNNY DE LA GARZA**
[UST-1](#)

MOTION TO EXTEND TIME TO FILE A MOTION TO DISMISS CASE UNDER SEC. 707(B)
AND/OR MOTION TO EXTEND DEADLINE TO FILE A COMPLAINT OBJECTING TO DISCHARGE
OF THE DEBTOR
9-24-2024 [[13](#)]

TRACY DAVIS/MV
NEIL SCHWARTZ/ATTY. FOR DBT.
MICHAEL FLETCHER/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 at least 28 days' notice prior to the hearing date pursuant to Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of creditors, the debtor, 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 Sys., Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires a moving party make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

Tracy Hope Davis ("UST"), the United States Trustee in the chapter 7 bankruptcy case of Johnny De La Garza Jr. ("Debtor"), moves the court for an order extending the time for filing a complaint objecting to Debtor's discharge under 11 U.S.C. § 727 and/or a motion to dismiss under § 707(b). Doc. #13.

Federal Rule of Bankruptcy Procedure ("Rule") 4004(b)(1) provides that, "[o]n motion of any party in interest, after notice and a hearing, the court may for cause extend the time to object to discharge." Similarly, Rule 1017(e)(1) allows the court, "for cause" to extend the time for filing a motion to dismiss under 11 U.S.C. § 707(b).

After review of the included evidence, the court finds that "cause" exists to extend the filing deadlines. UST requested basic documents such as tax returns and bank statements from Debtor that were partially provided on July 22, 2024. Decl. of Cecilia Jimenez, Doc. #15. The meeting of creditors occurred on July 26, 2024 and was concluded. Id. On July 29, August 6, and August 13, 2024, UST sent follow-up emails to counsel for Debtor to obtain Debtor's personal bank statements followed by a formal letter requesting the documents, but the documents have not been produced. Id. Debtor's Schedule I states that Debtor has no income, but business bank statements produced by Debtor show that three months prior to the chapter 7 bankruptcy petition being filed, Debtor

transferred \$44,700.00 from his business bank account to his personal bank account and personal money market account. Id. UST requests a 70-day extension from the filing of this motion to allow time for her to obtain the needed documents, conduct a 2004 examination, and complete her analysis of the bankruptcy case. Id.

Accordingly, this motion is GRANTED. The time for UST to file a complaint objecting to the discharge of Debtor is extended to December 3, 2024, and the time for UST to file a motion to dismiss or convert Debtor's case for abuse under § 707(b) is extended to December 3, 2024.

2. [24-11733](#)-A-7 **IN RE: HARJIT SINGH AND JASPREET KAUR**
[RSW-1](#)

MOTION TO AVOID LIEN OF FIRST FEDERAL LEASING
10-4-2024 [\[17\]](#)

FIRST FEDERAL LEASING/MV
ROBERT WILLIAMS/ATTY. FOR DBT.

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 an order after the hearing.

This motion was set for hearing on at least 28 days' notice prior to the hearing date pursuant to Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of creditors, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Therefore, the defaults of the non-responding parties in interest are entered. Constitutional due process requires a moving party make a *prima facie* showing that they are entitled to the relief sought, which the movants have not done here.

Harjit Singh and Jaspreet Kaur (together, "Debtors"), the debtors in this chapter 7 case, move pursuant to 11 U.S.C. § 522(f) and Federal Rules of Bankruptcy Procedure 4003(d) and 9014 to avoid the judicial lien of First Federal Leasing, a division of First Bank Richmond, an Indiana financial institution ("Creditor"), on the residential real property commonly referred to as 9710 Metropolitan Way, Bakersfield, CA 93311 (the "Property"). Doc. #17; Schedules C & D, Doc. #1.

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). 11 U.S.C. § 522(f)(1); Goswami v. MTC Distrib. (In re Goswami), 304 B.R. 386, 390-91 (B.A.P. 9th Cir. 2003) (quoting In re Mohring, 142 B.R. 389, 392 (Bankr. E.D. Cal. 1992)).

Debtors filed the bankruptcy petition on June 23, 2024. Doc. #1. Pre-petition, on December 8, 2023, a judgment was entered in favor of Creditor in the amount

of \$86,144.71 against H S Brothers Express Inc., a California corporation, as well as debtor Harjit Singh. Ex. 4, Doc. #20. The abstract of judgment was recorded pre-petition in Kern County on January 29, 2024, as document number 224010353. Ex. 4, Doc. #20. The lien attached to Debtors' interest in the Property located in Kern County. Id. Debtors claimed an exemption of \$514,900.00 in the Property under California Code of Civil Procedure § 704.730. Schedule C, Doc. #1. Debtors assert a market value for the Property as of the petition date at \$514,900.00. Schedule A/B, Doc. #1.

While not included in the motion, according to Debtors' Schedule D, the Property also is encumbered by a second deed of trust in favor of United Wholesale Mortgage in the amount of \$168,193.00. Schedule D, Doc. #1; Doc. #23. There is no indication whether there is a first deed of trust needing to be addressed in this motion or whether there is a typo in Debtors' Schedule D and United Wholesale Mortgage actually holds the first deed of trust on the Property. Because it is unclear to the court what non-consensual lien(s) encumber the Property, the court is unable to make the calculation needed to rule on this motion.

Also, while not included in the motion, according to Debtors' Schedule D, the Property also is encumbered by three other judicial liens: (a) a judicial lien in favor of Balboa Capital Corporation in the amount \$161,934.41; (b) a second judicial lien in favor of Balboa Capital Corporation in the amount of \$148,961.00; and (c) a judicial lien in favor of Pearl Beta Funding, LLC in the amount of \$95,512.84. Schedule D, Doc. #1; Doc. #17.

When determining whether a judicial lien is subject to avoidance under 11 U.S.C. § 522(f) (1), 11 U.S.C. § 522(f) (2) (A) (ii) requires the court to consider all other liens on the property, which the motion does not do. Doc. #17. While it may be the case that the court does not need to consider junior judicial liens in determining whether Creditor's judicial lien should be avoided, the judicial liens listed in Debtors' Schedule D do not include the dates on which the abstracts of judgment were recorded, so the court does not know which of the judicial liens listed on Schedule D, if any, should be included in the avoidance analysis for Creditor's lien. Schedule D, Doc. #1. Based on the motion and the supporting evidence, the court is unable to make the calculation needed to rule on this motion.

Accordingly, this motion will be DENIED.

3. [24-11853](#)-A-7 **IN RE: KEY ELECTRIC, INC.**
[SKI-2](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
9-18-2024 [\[46\]](#)

AMERICREDIT FINANCIAL SERVICES, INC./MV
LEONARD WELSH/ATTY. FOR DBT.
SHERYL ITH/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 at least 28 days' notice prior to the hearing date as required by Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of 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 Sys., Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires a movant make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

The movant, Americredit Financial Services, Inc. DBA GM Financial ("Movant"), seeks relief from the automatic stay under 11 U.S.C. § 362(d)(1) with respect to a 2019 Chevrolet Silverado, VIN: 2GB2CREG0K1210443 ("Vehicle"). Doc. #46.

11 U.S.C. § 362(d)(1) allows the court to grant relief from the stay for cause, including the lack of adequate protection. "Because there is no clear definition of what constitutes 'cause,' discretionary relief from the stay must be determined on a case by case basis." In re Mac Donald, 755 F.2d 715, 717 (9th Cir. 1985).

After review of the included evidence, the court finds that "cause" exists to lift the stay because the debtor has failed to make at least five complete pre- and post-petition payments. Movant has produced evidence that the debtor is delinquent by at least \$3,936.76 plus late fees of \$583.11. Decl. of Phillip Ford, Doc. #50.

Accordingly, the motion will be granted pursuant to 11 U.S.C. § 362(d)(1) to permit Movant to dispose of its collateral pursuant to applicable law and to use the proceeds from its disposition to satisfy its claim. No other relief is awarded.

The 14-day stay of Fed. R. Bankr. P. 4001(a)(3) will be ordered waived because the debtor has failed to make at least five pre- and post-petition payments to Movant and the Vehicle is a depreciating asset.

4. [24-11956](#)-A-7 **IN RE: STEVEN FOSTER**
[RSW-1](#)

MOTION TO REDEEM
10-4-2024 [[13](#)]

STEVEN FOSTER/MV
ROBERT WILLIAMS/ATTY. FOR DBT.

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 an order after the hearing.

This motion was set for hearing on at least 28 days' notice prior to the hearing date pursuant to Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of creditors, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Therefore, the defaults of the non-responding parties in interest are entered. Constitutional due process requires a moving party make a *prima facie* showing that they are entitled to the relief sought, which the movant has not done here.

Steven Scott Foster ("Debtor"), the debtor in this chapter 7 case, moves the court for an order authorizing Debtor to redeem a 2016 Ford Fusion (the "Vehicle"), which is the collateral of Mariner Finance, LLC ("Creditor"), for \$6,000.00 pursuant to 11 U.S.C. § 722. Doc. #13. Creditor has not filed written opposition.

"An individual debtor may, whether or not the debtor has waived the right to redeem under this section, redeem tangible personal property intended primarily for personal, family, or household use, from a lien securing a dischargeable consumer debt, if such property is exempted under section 522 of this title or has been abandoned under section 554 of this title, by paying the holder of such lien the amount of the allowed secured claim of such holder that is secured by such lien in full at the time of redemption." 11 U.S.C. § 722.

The motion does not satisfy 11 U.S.C. § 722 in two respects. First, 11 U.S.C. § 722 requires that the property to be redeemed is "tangible personal property intended primarily for personal, family, or household use." While the motion states that the Vehicle is intended primarily for personal, family, or household use (Doc. #13), Debtor's declaration (Doc. #15) does not address the issue. Consequently, there is no evidence filed with the motion to support the court finding that the Vehicle is intended primarily for personal, family, or household use.

Second, 11 U.S.C. § 722 requires that the Vehicle secures "a dischargeable consumer debt[.]" It is unclear from the motion whether Creditor's underlying debt is a dischargeable consumer debt. "The term 'consumer debt' means debt incurred by an individual primarily for a personal, family, or household purpose." 11 U.S.C. § 101(8). Here, Debtor states that Debtor received his first loan from Creditor on September 14, 2020, and the first loan paid off Debtor's prior loan on the Vehicle with CarMax. Decl. of Steven Foster, Doc. #15. Thus, Creditor's loan is not a purchase money security interest. Debtor further states that Creditor continually offered Debtor more money and that Debtor's most recent "rewrite" of the loan was on February 12, 2024. Id. There is no evidence before the court to indicate how Debtor used the funds from Creditor's most recent loan so this court can determine whether Creditor's loan qualifies as a dischargeable consumer debt.

Accordingly, this motion will be DENIED.

5. 23-11771-A-7 **IN RE: PARADIGM STEEL FABRICATORS INC.**
JMV-1

MOTION TO PAY
10-10-2024 [91]

JEFFREY VETTER/MV
D. GARDNER/ATTY. FOR DBT.

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

DISPOSITION: Granted.

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

This motion was set for hearing on at least 28 days' notice prior to the hearing date pursuant to Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of creditors, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). 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 Sys., Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires a moving party make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

Jeffrey M. Vetter ("Trustee"), the chapter 7 trustee of the bankruptcy estate of Paradigm Steel Fabricators, Incorporated, moves the court for an order authorizing the payment of \$848.00 to the California Franchise Tax Board ("FTB") for income tax due by the bankruptcy estate for the 2023 tax year and \$856.78 to the FTB for income tax due by the bankruptcy estate for the 2024 tax year. Doc. #91. In addition, Trustee requests authority to pay, without further court approval, any additional tax liability of the bankruptcy estate owed to the FTB in an amount not to exceed \$1,000.00. Id.

11 U.S.C. § 503(b)(1)(B) states that, after notice and a hearing, administrative expenses shall be allowed for "any tax [] incurred by the estate, whether secured or unsecured, including property taxes . . . except a tax of a kind specified in section 507(a)(8) of this title[.]" "Pursuant to this subsection of § 503, a claim is entitled to allowance as an administrative expense if two requirements are satisfied: the tax must be incurred by the estate and the tax must not be a tax of a kind specified in § 507[(a)(8)]." Towers for Pacific-Atlantic Trading Co. v. United States (In re Pacific-Atlantic Trading Co.), 64 F.3d 1292, 1298 (9th Cir. 1995). Here, Trustee has shown that the tax was incurred by the estate, and the tax is not a tax of the kind specified in § 507(a)(8). Decl. of Jeffrey M. Vetter, Doc. #93.

Accordingly, this motion is GRANTED. The estate is authorized to pay \$848.00 to the FTB for the tax year 2023, \$856.78 to the FTB for the tax year 2024, and an additional amount not to exceed \$1,000.00 for any unexpected tax liability owed by the bankruptcy estate to the FTB.

6. [24-12192](#)-A-7 **IN RE: ROBERT SARGENT**
[RSW-2](#)

MOTION TO CONVERT CASE FROM CHAPTER 7 TO CHAPTER 13
9-26-2024 [[21](#)]

ROBERT WILLIAMS/ATTY. FOR DBT.

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

DISPOSITION: Granted.

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

This motion was set for hearing on at least 28 days' notice prior to the hearing date pursuant to Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of creditors, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). 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 Sys., Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires a moving party make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

Robert Sargent ("Debtor"), the debtor in this chapter 7 case, moves pursuant to 11 U.S.C. § 706(a) to convert this chapter 7 case to a case under chapter 13. Doc. #21.

Bankruptcy Code § 706(a) authorizes a debtor to convert a case under chapter 7 to a case under chapter 11, 12, or 13 of this title at any time, if the case has not been converted under section 1112, 1208, or 1307 of this title. 11 U.S.C. § 706(a). Any waiver of the right to convert a case under this subsection is unenforceable. Id.

Debtor filed a voluntary petition under chapter 7 on July 31, 2024. Doc. #1. On September 26, 2024, Debtor filed this motion to convert his case to chapter 13. Doc. #21. Debtor wants to convert this case to a chapter 13 bankruptcy in order to pay all debts in full. Decl. of Robert Sargent, Doc. #23. Debtor asserts his family income has changed, and Debtor will be able to afford the required plan payments. Id. The United States Trustee and the chapter 7 trustee were duly, timely, and properly served with the motion to convert. Doc. #24. Moreover, this case has not been previously converted under section 1112, 1208, or 1307.

Accordingly, this motion is GRANTED.

10:30 AM

1. [24-12709](#)-A-11 **IN RE: KEWEL MUNGER**
[CAE-1](#)

STATUS CONFERENCE RE: CHAPTER 11 VOLUNTARY PETITION
9-17-2024 [[1](#)]

RILEY WALTER/ATTY. FOR DBT.

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Continue to January 9, 2025 at 10:30 a.m.

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

Based on the status of the case and the First Status Conference Statement filed on October 9, 2024 (Doc. #31), the court intends to continue this status conference to January 9, 2025 at 10:30 a.m. The court will require the debtor to file and serve a further status report on or before January 2, 2025.

2. [22-12016](#)-A-11 **IN RE: FUTURE VALUE CONSTRUCTION, INC.**
[CAE-1](#)

CONTINUED STATUS CONFERENCE RE: CHAPTER 11 VOLUNTARY PETITION
11-28-2022 [[1](#)]

D. GARDNER/ATTY. FOR DBT.

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Continue to January 9, 2025 at 10:30 a.m.

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

Based on the status of the case and the Status Conference Statement filed on November 1, 2024 (Doc. #517), the court intends to continue this status conference to January 9, 2025 at 10:30 a.m. The court will require the debtor to file and serve a further status report on or before January 2, 2025.

1. [23-12905](#)-A-7 **IN RE: REZA IMANI**
[24-1009](#) [CAE-1](#)

CONTINUED STATUS CONFERENCE RE: AMENDED COMPLAINT
8-21-2024 [[42](#)]

CREDITORS ADJUSTMENT BUREAU, INC. V. IMANI
MELODY ANDERSON/ATTY. FOR PL.
RESPONSIVE PLEADING

NO RULING.

As a procedural matter, the plaintiff's single document status report and certificate of service (Doc. #49) does not comply with Local Rule of Practice ("LBR") 9004-2(e)(1), which requires that a certificate of service be filed as a separate document from the document being served.

As a further procedural matter, the certificate of service filed by the defendant (Doc. #50) does not comply with LBR 7005-1, which require attorneys and trustees to use the court's Official Certificate of Service Form (EDC Form 7-005). The defendant's single document status report and certificate of service (Doc. #50) also does not comply with LBR 9004-2(e)(1), which requires that a certificate of service be filed as a separate document from the document being served.

The court encourages counsel for both parties to review the local rules to ensure compliance in future matters or those matters may be denied without prejudice for failure to comply with the local rules. The rules can be accessed on the court's website at <https://www.caeb.uscourts.gov/LocalRulesAndGeneralOrders>.

2. [22-10825](#)-A-7 **IN RE: JAMIE/MARIA GARCIA**
[22-1018](#) [CAE-1](#)

CONTINUED STATUS CONFERENCE RE: COMPLAINT
8-19-2022 [[1](#)]

AGRO LABOR SERVICES, INC. ET AL V. GARCIA ET AL
VIVIANO AGUILAR/ATTY. FOR PL.
RESPONSIVE PLEADING

NO RULING.

3. [23-12328](#)-A-7 **IN RE: RUSTY PITTS**
[23-1056](#) [CAE-1](#)

CONTINUED STATUS CONFERENCE RE: COMPLAINT
12-27-2023 [[1](#)]

YOUNG V. PITTS
KEITH CABLE/ATTY. FOR PL.
RESPONSIVE PLEADING

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

DISPOSITION: Dropped from calendar

ORDER: The court will issue an order.

A stipulated judgment in favor of the plaintiff was entered on November 4, 2024. Doc. #61. Accordingly, this status conference is dropped from calendar. This adversary may be administratively closed when appropriate.