

UNITED STATES BANKRUPTCY COURT
Eastern District of California
Honorable René Lastreto
Hearing Date: Thursday, November 10, 2016
Place: Department B – Courtroom #13
Fresno, California

INSTRUCTIONS FOR PRE-HEARING DISPOSITIONS

1. The following rulings are tentative. The tentative ruling will not become the final ruling until the matter is called at the scheduled hearing. **Pre-disposed matters will generally be called, and the rulings placed on the record at the end of the calendar.** Any party who desires to be heard with regard to a pre-disposed matter may appear at the hearing. If the party wishes to contest the tentative ruling, he/she shall notify the opposing party/counsel of his/her intention to appear. **If no disposition is set forth below, the hearing will take place as scheduled.**
2. Submission of Orders:

Unless the tentative ruling expressly states that the court will prepare a civil minute order, then the tentative ruling will only appear in the minutes. If any party desires an order, then the appropriate form of order, which conforms to the tentative ruling, must be submitted to the court. When the debtor(s) discharge has been entered, proposed orders for relief from stay must reflect that the motion is denied as to the debtor(s) and granted only as to the trustee. Entry of discharge normally is indicated on the calendar.
3. Matters Resolved Without Opposition:

If the tentative ruling states that no opposition was filed, and the moving party is aware of any reason, such as a settlement, why a response may not have been filed, the moving party must advise Vicky McKinney, the Calendar Clerk, at (559) 499-5825 by 4:00 p.m. the day before the scheduled hearing.
4. Matters Resolved by Stipulation:

If the parties resolve a matter by stipulation after the tentative ruling has been posted, but **before the formal order is entered on the docket**, the **moving party** may appear at the hearing and advise the court of the settlement or withdraw the motion. Alternatively, the parties may submit a stipulation and order to modify the tentative ruling together with the proposed order resolving the matter.
5. Resubmittal of Denied Matters:

If the moving party decides to re-file a matter that is denied without prejudice for any reason set forth below, the moving party must file and serve a new set of pleadings with a new docket control number. It may not simply re-notice the original motion.

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

9:30 A.M.

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|---|---|
| 1. 16-10643 -B-12 MARK FORREST
LKW-5
MARK FORREST/MV
LEONARD WELSH/Atty. for dbt. | OBJECTION TO CLAIM OF INTERNAL
REVENUE SERVICE, CLAIM NUMBER 1
9-15-16 [77] |
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This matter will proceed as scheduled.

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| 2. 16-10643 -B-12 MARK FORREST
LKW-6

LEONARD WELSH/Atty. for dbt. | MOTION FOR COMPENSATION FOR
LEONARD K. WELSH, DEBTORS
ATTORNEY(S)
10-5-16 [92] |
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The motion will be granted without oral argument based upon well-pled facts. The moving party shall submit a proposed order. No appearance is necessary.

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.

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| 3. 16-13345 -B-11 JONATHAN/PATRICIA MAYER

PETER FEAR/Atty. for dbt. | STATUS CONFERENCE RE: CHAPTER
11 VOLUNTARY PETITION
9-13-16 [1] |
|---|---|

This matter will proceed as scheduled.

4. 16-14004-B-11 PURPLE TOOTH SOCIETY,
DMG-1 LLC.
PURPLE TOOTH SOCIETY, LLC./MV
D. GARDNER/Atty. for dbt.

CONTINUED MOTION TO USE CASH
COLLATERAL
11-2-16 [3]

This matter will be called after calendar number 5, DMG-2. If the debtor's motion to dismiss the case is granted, then this motion will be denied as moot.

5. 16-14004-B-11 PURPLE TOOTH SOCIETY,
DMG-2 LLC.
PURPLE TOOTH SOCIETY, LLC./MV
D. GARDNER/Atty. for dbt.
OST 11/4/16

MOTION TO DISMISS CASE
11-4-16 [19]

This matter 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 a civil minute order.

10:30 A.M.

1. 16-13700-B-13 WAYNE CUNNINGHAM
HDN-1
WAYNE CUNNINGHAM/MV
HENRY NUNEZ/Atty. for dbt.

MOTION TO EXTEND AUTOMATIC STAY
10-19-16 [14]

This matter will be called as scheduled. Unless opposition is presented at the hearing, the court intends to grant the motion.

The Motion to Extend the Automatic Stay was properly set for hearing on the notice required by LBR 9014-1(f)(2). Consequently, the debtor, creditors, the trustee, the U.S. Trustee, and any other parties in interest were not required to file a written response or opposition to the motion. If any of these potential respondents appear at the hearing and offer opposition to the motion, the court will set a briefing schedule and a final hearing unless there is no need to develop the record further. If no opposition is offered at the hearing, the court will take up the merits of the motion.

Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter.

Courts consider many factors - including those used to determine good faith under §§ 1307 and 1325(a) - but the two basic issues to determine good faith under 11 U.S.C. § 362(c)(3) are:

1. Why was the previous plan filed?
 2. What has changed so that the present plan is likely to succeed?
- In re Elliot-Cook*, 357 B.R. 811, 814-15 (Bankr. N.D. Cal.2006)

Here, it appears that the debtor filed the prior case using a stale credit counseling certificate and, after employment of counsel, decided to voluntarily dismiss the prior case and immediately re-file after timely credit counseling. Accordingly, in this case the presumption of bad faith does not arise. "Where there is no presumption of bad faith and no party objects, a request to extend the stay should be liberally granted." *In re Elliott-Cook*, 357 B.R. 811, 814 (Bankr. N.D. Cal. 2006), citing *In re Warneck*, 336 B.R. 181, 182 (Bankr.S.D.N.Y.2006).

Based on the moving papers and the record, and in the absence of opposition, the court is persuaded that the debtor's petition was filed in good faith and intends to grant the motion to extend the automatic stay. The motion will be granted and the automatic stay extended for all purposes, as to all parties who received notice, unless terminated by further order of this court. 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 a civil minute order after the hearing.

2. [12-12021](#)-B-13 PABLO SANCHEZ
GH-2
PABLO SANCHEZ/MV
GARY HUSS/Atty. for dbt.

CONTINUED MOTION FOR HARDSHIP
DISCHARGE
9-12-16 [[39](#)]

This fully-noticed motion was continued for submission of admissible supporting evidence that the requirements of § 1328(b) (2) have been satisfied. No opposition was filed and the respondents' defaults will be entered.

The debtor has now submitted evidence that the liquidation test has been met, accordingly, the motion will be granted. The clerks office shall proceed to enter a discharge under §1328(b) following the normal procedure.

3. [16-12021](#)-B-13 KIMBERLY WOODY-SMITH
MHM-2
MICHAEL MEYER/MV
SCOTT SAGARIA/Atty. for dbt.
DISMISSED

OBJECTION TO CONFIRMATION OF
PLAN BY MICHAEL H. MEYER
10-17-16 [[36](#)]

The hearing will be dropped. The case has already been dismissed. No appearance is necessary.

4. [16-12324](#)-B-13 RAUL/LUCINA GONZALEZ
TOG-1
RAUL GONZALEZ/MV
THOMAS GILLIS/Atty. for dbt.

MOTION TO CONFIRM PLAN
9-29-16 [[37](#)]

The motion will be granted without oral argument based on well-pled facts. No appearance is necessary. The movant shall submit a proposed order as specified below.

This motion to confirm or modify a chapter 13 plan was fully noticed in compliance with the Local Rules of Practice; there is no opposition and the respondents' default will be entered. The confirmation order shall include the docket control number of the motion and it shall reference the plan by the date it was filed.

5. [15-12326](#)-B-13 FRED/EVA ARREOLA
FW-3
FRED ARREOLA/MV
PETER FEAR/Atty. for dbt.

RESCHEDULED HEARING RE: MOTION
TO MODIFY PLAN
9-13-16 [[69](#)]

The motion will be granted without oral argument based on well-pled facts. No appearance is necessary. The movant shall submit a proposed order as specified below.

This motion to confirm or modify a chapter 13 plan was fully noticed in compliance with the Local Rules of Practice; there is no opposition and the respondents' default will be entered. The confirmation order shall include the docket control number of the motion and it shall reference the plan by the date it was filed.

6. [14-14028](#)-B-13 GEORGETTE AVEDIKIAN
DRJ-8
GEORGETTE AVEDIKIAN/MV
DAVID JENKINS/Atty. for dbt.
PLAN WITHDRAWN

CONTINUED MOTION TO MODIFY PLAN
8-17-16 [[131](#)]

This hearing will be dropped from calendar. The debtor has withdrawn the proposed plan. No appearance is necessary.

7. [14-14028](#)-B-13 GEORGETTE AVEDIKIAN
MHM-3
MICHAEL MEYER/MV
DAVID JENKINS/Atty. for dbt.

CONTINUED MOTION TO DISMISS
CASE
7-13-16 [[124](#)]

This motion will be continued to November 17, 2016, at 1:30 p.m. No appearance is necessary.

This motion was continued to this calendar to be heard with the debtor's motion to confirm a modified plan. That plan has been withdrawn, and a motion to confirm a subsequent modified plan has been filed, served, and set for a hearing on November 17, 2016, at 1:30 p.m. The court notes that the chapter 13 trustee has filed an opposition to confirmation of that plan.

8. [14-14729](#)-B-13 JANET ALCANTRA-BLAJOS
PPR-1
U.S. BANK, NATIONAL
ASSOCIATION/MV
PETER BUNTING/Atty. for dbt.
MELISSA VERMILLION/Atty. for mv.
RESPONSIVE PLEADING

CONTINUED MOTION FOR
ADMINISTRATIVE EXPENSES
8-15-16 [[41](#)]

Unless the matter is resolved by stipulation of the parties, this motion will proceed as scheduled.

9. [16-12929](#)-B-13 OMAR/JUDIT MARTINEZ
MHM-1
MICHAEL MEYER/MV
GLEN GATES/Atty. for dbt.

MOTION TO DISMISS CASE
9-30-16 [[29](#)]

Unless the trustee's motion is withdrawn before the hearing, the motion will be granted without oral argument for cause shown. The court will issue a civil minute order. No appearance is necessary.

This matter was fully noticed in compliance with the Local Rules of Practice and there is no opposition. Accordingly, the respondents' 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 and evidence show there has been unreasonable delay by the debtors that is prejudicial to creditors, including debtors' failure to appear at the scheduled 341 Meeting of Creditors and failure to provide the trustee with the documentation required by law. Accordingly, the case will be dismissed.

10. [16-12632](#)-B-13 PAUL/JUANITA SANCHEZ
JRL-2
PAUL SANCHEZ/MV
JERRY LOWE/Atty. for dbt.

MOTION TO VALUE COLLATERAL OF
JP MORGAN CHASE BANK, N.A.
9-29-16 [[33](#)]

The motion will be granted without oral argument based on well-pled facts. The moving party shall submit a proposed order consistent with this ruling. No appearance is necessary.

This motion to value respondent's collateral 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 debtor is competent to testify as to the value of the 2013 Hyundai Sonata. Given the absence of contrary evidence, the debtor's opinion of value may be conclusive. *Enewally v. Washington Mutual Bank (In re Enewally)*, 368 F.3d 1165, 1173 (9th Cir, 2004). The respondent's secured claim will be fixed at \$7,900. 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.

11. [13-16433](#)-B-13 WALTER/VIRGINIA ELLIOTT
JDW-3

MOTION FOR COMPENSATION FOR
JOEL D. WINTER, DEBTORS
ATTORNEY(S)
10-13-16 [[49](#)]

JOEL WINTER/Atty. for dbt.

This matter will proceed as scheduled.

12. [16-12633](#)-B-13 IRMA VILLA
JRL-1
IRMA VILLA/MV
JERRY LOWE/Atty. for dbt.
RESPONSIVE PLEADING

CONTINUED MOTION TO CONFIRM
PLAN
8-30-16 [[25](#)]

The motion will be granted without oral argument based on well-pled facts. No appearance is necessary. The movant shall submit a proposed order as specified below.

This motion to confirm or modify a chapter 13 plan was fully noticed in compliance with the Local Rules of Practice and was continued to this date for the completion of the §341 meeting of creditors. No opposition was filed and the respondents' defaults will be entered. The confirmation order shall include the docket control number of the motion and it shall reference the plan by the date it was filed.

13. [16-12736](#)-B-13 JOSE GUIZAR AND SYLVIA
TOG-1 RIVERA
JOSE GUIZAR/MV
THOMAS GILLIS/Atty. for dbt.

RESCHEDULED HEARING RE: MOTION
TO CONFIRM PLAN
9-21-16 [[15](#)]

The motion will be granted without oral argument based on well-pled facts. No appearance is necessary. The movant shall submit a proposed order as specified below.

This motion to confirm or modify a chapter 13 plan was fully noticed in compliance with the Local Rules of Practice; there is no opposition and the respondents' default will be entered. The confirmation order shall include the docket control number of the motion and it shall reference the plan by the date it was filed.

14. [16-12440](#)-B-13 JAVIER GARCIA
MHM-2
MICHAEL MEYER/MV
ROBERT CERVANTES/Atty. for dbt.
DISMISSED

RESCHEDULED HEARING RE: MOTION
TO DISMISS CASE
9-20-16 [[37](#)]

The record shows this case has already been dismissed. No appearance is necessary.

15. [15-12149](#)-B-13 BRUCE NIEMI
PBB-1
BRUCE NIEMI/MV
PETER BUNTING/Atty. for dbt.

MOTION TO MODIFY PLAN
9-23-16 [[28](#)]

The motion will be granted without oral argument based on well-pled facts. No appearance is necessary. The movant shall submit a proposed order as specified below.

This motion to confirm or modify a chapter 13 plan was fully noticed in compliance with the Local Rules of Practice; there is no opposition and the respondents' default will be entered. The confirmation order shall include the docket control number of the motion and it shall reference the plan by the date it was filed.

16. [15-14849](#)-B-13 FREDERICK SOLMS AND
FW-2 CONNIE HILL

MOTION FOR COMPENSATION BY THE
LAW OFFICE OF FEAR WADDELL FOR
GABRIEL J. WADDELL, DEBTORS
ATTORNEY(S)
9-28-16 [[42](#)]

PETER FEAR/Atty. for dbt.

The motion will be granted without oral argument based upon well-pled facts. The moving party shall submit a proposed order. No appearance is necessary.

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.

17. [16-12550](#)-B-13 MICHAEL/ASHLEY ESPINOSA CONTINUED MOTION TO DISMISS
MHM-1 CASE
MICHAEL MEYER/MV 8-29-16 [[26](#)]
SCOTT LYONS/Atty. for dbt.

This motion was continued to this calendar to be heard with the trustee's fully-noticed motion to dismiss the case for a material default, MHM-2, at calendar number 18. The motion will be granted. The court will issue a civil minute order. No appearance is necessary.

The record shows that the debtors have not appeared at their §341 meeting of creditors which the trustee has now concluded. In addition, the debtors have not responded to either of the trustee's motions to dismiss. Accordingly, the debtors' 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.

18. [16-12550](#)-B-13 MICHAEL/ASHLEY ESPINOSA RESCHEDULED HEARING RE: MOTION
MHM-2 TO DISMISS CASE
MICHAEL MEYER/MV 9-20-16 [[32](#)]
SCOTT LYONS/Atty. for dbt.

This matter will be dropped from calendar as moot. The court intends to dismiss the case on the trustee's unopposed motion above, MHM-1 at calendar number 17. No appearance is necessary.

19. [16-13251](#)-B-13 JONATHAN YU MOTION TO CONFIRM PLAN
FW-2 9-27-16 [[18](#)]
JONATHAN YU/MV
GABRIEL WADDELL/Atty. for dbt.

This matter will be continued to December 8, 2016, at 1:30 p.m. The court will issue a civil minute order. No appearance is necessary.

The trustee has not yet concluded the meeting of creditors and by prior order of the court, the trustee has another 7 days after completion of the creditors' meeting to file his objection to the plan. At the continued hearing, if the § 341 has been concluded and this objection has not been withdrawn, the court will call the matter and set an evidentiary hearing.

20. [13-12064](#)-B-13 KEITH/MARGARET WILD
JDM-3
KEITH WILD/MV
JAMES MILLER/Atty. for dbt.

RESCHEDULED HEARING RE: MOTION
TO MODIFY PLAN
9-21-16 [[49](#)]

The motion will be granted without oral argument based on well-pled facts. No appearance is necessary. The movant shall submit a proposed order as specified below.

This motion to confirm or modify a chapter 13 plan was fully noticed in compliance with the Local Rules of Practice; there is no opposition and the respondents' default will be entered. The confirmation order shall include the docket control number of the motion and it shall reference the plan by the date it was filed.

21. [16-13068](#)-B-13 KATHERINE ROSS
MHM-1
MICHAEL MEYER/MV
PETER BUNTING/Atty. for dbt.
RESPONSIVE PLEADING

OBJECTION TO CONFIRMATION OF
PLAN BY MICHAEL H. MEYER
10-17-16 [[15](#)]

The hearing on this motion will be called as scheduled and will proceed as a scheduling conference.

This matter is now deemed to be a contested matter. Pursuant to Federal Rule of Bankruptcy Procedure 9014(c), the federal rules of discovery apply to contested matters. If the matter is not resolved at the hearing, the parties shall be prepared for the court to set an early evidentiary hearing.

22. [16-12969](#)-B-13 DONNA URIARTE
MHM-1
MICHAEL MEYER/MV
ANDREW MOHER/Atty. for dbt.
RESPONSIVE PLEADING

MOTION TO DISMISS CASE
9-30-16 [[16](#)]

Unless the motion is withdrawn prior to the hearing, this matter will proceed as scheduled.

The chapter 13 trustee's motion to dismiss was fully noticed in compliance with the Local Rules of Practice.

The debtor's response is not supported by evidence that the issue has been resolved and the trustee's motion has not been withdrawn.

Based on the court's review of the record and evidence, the court intends to grant the motion and dismiss the case after the hearing.

23. [15-12570](#)-B-13 RALPH/JOCELYN OPINION
SL-1
RALPH OPINION/MV
STEPHEN LABIAK/Atty. for dbt.
WITHDRAWN

OBJECTION TO NOTICE OF MORTGAGE
PAYMENT CHANGE
9-27-16 [[21](#)]

The matter has been withdrawn. No appearance is necessary.

24. [11-14473](#)-B-13 OLIVIA LIMA
DRJ-2
OLIVIA LIMA/MV

MOTION TO RECONSIDER AND/OR
OBJECTION TO CLAIM OF JOHN D.
OLIVEIRA DBA MICK OLIVEIRA
FARMS, CLAIM NUMBER 3
9-26-16 [[77](#)]

M. ENMARK/Atty. for dbt.

The motion for reconsideration will be granted and the objection to claim will be sustained without oral argument based upon well-pled facts. The moving/objecting party shall submit a proposed order. No appearance is necessary.

The information and documents necessary to the court's determination that the debtor was entitled to disallowance of the subject claim was not included in the debtor's original claim objection.

This motion for reconsideration and the underlying claim objection were both fully noticed in compliance with the Local Rules of Practice and there has been 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. Based on the evidence submitted in support of the objection, the claim will be disallowed in full on the grounds stated in the objection.

25. [11-14473](#)-B-13 OLIVIA LIMA
MHM-2
MICHAEL MEYER/MV
M. ENMARK/Atty. for dbt.
RESPONSIVE PLEADING

CONTINUED MOTION TO DISMISS
CASE
8-31-16 [[72](#)]

Unless the motion is withdrawn, this matter will proceed as scheduled.

26. [13-17275](#)-B-13 SANDRA SANCHEZ
AP-1
CITIMORTGAGE/MV
PETER BUNTING/Atty. for dbt.
MEGAN LEES/Atty. for mv.
RESPONSIVE PLEADING

MOTION FOR RELIEF FROM
AUTOMATIC STAY
9-27-16 [[22](#)]

The motion will be granted without oral argument for cause shown. Movant shall submit a proposed order as specified below. No appearance is necessary.

This motion for relief from stay was fully noticed in compliance with the Local Rules of Practice and the debtor filed a notice of non-opposition. The record shows that cause exists to terminate the automatic stay. The automatic stay is terminated under §362(d)(1) as it applies to the movant's right to enforce its remedies against the subject property under applicable nonbankruptcy law.

The motion for relief under 11 U.S.C. §362(d)(4) is also granted. It appears from the evidence submitted and from the record that the debtor's bankruptcy case, without the knowledge of the debtor, was used as part of a scheme to delay, hinder, or defraud creditors that involved transfer of a portion of the subject real property or multiple bankruptcy filings affecting such real property. It appears from the court's review of the record and evidence that there were multiple transfers of part ownership of, or other interest in, the subject property without the consent of Movant or court approval.

The proposed order must comply with 362(d)(4). The order shall not contain any express or implied findings that this debtor was complicit in any scheme to hinder or delay movant.

The proposed order shall specifically describe the property or action to which the order relates. 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 to the extent that it applies. A waiver of Federal Rule of Bankruptcy Procedure 4001(a)(3) will be granted.

If the prayer for relief includes a request for adequate protection, and/or a request for an award of attorney fees, those requests will be denied without prejudice. Adequate protection is unnecessary in light of the relief granted herein. A motion for attorney fees pursuant to 11 U.S.C. §506(b), or applicable nonbankruptcy law, must be separately noticed and separately briefed with appropriate legal authority and supporting documentation. There is no evidence that the debtor agreed to be liable for this creditor's attorney's fees under applicable law.

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).

27. [14-15875](#)-B-13 RICHARD/VERONICA ESPINOZA MOTION TO MODIFY PLAN
TCS-4 9-28-16 [[82](#)]
RICHARD ESPINOZA/MV
TIMOTHY SPRINGER/Atty. for dbt.
RESPONSIVE PLEADING

This motion to confirm a modified plan will be deemed withdrawn. The debtors have filed a subsequent modified plan that has been set for a hearing on December 15, 2016, at 1:30 p.m. No appearance is necessary.

28. [16-10479](#)-B-13 CELINA MUNIZ CONTINUED MOTION TO CONFIRM
TOG-1 PLAN
CELINA MUNIZ/MV 8-9-16 [[24](#)]
THOMAS GILLIS/Atty. for dbt.
RESPONSIVE PLEADING

The motion to confirm the chapter 13 plan will be denied without prejudice. The debtor has filed a non-opposition to the trustee's opposition to the motion. The court will enter a civil minute order. No appearance is necessary.

The court's previous order required a modified plan to be filed by November 3, 2016. No plan was filed by that date. Pursuant to §1324(b), the court will set January 12, 2017, as a bar date by which a chapter 13 plan must be confirmed or the case will be dismissed on the trustee's declaration.

29. [15-14184](#)-B-13 JUVENAL VIDALES AND DIANA RESCHEDULED HEARING RE: MOTION
VRP-1 BERNAL-VIDALES TO MODIFY PLAN
JUVENAL VIDALES/MV 9-12-16 [[35](#)]
VARDUHI PETROSYAN/Atty. for dbt.

The motion will be granted without oral argument based on well-pled facts. No appearance is necessary. The movant shall submit a proposed order as specified below.

This motion to confirm or modify a chapter 13 plan was fully noticed in compliance with the Local Rules of Practice; there is no opposition and the respondents' default will be entered. The confirmation order shall include the docket control number of the motion and it shall reference the plan by the date it was filed.

30. [16-12984](#)-B-13 REFUGIO GUTIERREZ
PPI-1
ACCOUNT MANAGEMENT SERVICES,
INC./MV
THOMAS GILLIS/Atty. for dbt.
MISTY PERRY-ISAACSON/Atty. for mv.

OBJECTION TO CONFIRMATION OF
PLAN BY ACCOUNT MANAGEMENT
SERVICES, INC.
10-3-16 [[25](#)]

The debtor has filed a notice of non-opposition to this objection. Accordingly, the objection will be sustained. The court will enter a civil minute order. No appearance is necessary.

31. [16-12984](#)-B-13 REFUGIO GUTIERREZ
TOG-4
REFUGIO GUTIERREZ/MV
THOMAS GILLIS/Atty. for dbt.

RESCHEDULED HEARING RE: MOTION
TO CONFIRM PLAN
9-14-16 [[17](#)]

This motion will be deemed withdrawn. No appearance is necessary. The debtor has filed a notice of non-opposition, above at calendar number 30, PPI-1, to the creditor's objection to confirmation of the plan that was filed September 14, 2016, TOG-4.

32. [16-12690](#)-B-13 KIMBERLY SHACKELFORD
MHM-2
MICHAEL MEYER/MV
SUSAN HEMB/Atty. for dbt.
RESPONSIVE PLEADING

RESCHEDULED HEARING RE: MOTION
TO DISMISS CASE
9-20-16 [[25](#)]

This matter will be continued to December 22, 2016, at 1:30 p.m., to be heard with the debtor's motion to confirm a modified plan intended to address the default in the plan payments. No appearance is necessary.

33. [16-10391](#)-B-13 MICHAEL PFEIFFER
DMG-2
MICHAEL PFEIFFER/MV
D. GARDNER/Atty. for dbt.

MOTION TO CONFIRM PLAN
9-28-16 [[52](#)]

The motion will be granted without oral argument based on well-pled facts. No appearance is necessary. The movant shall submit a proposed order as specified below.

This motion to confirm or modify a chapter 13 plan was fully noticed in compliance with the Local Rules of Practice; there is no opposition and the respondents' default will be entered. The confirmation order shall include the docket control number of the motion and it shall reference the plan by the date it was filed.

34. [16-12893](#)-B-13 LOURDES OMEGA
MHM-1
MICHAEL MEYER/MV
STEPHEN LABIAK/Atty. for dbt.

MOTION TO DISMISS CASE
9-30-16 [[30](#)]

Unless the trustee's motion is withdrawn before the hearing, the motion will be granted without oral argument for cause shown. The court will issue a civil minute order. No appearance is necessary.

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 the debtor has failed to provide the trustee with all of the documentation required by 11 U.S.C. §521(a)(3) & (4).

35. [16-10294](#)-B-13 LINA CONTRERAS

LINA CONTRERAS/MV
WILLIAM ROMAINE/Atty. for dbt.

RESCHEDULED HEARING RE: MOTION
TO CONFIRM PLAN
9-7-16 [[67](#)]

The motion will be denied without prejudice. The court will enter a civil minute order. No appearance is necessary.

The proof of service fails to comply with LBR 9014-1(e)(3).

In addition, the form and/or content of the notice do not comply with LBR 9014-1(d).

Finally, the moving papers do not include an appropriate docket control number as required by LBR 9014-1(c).

36. [14-15098](#)-B-13 SAMUEL ACEVEDO AND DEBBIE FURTHER HEARING RE: MOTION TO
MHM-4 SURROCK DISMISS CASE
MICHAEL MEYER/MV 7-18-16 [[81](#)]
PETER BUNTING/Atty. for dbt.

Unless the trustee's motion is withdrawn before the hearing, the motion will be granted without oral argument for cause shown. The court will issue a civil minute order. No appearance is necessary.

This matter was fully noticed in compliance with the Local Rules of Practice and there is no opposition. Accordingly, the respondents' 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 is a material default in the chapter 13 plan payments that has not been cured.