



**UNITED STATES BANKRUPTCY COURT  
Eastern District of California  
HONORABLE RENÉ LASTRETO II  
Department B - 510 19th Street  
Bakersfield, California**

**Hearing Date: Wednesday, November 8, 2023**

***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 hearings before Judge Lastreto are simultaneously: (1) via **ZOOMGOV VIDEO**, (2) via **ZOOMGOV TELEPHONE**, and (3) via **COURTCALL**. You may choose any of these options unless otherwise ordered.

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Please join at least 10 minutes before the start of your hearing. You are required to give the court 24 hours advance notice on [Court Calendar](#).

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

1. Review the [Pre-Hearing Dispositions](#) prior to appearing at the hearing.
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## **INSTRUCTIONS FOR PRE-HEARING DISPOSITIONS**

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

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

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

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

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

**Post-Publication Changes:** The court endeavors to publish its rulings as soon as possible. However, calendar preparation is ongoing, and these rulings may be revised or updated at any time prior to 4:00 p.m. the day before the scheduled hearings. Please check at that time for any possible updates.

9:00 AM

1. [21-12802](#)-B-13     **IN RE: LATANYA LABLUE**  
[MHM-3](#)

MOTION TO DISMISS CASE  
10-4-2023    [\[44\]](#)

ROBERT WILLIAMS/ATTY. FOR DBT.  
RESPONSIVE PLEADING

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

DISPOSITION:     Withdrawn.

NO ORDER REQUIRED

The chapter 13 trustee withdrew this motion on October 27, 2023.  
Doc. #50. Accordingly, this matter will be taken off calendar  
pursuant to the trustee's withdrawal.

2. [23-11502](#)-B-13     **IN RE: ERIN STEVENSON**  
[MHM-1](#)

CONTINUED OBJECTION TO CONFIRMATION OF PLAN BY TRUSTEE  
MICHAEL H. MEYER  
9-13-2023    [\[27\]](#)

MATTHEW DECAMINADA/ATTY. FOR DBT.

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

DISPOSITION:     Sustained.

ORDER:             The court will issue an order.

This objection was originally set for hearing on October 4, 2023.  
Doc. #28.

Chapter 13 trustee Michael H. Meyer ("Trustee") objected to  
confirmation of the *[Second] Amended Chapter 13 Plan* filed by Erin  
Stevenson ("Debtor") on July 15, 2023, under 11 U.S.C. § 1325(a)(9)  
and also because the plan contains a drafting error that makes it  
impossible to determine the percentage to be paid to unsecured  
creditors (specifically, it calls for a "17,15%" [sic]  
distribution). Doc. #27.

The court continued this objection to November 8, 2023, and Debtor  
was directed to file and serve a written response to the objection  
not later than fourteen (14) days before the continued hearing date,  
or file a confirmable, modified plan in lieu of a response not later  
than seven (7) days before the continued hearing date, or the  
objection would be sustained on the grounds stated in the objection  
without further hearing. Doc. #34.

Debtor neither filed a written response nor a modified plan. Therefore, Trustee's objection will be SUSTAINED on the grounds stated in the objection.

3. [23-11502](#)-B-13     **IN RE: ERIN STEVENSON**  
[MHM-2](#)

MOTION TO DISMISS CASE  
9-13-2023    [\[30\]](#)

MICHAEL MEYER/MV  
MATTHEW DECAMINADA/ATTY. FOR DBT.  
RESPONSIVE PLEADING

**After posting the original pre-hearing dispositions, the court has modified its intended ruling on this matter.**

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

DISPOSITION:     Withdrawn.

NO ORDER REQUIRED

The chapter 13 trustee withdrew this motion on November 7, 2023. Doc. #51. Accordingly, this matter will be taken off calendar pursuant to the trustee's withdrawal.

4. [23-12012](#)-B-13     **IN RE: RUBEN/MARISELA PRUNEDA**  
[MHM-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY TRUSTEE MICHAEL H. MEYER  
10-18-2023    [\[12\]](#)

ROBERT WILLIAMS/ATTY. FOR DBT.

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

DISPOSITION:     Continued to December 6, 2023, at 9:00 a.m.

ORDER:             The court will issue an order.

Chapter 13 trustee Michael H. Meyer ("Trustee") objects to confirmation of the *Chapter 13 Plan* filed by Ruben and Marisela Pruneda (collectively "Debtors") on September 10, 2023, under 11 U.S.C. § 1325(b) (1) (B) on the following basis:

Based on the paystubs provided to the Trustee, Joint Debtor's salary increased from \$8,585.34 per month to \$8,837.92 effective July 31, 2023. Line 46 of the 122C-2 needs to account for the increase of income. Line 45 of the 122C-2 is \$2,052.09.  $\$2,052.09 \times 60 = \$123,125.40 - \$3,400.00$  for attorney's fees = \$119,725.40. The plan

proposes to pay 48%, of \$236,372.88, or \$113,458.98. The plan is not paying Debtors' projected disposable income. The plan must pay at least 50.65% to general unsecured creditors and the plan payment must increase to \$3,337.71 per month for 60 months to fund.

Doc. #12.

This objection will be CONTINUED to December 6, 2023. at 9:00 a.m. Unless this case is voluntarily converted to chapter 7, dismissed, or the Trustee's objection to confirmation is withdrawn, the Debtors shall file and serve a written response to the objection not later than **14 days before the hearing**. The response shall specifically address each issue raised in Trustee's objection to confirmation, state whether the issue is disputed or undisputed, and include admissible evidence to support the Debtors' position. Trustee shall file and serve a reply, if any, by **7 days before the hearing**.

If the Debtors elect to withdraw the plan and file a modified plan in lieu of filing a response, then a confirmable, modified plan shall be filed, served, and set for hearing not later than **7 days before the hearing**. If the Debtors do not timely file a modified plan or a written response, this objection will be sustained on the grounds stated in the objection without further hearing.

5. [18-14322](#)-B-13     **IN RE: PATSY ALLEN**  
[MHM-3](#)

MOTION TO DISMISS CASE  
9-11-2023    [\[116\]](#)

ROBERT WILLIAMS/ATTY. FOR DBT.  
RESPONSIVE PLEADING

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

DISPOSITION:     Withdrawn.

NO ORDER REQUIRED

The chapter 13 trustee withdrew this motion on October 27, 2023. Doc. #122. Accordingly, this matter will be taken off calendar pursuant to the trustee's withdrawal.

6. [23-11439](#)-B-13     **IN RE: FELIX/IRENE MONTIEL**  
[MHM-1](#)

CONTINUED OBJECTION TO CONFIRMATION OF PLAN BY TRUSTEE  
MICHAEL H. MEYER  
9-13-2023    [\[13\]](#)

ROBERT WILLIAMS/ATTY. FOR DBT.  
RESPONSIVE PLEADING

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Sustained unless withdrawn.

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

Michael H. Meyer ("Trustee") objects to confirmation of the Chapter 13 Plan filed on July 4, 2023, by Felix Manuel Montiel ("Debtor") based on 11 U.S.C. § 1322(a) and §1325(a)(4) and (a)(6). The basis of the objection is that (1) the Class 1 prepetition arrearage dividend must increase to \$392.25 and the overall plan payment to \$1,721.36 effective in month nine to fully fund the plan, (2) Debtor proposes a 0% plan but has non-exempt assets which might be used to pay general unsecured creditors, and (3) plan payments are delinquent \$1,719.00 through August 2023. *Id.*

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

Written opposition was not required and may be presented at the hearing. However, on September 26, 2023, Debtor did file a *Response* stating that he had filed amended Schedules to exempt the Mitsubishi vehicle and the 2022 federal tax refund which formed the basis of the second of Trustee's three objections. Doc. #16. No party has objected to the exemptions. Debtor filed a supplemental *Response* on October 26, 2023, further stating that Debtor agreed to an increase in plan payments to address Trustee's feasibility concerns and that Debtor had paid \$2,000.00 by TFS on October 26, 2023, and proposes to pay an additional \$1,000.00 every other Monday beginning October 30, 2023, until the delinquency is cured. *Id.*

The Trustee filed a reply (Doc. #28) November 1, 2023. The Debtors remain delinquent through October 2023 and Schedules *I* and *J* demonstrate the plan is not feasible.

Unless the trustee's objection is withdrawn beforehand, the hearing will proceed as scheduled to determine the status of the delinquency and feasibility.

7. [21-12561](#)-B-13 **IN RE: AMANDA GROAH**  
[MHM-2](#)

CONTINUED MOTION TO DISMISS CASE  
9-11-2023 [[57](#)]

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 the order.

Michael H. Meyer ("Trustee") moved to dismiss the above-styled case on September 11, 2023, alleging failure to timely make plan payments. Doc. #7 Amanda Groah ("Debtor") filed a *Second Modified Plan* on September 27, 2023, along with a *Response* to the instant motion arguing that, with the filing of the amended plan, this motion is moot. Doc #56.

On October 11, 2023, the court continued the hearing on the instant motion to November 8, 2023, so that it could be heard in conjunction with Debtor's *Motion to Confirm* the Second Modified Plan. Doc. #76. No response to the motion for confirmation was filed by any party, and the court grants Debtor's *Motion for Confirmation*. See Item #8, below.

Accordingly, this motion is DENIED as moot.

8. [21-12561](#)-B-13 **IN RE: AMANDA GROAH**  
[RSW-2](#)

MOTION TO MODIFY PLAN  
9-27-2023 [[61](#)]

AMANDA GROAH/MV  
ROBERT WILLIAMS/ATTY. FOR DBT.

**After posting the original pre-hearing dispositions, the court has modified its intended ruling on this matter.**

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.

Amanda Roselle Groah ("Debtor") seeks an order confirming the *Second Modified Chapter 13 Plan* dated September 27, 2023. Doc. #61. The plan proposes that Debtor shall make 60 monthly payments, consisting of \$38,730.47 in payments through September of 2023 and \$2,369.00 in monthly payments beginning in October 2023 and continuing through the completion of the plan. Doc. #65. The proposes a 0% dividend for non-priority unsecured claims. Doc. #39.

The plan also provides for secured creditors to be sorted into appropriate Classes and paid as follows:

- (1) CENLAR/Central Loan (Class 1). \$36,963.69 in mortgage arrears at 0% with a monthly arrearage dividend of \$889.38, plus \$1,113.36 in post-petition monthly mortgage payments.
- (2) Lakeview Loan Servicing (Class 1). \$21,68.68 in in monthly mortgage payments through September 2023, with regular monthly payments to resume in October 2023 and all missed payments to be paid by month 60 with late fees. (Nonstandard Provision 7.02)
- (3) Lakeview Loan Servicing (Class 1). \$13,896.06 in arrears through September 2023, win in monthly mortgage payments through September 2023, with the regular monthly arrearage dividend of \$889.38 to resume in October 2023. (Nonstandard Provision 7.03)

No party in interest timely filed written opposition.

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 chapter 13 trustee, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. *See Boone v. Burk (In re Eliapo)*, 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument. Upon default, factual allegations will be taken as true (except those relating to amounts of damages). *Televideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires that a plaintiff make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

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

9. [21-12561](#)-B-13      **IN RE: AMANDA GROAH**  
[RSW-3](#)

MOTION FOR AUTHORIZATION TO RECEIVE FUNDS FROM CALHFA  
9-27-2023    [\[67\]](#)

AMANDA GROAH/MV  
ROBERT WILLIAMS/ATTY. FOR DBT.

TENTATIVE RULING:      This matter will proceed as scheduled.

DISPOSITION:              Denied without prejudice or Granted (subject to any modifications).

ORDER:                      Order preparation determined at the hearing.

Amanda Groah ("Debtor") seeks authorization to receive mortgage



funds from California Housing Finance Agency ("CALHFA") through the California Mortgage Relief Program to be paid directly to her mortgage servicer. Doc. #67.

Written opposition was not required and may be presented at the hearing.

This motion was filed and served 42 days ago. But the notice says the motion is being heard pursuant to Local Rule of Practice ("LBR") 9014-1(f)(2) and will proceed as scheduled. This motion could have been set on regular notice and disposed of by pre-disposition absent any opposition. The disposition may have been denial given the lack of specificity in the motion.

Nevertheless, because the nature of the request here is unusual and the notice permits late responses, unless opposition is presented at the hearing, the court intends to enter the respondents' defaults. 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.

Debtor filed chapter 13 bankruptcy on November 2, 2021. Doc. #1. The plan was confirmed on January 4, with two amended plans later confirmed. Docs. #13, 56, and 65. According to the moving papers, Debtor wishes to apply for the California Mortgage Relief Program administered by CHFA. Doc. #67. If approved by both CalHFA and the court, Debtor will receive an undisclosed amount paid directly to her mortgagor that will be paid outside the plan and will not be an estate asset. *Id.* These funds will not have to be repaid. *Id.*

Movant quotes a lengthy passage from "CalHFA" without specifics. The passage appears to be a policy statement concerning the U.S. Department of the Treasury's program. This matter will be called and proceed as scheduled because only sparse details about the program were provided.

10. [22-11962](#)-B-13     **IN RE: JUAN FIGUEROA**  
[MHM-3](#)

MOTION TO DISMISS CASE  
9-12-2023    [\[55\]](#)

ROBERT WILLIAMS/ATTY. FOR DBT.  
RESPONSIVE PLEADING

TENTATIVE RULING:            This matter will be called as scheduled.

DISPOSITION:                    Granted and modified and case converted to Chapter 7 or continued or denied without prejudice.

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

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). Therefore, the defaults of the above-mentioned parties in interest are entered. Upon default, factual allegations will be taken as true (except those relating to amounts of damages). *Televideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917 (9th Cir. 1987).

Under 11 U.S.C. § 1307(c), the court may convert or dismiss a case, whichever is in the best interests of creditors and the estate, for cause. "A debtor's unjustified failure to expeditiously accomplish any task required either to propose or to confirm a chapter 13 plan may constitute cause for dismissal under § 1307(c)(1)." *Ellsworth v. Lifescape Med. Assocs., P.C. (In re Ellsworth)*, 455 B.R. 904, 915 (B.A.P. 9th Cir. 2011). There is "cause" for dismissal under 11 U.S.C. § 1307(c)(1) and (c)(4) for unreasonable delay by the debtor that is prejudicial to creditors and failure to commence making plan payments.

Juan Gabriel Figueroa ("Debtor") is delinquent in the amount of \$1,741.79 Doc. #55. Before this hearing, the September 25, 2023, and the October 25, 2023, payments in amount of \$871.31 each will also come due, resulting in a total delinquency of \$3,484.41. *Id.*

Debtor filed a timely response but was not supported by admissible evidence. Doc. #59. Debtor will pay \$2,000.00 on October 27, 2023, and \$1,484.41 on November 10, 2023. It is unknown whether this will satisfy the Trustee's legitimate concerns.

In addition, the trustee has reviewed the schedules and determined that this case has a liquidation amount comprised of the value of Debtor's 2012 Cascadia Freightliner, 2012 VW Jetta, Great Dane Trailer, funds on hand in Wells Fargo 2 Business accounts, and a vacant lot. Doc. #57. The amount of liquidation is in dispute due to the value of the vacant lot, which Debtor is in the process of selling. The liquidation value may be up to \$41,290.20, but no less than \$21,370.00. *Id.* Therefore, conversion, rather than dismissal, serves the interests of creditors and the estate.

This matter will be called and proceed as scheduled to inquire whether Debtor is current under the plan. If so, this motion may be DENIED WITHOUT PREJUDICE; otherwise, this motion may be GRANTED, and the case converted to Chapter 7. The court may continue the matter if the Trustee requests.

11. [23-12066](#)-B-13     **IN RE: DONALD/JOY RICKETTS**  
[MHM-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY TRUSTEE MICHAEL H.  
MEYER

10-18-2023 [24]

D. GARDNER/ATTY. FOR DBT.

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

DISPOSITION: Continued to December 6, 2023, at 9:00 a.m.

ORDER: The court will issue an order.

Chapter 13 trustee Michael H. Meyer ("Trustee") objects to confirmation of the *Chapter 13 Plan* filed by Donald and Joy Ricketts (collectively "Debtors") on September 18, 2023, under 11 U.S.C. § 1325(a)(1) and (a)(4) on the following grounds: (1) Debtors have made certain errors in Schedules I & H that must be correct, and (2) the liquidation analysis of the plan cannot be determined because Debtors list an asset on Schedule A/B (specifically No. 26, "copyright to Fossil Finder, ID and Information Guide" listed with an "unknown" value. Doc. #24.

This objection will be CONTINUED to December 6, 2023. at 9:00 a.m. Unless this case is voluntarily converted to chapter 7, dismissed, or the Trustee's objection to confirmation is withdrawn, the Debtors shall file and serve a written response to the objection not later than **14 days before the hearing**. The response shall specifically address each issue raised in Trustee's objection to confirmation, state whether the issue is disputed or undisputed, and include admissible evidence to support the Debtors' position. Trustee shall file and serve a reply, if any, by **7 days before the hearing**.

If the Debtors elect to withdraw the plan and file a modified plan in lieu of filing a response, then a confirmable, modified plan shall be filed, served, and set for hearing not later than **7 days before the hearing**. If the Debtors do not timely file a modified plan or a written response, this objection will be sustained on the grounds stated in the objection without further hearing.

12. [23-12066](#)-B-13 **IN RE: DONALD/JOY RICKETTS**  
[VLH-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY  
10-10-2023 [18]

C.F./MV  
D. GARDNER/ATTY. FOR DBT.  
VICTORIA HARP/ATTY. FOR MV.  
RESPONSIVE PLEADING

NO RULING.

13. [23-11573](#)-B-13 **IN RE: JASON/JULIE MUNIZ**  
[MHM-1](#)

CONTINUED OBJECTION TO CONFIRMATION OF PLAN BY TRUSTEE

MICHAEL H. MEYER  
9-11-2023 [28]

GREGORY SHANFELD/ATTY. FOR DBT.  
RESPONSIVE PLEADING

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

DISPOSITION: Sustained

ORDER: The court will issue an order.

Chapter 13 trustee Michael H. Meyer ("Trustee") objects to confirmation of the *Chapter 13 Plan* filed by Jason and Julie Muniz ("Debtors") on July 21, 2023, under 11 U.S.C. § 1325(a)(9) because multiple errors are found in Debtors' Form 122C Means Test. Doc. #28.

The court continued the hearing in this matter and directed Debtors to file a response and/or an amended plan before the continued hearing date. Doc. #37. On October 25, 2023, the Debtors timely filed a *Response* acknowledging the validity of Trustee's *Objections* and averring that an amended means test and an amended plan that would resolve the Trustee's objections was forthcoming.

However, Debtors have filed neither an Amended Form 122C Means Test nor a new plan by the deadline imposed by the court. Unless the Trustee withdraws the objection, it will be SUSTAINED.

14. [23-11573](#)-B-13 **IN RE: JASON/JULIE MUNIZ**  
[SCF-1](#)

CONTINUED OBJECTION TO CONFIRMATION OF PLAN BY PLANET HOME  
LENDING, LLC  
9-12-2023 [31]

PLANET HOME LENDING, LLC/MV  
GREGORY SHANFELD/ATTY. FOR DBT.  
SEAN FERRY/ATTY. FOR MV.  
RESPONSIVE PLEADING

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

DISPOSITION: Sustained.

ORDER: The court will issue an order.

Creditor Planet Home Lending, LLC ("Creditor") objects to confirmation of the *Chapter 13 Plan* filed by Jason and Julie Muniz ("Debtors") on July 21, 2023, under 11 U.S.C. § 1325. Doc. #31. Specifically, Creditor objects because the Plan does not properly provide for payment of the arrearage owed by Debtors to Creditor on the debt which is secured by Debtors' home. *Id.* Under the proposed Plan, the creditor's proof of claim controls the amount of the claim subject to an appropriate objection.

Creditors claim shows an arrearage of \$5004.32. Debtors classify the claim in class four-direct payment. But that class is unavailable to loans in default. Hence, Debtors will need to either object to the claim or file a modified Plan.

The court continued hearing in this matter and directed Debtors to file a response and/or an amended plan before the continued hearing date. Doc. #38. On October 25, 2023, the Debtors timely filed a *Response* acknowledging the validity of Creditor's *Objections* and averring that an amended plan that will provide for repayment of the \$5004.32 arrearage will be filed prior to the hearing date. However, no such plan was timely filed.

Since the Debtors are going to file a modified Plan and seek confirmation, this objection is not opposed by the Debtors. Accordingly, this Objection will be SUSTAINED.

15. [23-11281](#)-B-13     **IN RE: SARAH FLORES GARZA**  
[JBC-2](#)

MOTION TO CONFIRM PLAN  
9-28-2023    [\[44\]](#)

SARAH FLORES GARZA/MV  
JAMES CANALEZ/ATTY. FOR DBT.  
RESPONSIVE PLEADING

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

DISPOSITION:     Continued to December 6, 2023, at 9:00 a.m.

ORDER:             The court will issue an order.

Sarah Flores Garza ("Debtor") moves for an order confirming the *Second Modified Chapter 13 Plan* dated September 21, 2023. Doc. #44.

Chapter 13 trustee Michael H. Meyer ("Trustee") timely objected to confirmation of the plan under 11 U.S.C. § 1325(a)(1) because the plan erroneously lists Creditor BMW Financial Services as both a Class 4 secured creditor and a counter-party to an unexpired lease in section 4.02 of the plan. Doc. #54. Trustee argues that leases should be listed under 4.02 only and that this must be corrected *Id.*

This motion to confirm plan will be CONTINUED to **December 6, 2023, at 9:00 a.m.** Unless this case is voluntarily converted to chapter 7, dismissed, or Trustee's and Creditor's objections to confirmation are withdrawn, the Debtor shall file and serve a written response to the objections no later than **fourteen (14) days** before the continued hearing date. The response shall specifically address each issue raised in the objection(s) to confirmation, state whether each issue is disputed or undisputed, and include admissible evidence to support the Debtor's position. Trustee shall file and serve a reply, if any, no later than **seven (7) days** prior to the hearing date.

If the Debtor elects to withdraw the plan and file a modified plan in lieu of filing a response, then a confirmable, modified plan shall be filed, served, and set for hearing not later than seven (7) days before the continued hearing date. If the Debtor does not timely file a modified plan or a written response, the objection will be sustained on the grounds stated, and the motion will be denied without further hearing.

16. [20-10508](#)-B-13     **IN RE: JAMES/VERONICA HOLT**  
[TCS-4](#)

MOTION TO VACATE DISMISSAL OF CASE  
10-26-2023    [[65](#)]

VERONICA HOLT/MV  
TIMOTHY SPRINGER/ATTY. FOR DBT.  
DISMISSED 10/23/23;    OST 10/27/23

NO RULING.

10:00 AM

1. [23-11921](#)-B-7     **IN RE: FABIOLA SALINAS**

MOTION FOR WAIVER OF THE CHAPTER 7 FILING FEE  
8-31-2023     [\[5\]](#)

SCOTT LYONS/ATTY. FOR DBT.

NO RULING.

2. [23-11228](#)-B-7     **IN RE: BELLA VINEYARD AG SERVICES, INC.**  
[DMG-3](#)

MOTION TO COMPROMISE CONTROVERSY/APPROVE SETTLEMENT  
AGREEMENT WITH CHLOE RENTALS, INC.  
10-10-2023     [\[26\]](#)

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

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

DISPOSITION:     Granted.

ORDER:     The Moving Party shall submit a proposed order with  
a copy of the stipulation attached as an exhibit.  
The stipulation shall also be separately filed and  
docketed as a stipulation.

Chapter 7 trustee Jeffrey M. Vetter ("Trustee") requests an order approving a settlement agreement to resolve a claim the estate has regarding a note receivable owed by Chloe Equipment Rentals ("Chloe") for the sum of \$28,725.17. Doc. #26.

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

This motion was set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of the creditors, the 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 amounts of damages). *Televideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917 (9th Cir.



1987). Constitutional due process requires that a plaintiff make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

Bella Vineyard Ag Services, Inc. ("Debtor") filed a petition under Chapter 7 on June 8, 2023. Doc. #1. Trustee was appointed as the interim trustee on that same date and became permanent trustee at the 341 meeting of creditors on July 21, 2023. Doc. ## 4,9.

While investigating the assets of the estate, Trustee learned of the existence of an Asset Purchase Agreement which Debtor had entered into with Chloe prepetition. Doc. #26. Pursuant to the agreement, Chloe purchased agricultural harvesting equipment, paid for by a promissory Note in the sum of \$124,000.00 *Id.* Chloe and Debtor are co-owned by Garry B. Bangi ("Bangi"), who executed the note in favor of Debtor. *Id.* According to the moving papers, as of the petition date, Chloe still owed Debtor approximately \$66,000.00.

Trustee has agreed to accept the sum of \$28,725.17 to settle the outstanding \$66,000.00 claim, about 45% of the balance owed. Doc. ##26,29. In support of this motion, Trustee avers that he has already realized \$82,000.00 from the auction of Debtor's equipment, collected \$35,000.00 from one of Debtor's bank accounts, and received approximately \$46,000.00 in insurance proceeds. *Id.* Trustee further avers that the only remaining asset to be liquidated is the claim against Chloe. Trustee represents to the court that it would be in the estate's best interest to settle the claim now than to expend effort not only in prosecuting the claim against Chloe but in attempting to collect on any judgment awarded. *Id.* Chloe has already forwarded \$10,000.00 as a deposit and has agreed to pay the remaining \$18,725.17 upon approval by the court.

The court notes that a copy of the settlement agreement has not been filed in this case. The motion will only be granted if Trustee separately files the settlement agreement and docket it as a stipulation.

As representative of the chapter 7 bankruptcy estate, Trustee has the authority to settle claims of Debtor subject to court approval. 11 U.S.C. § 323(a). On a motion by the trustee and after notice and a hearing, the court may approve a compromise or settlement. Rule 9019. Approval of a compromise must be based upon considerations of fairness and equity. *In re A & C Props.*, 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).

It appears from the moving papers that the Trustee has considered the *A & C Props.* and *Woodson* factors, which weigh in favor of approving the settlement agreement as follows:

1. Probability of success in litigation: Trustee is of the opinion that he is certain to succeed in any litigation as Chloe has no defense against the claim against it. *Id.*
2. Collection: Trustee has employed a 45% net recovery theory in arriving at a settlement amount, which Trustee considers reasonable for a collection matter.
3. Complexity of litigation: Trustee asserts that litigation would not be difficult.
4. Paramount interests of creditors: Trustee believes that the settlement serves the interests of creditors because it obtains a sum certain for the estate without the expense of attorney's' fees that would be paid out as an administrative process.

The *A & C Props.* and *Woodson* factors appear to weigh in favor of approving the settlement. Therefore, the settlement appears to be a fair, equitable, and reasonable exercise of Trustee's business judgment. 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, this motion will be GRANTED. The settlement between the estate and Chloe will be approved.

This ruling is not authorizing the payment of any fees or costs associated with the settlement. Additionally, Trustee shall attach a copy of the settlement agreement as an exhibit to the proposed order and shall separately file the settlement agreement and docket it as a stipulation.

3. [23-11038](#)-B-7     **IN RE: CLAUDIA ANDRADE**  
[JMV-1](#)

OPPOSITION RE: TRUSTEE'S MOTION TO DISMISS FOR FAILURE TO  
APPEAR AT SEC. 341(A) MEETING OF CREDITORS  
9-28-2023    [\[65\]](#)

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

DISPOSITION:        Conditionally denied.

ORDER:                The court will issue an order.

Chapter 7 trustee Jeffrey M. Vetter ("Trustee") seeks dismissal of this case for the debtor's failure to appear and testify at the § 341(a) meeting of creditors held on September 22, 2022. Doc. #66.

Claudia Andrade ("Debtor") timely filed written opposition. Doc. #78. Debtor avers that she did not attend the hearing because she "did not receive the notice of the creditors [sic] in the mail." *Id.*

This motion to dismiss will be CONDITIONALLY DENIED.

Debtor shall attend the meeting of creditors rescheduled for November 17 at 10:00 a.m. See Doc. #65. If Debtor fails to appear at testify at the rescheduled meeting, Trustee may file a declaration with a proposed order and the case may be dismissed without a further hearing.

The times prescribed in Fed. R. Bankr. P. 1017(e)(1) and 4004(a) for the Chapter 7 Trustee and U.S. trustee to object to Debtor's discharge or file motions for abuse, other than presumed abuse under § 707, are extended to 60 days after the conclusion of the meeting of creditors.

4. [23-10762](#)-B-7      **IN RE: FELIPE RIVERA**  
[JMV-2](#)

MOTION TO SELL  
10-12-2023    [\[22\]](#)

JEFFREY VETTER/MV  
NEIL SCHWARTZ/ATTY. FOR DBT.

TENTATIVE RULING:      This matter will proceed as scheduled.

DISPOSITION:              Granted, subject to higher and better bids.

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

Chapter 7 trustee Jeffrey M. Vetter ("Trustee") seeks authorization to sell the estate's interest in certain real property located in Kern County, California, and commonly known as 26451 Oak Flat Drive, Tehachapi, California ("Property") to Russ Johnson Construction ("Proposed Buyer") for \$30,000.00 pursuant, less commission, taxes, and miscellaneous debits pursuant to 11 U.S.C. § 363, and subject to higher and better bids at the hearing. Doc. #24.

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

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

#### BACKGROUND

Felipe Naverrete Rivera ("Debtor") filed chapter 7 bankruptcy on April 14, 2022. Doc. #1. Trustee was appointed as interim trustee on that same day and became permanent trustee at the first § 341

meeting of creditors on May 19, 2022. Doc. #4; docket generally. Trustee investigated the estate's assets, which included the Property.

On July 11, 2023, the court entered an order authorizing Trustee to employ Watson Realty ("the Realtor") to market and sell the Property. Doc. #19. Trustee now seeks court approval to sell the Property to Proposed Buyer for \$30,000.00, less commissions taxes and miscellaneous expenses, with the balance to be turned over to the estate for distribution. Doc. #22. In his declaration, Trustee avers that the property is unencumbered and that Debtor did not claim an exemption in it, which is supported by the Schedules. Doc. #24. See Doc. #1, Sched. C and D. Trustee declares his belief that the sale of the Property is in the best interest of the estate because it will yield funds to be distributed to creditors and that, in his business judgment, the sale under the terms proposed are in the best interests of the estate.

### DISCUSSION

#### Sale of Property

11 U.S.C. § 363(b)(1) allows the trustee to "sell, or lease, other than in the ordinary course of business, property of the estate." Proposed sales under 11 U.S.C. § 363(b) are reviewed to determine whether they are: (1) in the best interests of the estate resulting from a fair and reasonable price; (2) supported by a valid business judgment; and (3) proposed in good faith. *In re Alaska Fishing Adventure, LLC*, 594 B.R. 883, 887 (Bankr. D. Alaska 2018) citing *240 N. Brand Partners v. Colony GFP Partners, Ltd. P'ship (In re 240 N. Brand Partners)*, 200 B.R. 653, 659 (B.A.P. 9th Cir. 1996); *In re Wilde Horse Enters., Inc.*, 136 B.R. 830, 841 (Bankr. C.D. Cal. 1991). In the context of sales of estate property under § 363, a bankruptcy court "should determine only whether the trustee's judgment was reasonable and whether a sound business justification exists supporting the sale and its terms." *Alaska Fishing*, 594 B.R. at 889, quoting 3 Collier on Bankruptcy ¶ 363.02[4] (Richard Levin & Henry J. Sommer, 16th ed.). "[T]he trustee's business judgment is to be given 'great judicial deference.'" *Id.*, citing *In re Psychometric Sys., Inc.*, 367 B.R. 670, 674 (Bankr. D. Colo. 2007); *In re Bakalis*, 220 B.R. 525, 531-32 (Bankr. E.D.N.Y. 1998).

Sales to an insider are subject to heightened scrutiny. *Alaska Fishing Adventure, LLC*, 594 B.R. at 887 citing *Mission Product Holdings, Inc. v. Old Cold, LLC (In re Old Cold LLC)*, 558 B.R. 500, 516 (B.A.P. 1st Cir. 2016). There is nothing in the record suggesting that Proposed Buyers are insiders with respect to Debtor. Proposed Buyers are neither listed in the schedules nor the master address list. Docs. #1; #4.

Debtor values the Property at \$20,000.00. Doc. #1, Sched. A/B. Debtor did not exempt Property in *Schedule C*. *Id.* Trustee declares that the sale will yield \$30,000.00 "less commissions, taxes and miscellaneous debits," but does not provide any information on what those deductions would be or what the final benefit would be to the estate after they were subtracted. Doc. #24. The court presumes that

the realtor's commission would be 6% (or \$1,800) of the sale price, as outlined in the Trustee's application to employ Realtor (See Doc. #15), but the amount of the commission is not specified within moving papers for the instant motion.

Also absent from the moving papers is any information about outstanding taxes and "miscellaneous fees," a copy of the purchase agreement with Prospective Buyer, or a copy of the title report, if any exists. Because of these deficiencies, the court cannot say with any degree of confidence what the net proceeds to the estate would be. At the hearing, the court anticipates that Trustee will be able to answer these questions to the court's satisfaction.

Nevertheless, it appears that the \$30,000.00 bid significantly exceeds Debtor's valuation of the Property as outlined in the Schedules. Accordingly, the court agrees that a sale under these circumstances should maximize potential recovery for the estate and appears to be in the best interests of the estate because it will provide at least some liquidity that can be distributed for the benefit of unsecured claims. The sale appears to be supported by a valid business judgment and proposed in good faith. The court concludes that this sale is an appropriate exercise of Trustee's business judgment and will be given deference. Therefore, absent objections at the hearing and if the court is satisfied as to the deficiencies in presenting the sale, the motion to sell will be GRANTED.

#### Real Estate Brokers' Compensation

While an employment order has been entered in this matter (see Doc. #19), Trustee does not request approval for any compensation to Broker in the instant motion. The court anticipates that any payment to Broker will be addressed with a subsequent application.

#### Overbid Procedure

The overbid procedures are outlined in the Notice accompanying the instant motion. Doc. #23. Any party wishing to overbid shall, prior to the hearing, comply with the following overbid procedures:

- a. Mail a \$3,000.00 refundable deposit to Trustee at P.O. Box 2424, Bakersfield, California 93303. The deposit must be certified funds such as a money order or cashier's check. **The deposit funds must be received not later than November 3, 2023 at 5pm.**
- b. Be prepared to bid in an amount starting at 31,000.00. Bidding will continue in \$1,000.00 increments.
- c. The balance must be paid within 10 days after the court order is signed. The winning bidder who fails to pay within 10 days will forfeit their \$3,000.00 deposit. Deposits of non-winning bidders will be returned at the hearing.
- d. The only document of sale provided by the Trustee will be the Order Granting the Motion by Trustee for Order Authorizing Sale of Real Property. The Trustee will execute other reasonable documents requested by the buyer to expedite and facilitate the sale.

Doc. #23(emphasis in original).

Waiver of 14-day Stay

Trustee requests that the 10-day [sic] stay of Rule 6004(h) be waived and not applicable to the order. Doc. #22. The court interprets this to be a typographic error that should refer to the 14-day stay. Trustee offers no reason for the stay to be waived, and the court declines to grant such relief. Trustee is free to present arguments in favor of waiving the stay at the hearing.

Conclusion

In the absence of any opposition at the hearing, this motion will be GRANTED. Trustee will be authorized: (1) to sell the Property to the prevailing bidder at the hearing, as determined at the hearing, and (2) to execute all documents necessary to effectuate the sale of the Property. No other relief shall be granted.

5. [23-12044](#)-B-7     **IN RE: BEATRIZ RODRIGUEZ**  
[JMV-1](#)

OPPOSITION RE: TRUSTEE'S MOTION TO DISMISS FOR FAILURE TO  
APPEAR AT SEC. 341(A) MEETING OF CREDITORS  
10-7-2023    [\[17\]](#)

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

DISPOSITION:     Conditionally denied.

ORDER:             The court will issue an order.

Chapter 7 trustee Jeffrey M. Vetter ("Trustee") seeks dismissal of this case for the debtor's failure to appear and testify at the § 341(a) meeting of creditors held on October 6, 2023. Doc. #16.

Beatriz Rodriguez ("Debtor") filed written opposition. Doc. #19. Debtor did attend the hearing but Debtor was not called. *Id.* Debtor received no communication from trustee. *Id.*

This motion to dismiss will be CONDITIONALLY DENIED.

Debtor shall attend the meeting of creditors rescheduled for November 17, 2023, at 11:00 a.m. See Doc. #17. If Debtor fails to appear at testify at the rescheduled meeting, Trustee may file a declaration with a proposed order and the case may be dismissed without a further hearing.

The times prescribed in Fed. R. Bankr. P. 1017(e)(1) and 4004(a) for the Chapter 7 Trustee and U.S. trustee to object to Debtor's discharge or file motions for abuse, other than presumed abuse under § 707, are extended to 60 days after the conclusion of the meeting of creditors.

10:30 AM

1. [23-11332](#)-B-11     **IN RE: TWILIGHT HAVEN, A CALIFORNIA**  
NON-PROFIT CORPORATION  
[WJH-2](#)

FURTHER HEARING RE: MOTION TO USE CASH COLLATERAL  
6-23-2023    [[18](#)]

TWILIGHT HAVEN, A CALIFORNIA  
NON-PROFIT CORPORATION/MV  
RILEY WALTER/ATTY. FOR DBT.

NO RULING.

2. [23-12041](#)-B-11     **IN RE: BALJINDER/RITU SINGH**  
[LKW-7](#)

MOTION FOR ORDER AUTHORIZING DEBTORS TO MAINTAIN PREPETITION  
BANK ACCOUNTS  
10-24-2023    [[60](#)]

RITU SINGH/MV  
LEONARD WELSH/ATTY. FOR DBT.

NO RULING.

11:30 AM

1. [23-11303](#)-B-7     **IN RE: JOHN/VENNESSA MARTINEZ**

REAFFIRMATION AGREEMENT WITH SHEFFIELD FINANCIAL  
9-21-2023     [\[22\]](#)

ROBERT WILLIAMS/ATTY. FOR DBT.

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

DISPOSITION:     Rescinded; taken off calendar.

NO ORDER REQUIRED.

John And Venessa Martinez ("Debtors") have rescinded this reaffirmation agreement with Sheffield Financial pursuant to 11 U.S.C. 524(c)(4) on October 30, 2023. Doc. #32. Accordingly, this matter will be taken off calendar.

2. [23-11303](#)-B-7     **IN RE: JOHN/VENNESSA MARTINEZ**

CONTINUED REAFFIRMATION AGREEMENT WITH AMERICREDIT FINANCIAL  
SERVICES, INC. DBA GM FINANCIAL (LBEF)  
8-31-2023     [\[17\]](#)

ROBERT WILLIAMS/ATTY. FOR DBT.

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

DISPOSITION:     Rescinded; taken off calendar.

NO ORDER REQUIRED.

John And Venessa Martinez ("Debtors") have rescinded this reaffirmation agreement with AmeriCredit Financial Services pursuant to 11 U.S.C. 524(c)(4) on October 30, 2023. Doc. #30. Accordingly, this matter will be taken off calendar.