



**UNITED STATES BANKRUPTCY COURT  
Eastern District of California  
HONORABLE RENÉ LASTRETO II  
Department B – Courtroom #13  
Fresno, California**

**Hearing Date: Wednesday, November 15, 2023**

Unless otherwise ordered, all hearings before Judge Lastreto are simultaneously: (1) **IN PERSON** in Courtroom #13 (Fresno hearings only), (2) via **ZOOMGOV VIDEO**, (3) via **ZOOMGOV TELEPHONE**, and (4) via **COURTCALL**. You may choose any of these options unless otherwise ordered.

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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.

9:30 AM

1. [19-14108](#)-B-13     **IN RE: JAMES WEST**  
[MHM-1](#)

MOTION TO DISMISS CASE  
10-5-2023     [\[72\]](#)

TIMOTHY SPRINGER/ATTY. FOR DBT.

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

DISPOSITION:     Granted.

ORDER:     The court will issue an order.

The chapter 13 trustee asks the court to dismiss this case for unreasonable delay by the debtor that is prejudicial to creditors (11 U.S.C. § 1307(c)(1)) and for failure to complete the terms of the confirmed plan (11 U.S.C. § 1307(c)(6)). Doc. #72. James West ("Debtor") did not oppose.

Unless the trustee's motion is withdrawn before the hearing, the motion will be GRANTED without oral argument for cause shown.

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

Here, the chapter 13 trustee asks the court to dismiss this case under 11 U.S.C. § 1307(c)(1) for unreasonable delay by Debtor that is prejudicial to creditors and 11 U.S.C. § 1307(c)(6) for failure to complete the terms of the confirmed plan. Doc. #72.

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) for unreasonable delay.

In addition, the trustee has reviewed the schedules and determined that the debtor's assets are over encumbered and are of no benefit to the estate. Because there is no equity to be realized for the benefit of the estate, dismissal is in the best interests of creditors and the estate. Doc. #72.

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

2. [23-12110](#)-B-13     **IN RE: JORGE/ZENIA CHAVEZ**  
[MHM-1](#)

OBJECTION TO DEBTOR'S CLAIM OF EXEMPTIONS  
10-13-2023    [[14](#)]

MICHAEL MEYER/MV  
SCOTT LYONS/ATTY. FOR DBT.  
RESPONSIVE PLEADING

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

DISPOSITION:        Overruled as moot.

ORDER:                The court will enter the order.

Chapter 13 trustee Michael H. Meyer ("Trustee") objects to the claimed exemptions of Jorge and Zenia Chavez ("Debtors") of several life insurance policies. Doc. #14. On October 17, 2023, Debtors filed an Amended Schedule C which reduced the claimed exemption on the relevant policies to \$0.00. Doc. #18. On November 1, 2023, Debtors responded to the instant motion advising the court of the Amended Schedule C and requesting that the court overrule the objection as moot. Doc. #20.

Accordingly, this objection is overruled as moot.

3. [23-11512](#)-B-13     **IN RE: SEAN MARSH**  
[SLH-1](#)

MOTION TO CONFIRM PLAN  
9-20-2023    [\[15\]](#)

SEAN MARSH/MV  
SETH HANSON/ATTY. FOR DBT.

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

DISPOSITION:     Denied without prejudice.

ORDER:             The court will enter the order.

Sean Marsh ("Debtor") brings this Motion seeking confirmation of his First Amended Plan filed on September 7, 2023. However, a review of the docket and the moving papers reflects the following procedural deficiencies.

First, while the Amended Plan was filed separately, it did not include the Docket Control Number ("DCN") associated with the instant motion as required by the Local Rules. Second, no Certificate of Service for the Amended Plan was filed as required by LBR 9014-1(e). A Certificate of Service was filed for the instant motion (see Doc. #19), but it indicates that Debtor only served the motion and not the accompanying Exhibit which contained the plan. Doc. #17.

For the foregoing reasons, this motion will be DENIED WITHOUT PREJUDICE for failure to comply with Federal Rules of Bankruptcy Procedure and the Local Rules.

4. [23-11116](#)-B-13     **IN RE: HUMBERTO/NANCY VIDALES**  
[TCS-7](#)

MOTION TO VALUE COLLATERAL OF MEDALLION BANK  
10-12-2023    [\[82\]](#)

NANCY VIDALES/MV  
TIMOTHY SPRINGER/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.

Humberto Crispin Vidales and Nancy E. Garcia Vidales (collectively "Debtors") move for an order valuing a 2018 Big Tex 25' Gooseneck trailer ("the Trailer") at \$7,5000.00 under 11 U.S.C. § 506(a). Doc. #92. Vehicle is encumbered by a purchase money security interest in favor of Medallion Bank ("Creditor:"). *Id.*; cf. Proof of Claim No. 22-1.

Debtor complied with Fed. R. Bankr. P. 3012(b) and 7004(b)(3) by serving Creditor's CEO/CFO at Creditor's headquarters and at the address listed in Creditor's proof of claim. Doc. #86. 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 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.

11 U.S.C. § 1325(a)(\*) (the hanging paragraph) states that 11 U.S.C. § 506 is not applicable to claims described in that paragraph if (1) the creditor has a purchase money security interest securing the debt that is the subject of the claim, (2) the debt was incurred within 910 days preceding the filing of the petition, and (3) the collateral is a motor vehicle acquired for the personal use of the debtor.

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) 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 date. "Replacement value" 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."

According to the Declaration, Debtors borrowed money from Creditor to acquire Vehicle on or about June 18, 2018, which is more than 910 days preceding the May 25, 2023, petition date. Doc. #84. Creditor's proof of claim does not have any supporting documents indicating a different date of purchase. POC 22-1. Thus, the elements of § 1325(a)(\*) are not met and § 506 is applicable.

Joint debtor Humberto Vidales declares Vehicle has a replacement value of \$7,500.00. Doc. #84. Debtor is competent to testify as to the value of the Vehicle. Given the absence of contrary evidence,

the debtor's opinion of value may be conclusive. *Enewally v. Wash. Mut. Bank (In re Enewally)*, 368 F.3d 1165, 1173 (9th Cir. 2004).

No party in interest timely filed written opposition. Accordingly, this motion will be GRANTED. Creditor's secured claim will be fixed at \$7,500.00. The proposed order shall specifically identify the collateral and the proof of claim to which it relates. The order will be effective upon confirmation of the chapter 13 plan.

5. [23-11717](#)-B-13     **IN RE: CHARLES HARRIS**  
[MHM-1](#)

MOTION TO DISMISS CASE  
10-18-2023    [\[15\]](#)

PETER BUNTING/ATTY. FOR DBT.

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

DISPOSITION:     Granted.

ORDER:             The court will issue an order.

The chapter 13 trustee asks the court to dismiss this case under 11 U.S.C. § 1307(c)(1) for unreasonable delay by Charles Harris ("Debtor") that is prejudicial to creditors and 11 U.S.C. § 1307(c)(4) Debtor's failure to commence making plan payments. Doc. #15. Debtor did not oppose.

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

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

The record shows that there has been unreasonable delay by the Debtor that is prejudicial to creditors (11 U.S.C. § 1307(c)(1)). Doc. #15. The Debtor failed to provide required documentation to the trustee and failed to provide proof of income for the last 6 months as required by 11 U.S.C. § 521(a)(3) and (4)). *Id.*

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) for unreasonable delay.

In addition, the trustee has reviewed the schedules and determined that the debtor's assets are over encumbered and are of no benefit to the estate. Because there is no equity to be realized for the benefit of the estate, dismissal is in the best interests of creditors and the estate. Doc. #17.

Accordingly, the motion will be GRANTED and the case dismissed.

6. [23-11717](#)-B-13 **IN RE: CHARLES HARRIS**  
[MHM-2](#)

OBJECTION TO DEBTOR'S CLAIM OF EXEMPTIONS  
10-18-2023 [[19](#)]

MICHAEL MEYER/MV  
PETER BUNTING/ATTY. FOR DBT.

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

DISPOSITION: Sustained.

ORDER: The moving party will prepare the order

Chapter 13 trustee Michael H. Meyer ("Trustee") objects to Charles Harris's ("Debtor") claim of exemption in real property located at 243 E. Street, Los Banos, CA ("Property") in the amount of \$340,000.00 pursuant to Cal. Code Civ. Proc. ("CCP") § 704.730. Doc. #19.

This objection was set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of the debtor, 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 sustaining of the objection. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Therefore, the defaults of the above-mentioned parties in interest except Debtors 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).

No party, including debtor filed a response, and the defaults of all interested parties shall be entered.



Trustee's objection arises from the following facts and law. Debtor exempted the Property in the amount of \$340,000.00. Doc. #1. However, Debtor testified at his §341 meeting of creditors that he purchased the Property within the last two years. Doc. #19. Section 522(p)(1) of the Code states that unless a homestead was acquired more than 1215 days before the petition date, the homestead exemption for bankruptcy purposes is limited to \$189,050.00. 11 U.S.C. §522(p)(1).

As Debtors' default has been entered, this objection shall be SUSTAINED.

7. [23-10724](#)-B-13     **IN RE: ALMA ZAVALA**  
[MAT-2](#)

MOTION TO CONFIRM PLAN  
9-28-2023     [\[47\]](#)

ALMA ZAVALA/MV  
MARCUS TORIGIAN/ATTY. FOR DBT.  
RESPONSIVE PLEADING

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

DISPOSITION:     Continued to December 20, 2023 at 9:30 a.m.

ORDER:     The court will issue an order.

Alma Sulema Zavala ("Debtor") moves for an order confirming the *First Modified Chapter 13 Plan* dated May 16, 2023. Doc. #47. Chapter 13 trustee Michael H. Meyer ("Trustee") timely objected to confirmation of the plan for the following reasons:

1. The plan fails the liquidation test set by 11 U.S.C. §1325(a)(4), and the distribution to unsecured creditors must increase from 5.50% to 58.44%.
2. Debtor is delinquent in plan payments by \$165.50 as of September 2023, and Debtor's Schedule J monthly net income of \$2,276.00 is insufficient to support a proposed plan payment of \$2,313.12.
3. The plan proposes to pay Marcus Torigian, Debtor's counsel ("Torigian"), pursuant to the no-look fee under LBR 2016-1(c). However, the Disclosure of Compensation form includes language stating that the fees do not cover Torigian representing Debtor in "judicial lien avoidances, relief from stay actions." However, the Rights and Responsibilities form executed by Debtor and Torigian specifically contemplate Torigian providing such services as part of his representation. Compare Doc #1 (*Form B2030 Disclosure of Compensation*) with Doc. #6 (*Rights and Responsibilities Form*).

This motion to confirm plan will be CONTINUED to **December 20, 2023, at 9:30 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.

8. [23-10724](#)-B-13     **IN RE: ALMA ZAVALA**  
[MHM-2](#)

CONTINUED MOTION TO DISMISS CASE  
9-6-2023    [\[43\]](#)

MICHAEL MEYER/MV  
MARCUS TORIGIAN/ATTY. FOR DBT.

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

DISPOSITION:     Continued to December 20, 2023, at 9:30 a.m.

ORDER:             The court will issue an order.

Michael H. Meyer ("Trustee") filed this *Motion to Dismiss* the above-styled case, citing Alma Zavala's ("Debtors") failure to confirm a chapter 13 plan and Debtor's unreasonable delay that is prejudicial to creditors.

This matter will be CONTINUED to December 20, 2022, at 9:30 a.m. to be heard in conjunction with Debtor's *Motion for Confirmation*. Doc. #47; See *Item #7, supra*.

9. [23-12028](#)-B-13     **IN RE: JACQUELINE KEENEY**  
[MHM-2](#)

OBJECTION TO CONFIRMATION OF PLAN BY TRUSTEE MICHAEL H.  
MEYER  
10-19-2023    [\[19\]](#)

ARETE KOSTOPOULOS/ATTY. FOR DBT.

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

DISPOSITION:     Continued to December 20, 2023, at 9:30 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 Jacqueline Sue Keeney ("Debtor") on September 11, 2023, under 11 U.S.C. §§ 1322(a), 1322(d), 1325(a)(1), and 1325(b)(1)(B) and LBR 2016-1(c) for the following reasons:

1. The plan provides for Golden 1 Credit Union as a Class 4 claim secured by a 2013 Chevrolet Equinox which should mature after plan completion. That creditor's proof of claim, however, states that the loan will mature in August 2024, month 11 of the 60-month plan. Thus, that creditor should be provided for in Class 2.
2. The plan payment is insufficient to pay the monthly dividends. The plan is short at least \$1,886.99 per month. The plan fails to list a dividend for attorney's fees in Section 3.06. The plan provides for Shellpoint Mortgage Servicing as a Class 1 creditor. However, no pre-petition arrears are listed in Class 1. If the Debtor is current, Shellpoint Mortgage Servicing should be provided for in Class 4.
3. Section 3.06 of the plan fails to list a monthly dividend for attorney's fees. Per Local Rule 2016-1(c)(4)(B), the Trustee is required to pay Debtor's counsel equal monthly installments over the term of the confirmed plan.
4. The plan takes 384.64 months to fund.
5. Debtor exempts a savings account without demonstrating that the account is necessary for support of the Debtor. Trustee filed a separate Objection to Exemption (Doc. #14) which this court sustained on October 25, 2023. Trustee avers that as a result, the plan now fails the liquidation test.
6. Line 43 of the Form 122C-2 deducts a bonus in the amount of \$7,500.00 which would appear to represent an annual bonus of \$90,000.00.
7. The plan provides for attorney's fees in excess of what is permitted under LBR 2016-1(c).

Doc. #19.

This objection will be CONTINUED to December 20, 2023. at 9:30 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.

10. [23-12028](#)-B-13      **IN RE: JACQUELINE KEENEY**  
[SCF-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY NEWREZ LLC  
10-20-2023    [\[22\]](#)

NEWREZ LLC/MV  
ARETE KOSTOPOULOS/ATTY. FOR DBT.  
SEAN FERRY/ATTY. FOR MV.

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

DISPOSITION:                      Continued to December 20, 2023, at 9:30 a.m.

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

NewRez LLC d/b/a Shellpoint Mortgage Servicing, LLC ("Movant") objects to confirmation of the *Chapter 13 Plan* proposed by Jacqueline Sue Kenney ("Debtor") on September 11, 2023, pursuant to Local Rule of Practice ("LBR") 3015-1(c)(4). Doc. #22. Creditor objects under 11 U.S.C. §§ 1322(b)(2) because the plan fails to provide for an arrearage owed to Creditor to be paid in full during the plan term.

This matter will be continued to December 20, 2023, at 9:30 a.m. to be heard in conjunction with the Trustee's pending *Objection to Confirmation*. Doc. 19. See Item #9, *supra*.

However, the court directs Movant's attention to the following procedural defect. The docket reflects that Movant filed the instant objection (Doc. #23) and then immediately filed an Amended Objection (Doc. #24) to correct an error in the time at which the hearing was scheduled. However, Movant's certificate of service only lists the original Notice as having been served but not the Amended Notice. Prior to the continued hearing date, the Movant should file a certificate of service to confirm that the Amended Notice at Doc. #24 was served on all appropriate parties.

Also, the court notes that objector's proof of claim shows an arrearage claim of \$949.81. Under the form plan for this District, the proof of claim controls the distribution absent a claim objection and court order to the contrary. Hence, the basis for the objection is rectified if the plan is confirmed. Absent a modified Plan, objector may have a basis for stay relief if the arrearage is not paid.

11. [20-10641](#)-B-13     **IN RE: HUGO/CYNTHIA ALONSO**  
[PBB-1](#)

MOTION TO MODIFY PLAN  
9-28-2023    [\[30\]](#)

CYNTHIA ALONSO/MV  
PETER BUNTING/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.

Hugo and Cynthia Alonso (collectively "Debtors") move for an order confirming Debtors' *First Amended Chapter 13 Plan* dated September 28, 2023. Doc. #32.

No party has timely objected.

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 any party in interest, including but not limited to creditors, the U.S. Trustee, and the case Trustee, 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).

The motion requests that the confirmed plan be modified as follows:

1. Any missed plan payments will be deferred.
2. Plan payments will be reduced from \$1,210.00 down to \$100.00.
3. The dividend to unsecured creditors will be reduced from 29% down to 9%.
4. Dividends to all other creditors will be unaffected.
5. Attorney's fees paid through the plan will be unaffected.

Doc. #30.

Debtors aver that this modification is necessary because of a significant reduction in Debtors' income after their respective

retirements. Doc. #33. This is confirmed by Debtors' *Amended Schedule I & J*, which reflects a monthly net income of \$100.61, down from \$1,210.78 which was their monthly net income as calculated in their petition documents. Doc. #1, 37.

No party has objected, and so, this motion is GRANTED. The order shall include the docket control number of the motion, shall reference the plan by the date it was filed, and shall be approved as to form by Trustee.

12. [23-12143](#)-B-13     **IN RE: JENIFFER VEGA**  
[MHM-1](#)

OBJECTION TO DEBTOR'S CLAIM OF EXEMPTIONS  
10-10-2023    [[12](#)]

MICHAEL MEYER/MV  
SCOTT LYONS/ATTY. FOR DBT.  
RESPONSIVE PLEADING

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

DISPOSITION:        Overruled as moot.

ORDER:                The court will enter the order.

Chapter 13 trustee Michael H. Meyer ("Trustee") objects to the claimed exemption of Jennifer Vega ("Debtor") of an iPhone 14 pro max in the amount of \$1,599.99, which is in excess of the \$800.00 cap set by C.C.P. § 703.140(b)(3). Doc. #12.

On October 17, 2023, Debtor filed an Amended Schedule C which fully exempted the iPhone using an exemption of \$799.99 pursuant to C.C.P. § 703.140(b)(3) and using \$800.00 pursuant to C.C.P. § 703.140(b)(5). Doc. ##15, 17. Debtor requests that the court overrule the objection as moot. Doc. #17.

Since Debtor filed an amended exemption schedule, this objection is OVERRULED as moot.

13. [23-12047](#)-B-13      **IN RE: ADANAN/HUDA BATH**  
[KMM-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY TOYOTA MOTOR CREDIT  
CORPORATION  
10-25-2023    [\[23\]](#)

TOYOTA MOTOR CREDIT  
CORPORATION/MV  
PETER BUNTING/ATTY. FOR DBT.  
KIRSTEN MARTINEZ/ATTY. FOR MV.

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

DISPOSITION:      Continued to December 20, 2023, at 9:30 a.m.

ORDER:              The court will issue an order.

Toyota Motor Credit Corporation dba Lexus Financial Services  
("Creditor" objects to confirmation of the *Chapter 13 Plan* filed by  
Adanan Amar and Huda Naz Bath (collectively "Debtors") on September  
14, 2023, on the following basis:

1. Debtors' proposed plan fails to provide treatment for  
Creditor's claim in the amount of \$40,567.93 with a 4.69%  
interest rate secured by a 2022 LEXUS IS500.
2. If the plan is amended to provide such treatment, it is  
nevertheless not feasible as proposed.

Doc. #23.

This objection will be CONTINUED to December 20, 2023. at 9:30 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.

14. [23-12047](#)-B-13     **IN RE: ADANAN/HUDA BATH**  
[MHM-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY TRUSTEE MICHAEL H.  
MEYER  
10-24-2023    [[20](#)]

PETER BUNTING/ATTY. FOR DBT.

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

DISPOSITION:        Continued to December 20, 2023, at 9:30 a.m.

ORDER:                The court will issue an order.

Michael H. Meyer ("Trustee") objects to confirmation of the *Chapter 13 Plan* filed by Adanan Amar and Huda Naz Bath (collectively "Debtors") on September 14, 2023, on the following basis:

1. Debtors have failed to provide a balance sheet as of the date of filing for Debtors business listing the value of its assets and liabilities as required by § 1325(a)(4).
2. Schedule I and the business income/expense statement must be amended because they presently list expenses that will be paid through the plan.

Doc. #20.

This objection will be CONTINUED to December 20, 2023. at 9:30 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.



15. [23-11050](#)-B-13     **IN RE: CHRISTOPHER ISAIS**  
[TCS-1](#)

MOTION TO CONFIRM PLAN  
10-4-2023    [\[16\]](#)

CHRISTOPHER ISAIS/MV  
TIMOTHY SPRINGER/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.

Christopher Isais ("Debtor") seeks an order confirming the *First Modified Chapter 13 Plan* (erroneously identified as *Third Modified Plan* in the body of the motion) dated October 4, 2023. Doc. #16. No plan has been confirmed so far. The 60-month plan proposes the following terms:

1. Debtor's aggregate payment for months 1-5 will be \$1,504.00. Debtor's payments for months 6-60 will be \$799.00 per month.
2. Outstanding Attorney's fees in the amount of \$3,788.00 to be paid through the plan.
3. Secured creditors to be sorted into appropriate Classes and paid as follows:
  - a. 800 Loanmart (Class 2A, PMSI). \$21,136.00 at 9.00% to be paid at \$438.75 per month.
4. A dividend of 0% to unsecured creditors.

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.

16. [19-10873](#)-B-13     **IN RE: IVAN/RODELIA VILLA**  
[PBB-3](#)

MOTION TO MODIFY PLAN  
10-2-2023    [\[98\]](#)

RODELIA VILLA/MV  
PETER BUNTING/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.

Ivan Gilberto Villa and Rodelia Durupan Villa (collectively  
"Debtors") move for an order confirming Debtors' *Third Modified*  
*Chapter 13 Plan* dated September 28, 2023. Doc. #98.

No party has timely objected.

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 any  
party in interest, including but not limited to creditors, the U.S.  
Trustee, and the case Trustee, 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).

The motion requests that the confirmed plan be modified as follows:

1. The modified plan will stop all payments to Specialized Loan  
Servicing ("SPS"). Debtors have included an Exhibit consisting  
of a letter from SPS dated February 2, 2023, which asserts  
that the loan has been satisfied and the lien released.  
However, Trustee cannot stop making payments to SPS under the  
previous plan without a court-approved modification.
2. There will be no payments to SPS from month 50 to month 60.
3. The plan will make payments in the aggregate amount of  
\$163,008.62 for the first 54 months, and then \$3,111.45 per  
month for the remaining 6 months.
4. Unsecured creditors will receive a 30% distribution, up from  
the 22% dividend of the prior plan.
5. All other distributions under the plan to remain unchanged.

Doc. ##98, 100.

Debtors aver that this modification is necessary because of the need  
to remove SPS from the list of creditors who must be paid through  
the plan. Doc. #98. Filed contemporaneously with the motion is  
Debtors' *Amended Schedule I & J*, which reflects a monthly net income

of \$3,115.32, down from \$3,250.68, which was their monthly net income as of the *Amended Schedule I & J* which was filed on July 27, 2023. Doc. ##60, 96.

No party has objected, and so, this motion is GRANTED. The order shall include the docket control number of the motion, shall reference the plan by the date it was filed, and shall be approved as to form by Trustee.

17. [23-12089](#)-B-13     **IN RE: FRANCISCO BECERRA**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES  
10-25-2023    [\[20\]](#)

GEORGE BURKE/ATTY. FOR DBT.

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. If the fees due at the time of the hearing have not been paid prior to the hearing, the case will be dismissed on the grounds stated in the OSC.

If the installment fees due at the time of hearing are paid before the hearing, the order permitting the payment of filing fees in installments will be modified to provide that if future installments are not received by the due date, the case will be dismissed without further notice or hearing.

18. [23-11391](#)-B-13     **IN RE: DEREK WHITE AND LILIYA RUDAN**  
[JDW-1](#)

MOTION TO VALUE COLLATERAL OF SANTANDER CONSUMER USA, INC.  
10-18-2023    [\[29\]](#)

LILIYA RUDAN/MV  
JOEL WINTER/ATTY. FOR DBT.  
RESPONSIVE PLEADING

TENTATIVE RULING:            This matter will proceed as scheduled.

DISPOSITION:                    Denied.

ORDER:                            The court will issue an order.

Derek White and Liliya Rudan ("Debtors") bring this *Motion to Value Collateral* described as a 2018 Mazda CX9 ("the Vehicle"). Doc. #29.

This motion was set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1). Thus, pursuant to LBR

9014-1(f)(1)(B), the failure of any party in interest (including but not limited to creditors, the debtor, the U.S. Trustee, or any other properly-served party in interest) to file written opposition at least 14 days prior to the hearing may be deemed a waiver of any such opposition to the granting of the motion. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). When there is no opposition to a motion, the defaults of all parties in interest who failed to timely respond will be entered, and, in the absence of any opposition, the movant's 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). Because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary when an unopposed movant has made a prima facie case for the requested relief. See *Boone v. Burk (In re Eliapo)*, 468 F.3d 592 (9th Cir. 2006).

Santander Consumer USA Inc. ("Creditor") timely filed a response. Doc #38. The defaults of all other parties in interest shall be entered.

As an initial matter, the court notes two procedural deficiencies which, under other circumstances, might lead to denial without prejudice of the instant motion. But as stated below, the motion itself shows the debtors are not entitled to relief.

First, the Notice of Hearing (Doc. #30) fails to comply with LBR 9014-1(d)(3)(B)(iii), which requires the movant to notify respondents that they can determine (a) whether the matter has been resolved without oral argument; (b) whether the court has issued a tentative ruling that can be viewed by checking the pre-hearing dispositions on the court's website at <http://www.caeb.uscourts.gov> after 4:00 p.m. the day before the hearing; and (c) parties appearing telephonically must view the pre-hearing dispositions prior to the hearing. This statement is required in all notices and is grounds for denial of the motion.

Second, the Debtors did not file a Certificate of Service in connection with the instant motion. While not fatal in this specific instance because the Creditor did, in fact, respond to the motion, the court would likely deny without prejudice a motion filed without a certificate of service in which there was no response.

The court encourages debtor's counsel to carefully review the Local Rules to avoid such procedural errors in the future. In this instance, having reviewed the moving papers, the court elects to disregard these procedural missteps to address the motion substantively, as it is clear from the face of the motion that Debtors are not entitled to the relief sought. Paragraph 2 of the Motion states:

Debtors purchased the collateral on 9/24/2021 which is greater than 910 days OR greater than one year prior to filing for the purposes of the hanging paragraph of 11 U.S.C. §1325, and therefore 11 U.S.C. §506 is applicable to Collateral.

Doc. #29. "The hanging paragraph" refers to the unnumbered, unlettered paragraph immediately following 11 U.S.C. § 1325(a)(9). As Creditor notes, Debtors fundamentally misunderstand the meaning of the hanging paragraph which states as follows:

For purposes of paragraph (5), section 506 shall not apply to a claim described in that paragraph if the creditor has a purchase money security interest securing the debt that is the subject of the claim, the debt was incurred within the 910-day period preceding the date of the filing of the petition, and the collateral for that debt consists of a motor vehicle (as defined in section 30102 of title 49) acquired for the personal use of the debtor, or if collateral for that debt consists of any other thing of value, if the debt was incurred during the 1-year period preceding that filing.

11 U.S.C. §1325(a)(9)(\*). In layman's terms, the hanging paragraph creates two separate time frames for purchase money security interests secured either by a vehicle or by some other "thing of value" outside of which the cram-down provisions of §506 do not apply. *Id.* For vehicles, the relevant time limit is 910 days prior to filing. *Id.* For any other "thing of value," the time limit is one year prior to filing. *Id.*

According to the Debtors' own motion, they purchased the Vehicle 642 days prior to the filing of the petition. Doc. ## 29. This is within the 910-day window set by the hanging paragraph, and so §506 does not apply and the Vehicle is not subject to cram-down. Accordingly, the motion is DENIED.

19. [21-12297](#)-B-13     **IN RE: ISAAC/WANDA SANTOS**  
[TCS-4](#)

MOTION TO REFINANCE  
10-27-2023    [\[90\]](#)

WANDA SANTOS/MV  
TIMOTHY SPRINGER/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 will submit a proposed order after hearing.

Isaac and Wanda Santos ("Debtors") bring this *Motion to Authorize Debtors to Refinance Existing Debt*. Doc. #91. The existing debt which Debtors propose to refinance is the mortgage held by US Bank National Association ("USB") on their primary residence at 532 Autumn Road, Madera California 93637 ("the Residence"). *Id.* Debtors proposed to pay off the USB mortgage by taking on a new loan from Willamette Valley Bank ("WVB") to be paid outside the plan. *Id.*

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

The moving papers acknowledge that Debtors are not current on their plan payments but asserts that they will be able to complete the plan in full if the proposed refinance is approved. Doc. #90. USB's proof of claim (POC #7-1;8-1) stated a claim for \$175,075.56 at 5.25%. The current plan calls for an \$808.35 monthly arrearage payment with \$37,184.00 in total arrearage to be paid at 0% and a \$1,352.00 post-petition monthly payment, for a total dividend on the USB mortgage of \$2,160.35 per month. Doc. #51. The proposed refinance would involve taking out a loan from Willamette Valley Bank in the amount of \$244,200.00 at 7.622% for 30 years, with a principal and interest payment of \$1,583.08 (or \$1,973.08/month when escrow payments are included). Doc. #90.

If there is no opposition presented at the hearing, the court is inclined to GRANT this motion to the extent of allowing the proposed refinancing with WVB to proceed and USB to be paid off. However, the motion also says "[w]ith this refinance, [Debtors] are also modifying their Chapter 13 plan to move the mortgage payment from Class 1 to Class 4." Doc. #90 at ¶11. The Trustee is bound, however, to make payments according to the terms of the confirmed plan, and if Debtors wish Trustee to stop making payments to USB and to include WVB as a Class 4 creditor, they must properly file a motion to modify the confirmed plan.

20. [22-11962](#)-B-13     **IN RE: JUAN FIGUEROA**  
[MHM-3](#)

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

ROBERT WILLIAMS/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 13, 2023. Doc. #66. Accordingly, this matter will be taken off calendar pursuant to the trustee's withdrawal.

11:00 AM

1. [22-12102](#)-B-13     **IN RE: ALAN BABB**  
[23-1025](#)     [CAE-1](#)

CONTINUED STATUS CONFERENCE RE: COMPLAINT  
5-15-2023     [\[1\]](#)

BABB V. COBRA 28 NO 8 LP  
WILLIAM EDWARDS/ATTY. FOR PL.

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

DISPOSITION:     Adversary Proceeding dismissed without prejudice.

ORDER:     The court will issue the order.

The court has advised counsel for the plaintiff that a new summons would need to be issued and served in order to proceed with this matter under Fed. R. Civ. Proc. 4(m) (incorporated by Fed. R. Bankr. Proc. 7004). The only summons for this Adversary Proceeding on the docket was issued May 13, 2023. The summons is stale as of May 20, 2023. Fed. R. Bankr. Proc. 7004 (e). Also, Fed. R. Civ. Proc. 4 (m) requires service 90 days after the complaint is filed or the action must be dismissed.

The court has warned counsel of these deadlines. No "alias summons" nor effort to serve a valid summons is reflected on the docket.

The Adversary Proceeding is dismissed without prejudice against any remaining parties. This Status Conference is now concluded.

2. [23-11332](#)-B-11     **IN RE: TWILIGHT HAVEN, A CALIFORNIA**  
NON-PROFIT CORPORATION  
[23-1037](#)     [CAE-1](#)

CONFERENCE RE: NOTICE OF REMOVAL  
9-18-2023     [\[1\]](#)

CASTELLANOS V. TWILIGHT HAVEN  
RILEY WALTER/ATTY. FOR PL.

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

DISPOSITION:     Continued to January 24, 2024, at 11:00 am.

ORDER:     The court will issue the order.

The court has reviewed Twilight Haven's Status Report (Doc. # 16). Notably the Plaintiff has not filed a report.

It appears that no discovery has yet commenced. Twilight Haven suggests an approximately two-month continuance and the court agrees with certain conditions which are now ordered.



Initial Disclosures under Civ. Rule 26 (a) shall be exchanged no later than December 15, 2023. Discovery may commence thereafter unless the parties agree to earlier discovery.

The Status Conference will be continued until January 24, 2024, at 11:00am. The Plaintiff shall file and serve a status report (either unilateral or joint) no later than January 17, 2024. Twilight Haven may but is not required to file and serve a status report on the same date. The court expects the Status Report(s) to outline a schedule for further proceedings.

3. [23-10992](#)-B-13     **IN RE: ANGELITA MARQUEZ**  
[23-1034](#)

ORDER TO SHOW CAUSE REGARDING DISMISSAL OF ADVERSARY  
PROCEEDING FOR FAILURE TO PROSECUTE  
10-13-2023    [[12](#)]

MARQUEZ V. MARQUEZ

NO RULING.

4. [23-10794](#)-B-7     **IN RE: HOMERO MENDIOLA**  
[23-1028](#)     [CAE-1](#)

CONTINUED STATUS CONFERENCE RE: COMPLAINT  
7-10-2023    [[1](#)]

EDMONDS V. MENDIOLA  
ANTHONY JOHNSTON/ATTY. FOR PL.

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

DISPOSITION:     Continued to January 10, 2024, at 11:00 am.

ORDER:             The court will issue the order.

The court has reviewed Plaintiff's Status Report (Doc. # 17). Plaintiff reports a settlement in principle has been reached. The report also says a liquidated amount for the settlement can be achieved, and a motion to compromise filed and served by mid-December 2023. *Id.*

So, the court will continue this Status Conference to January 10, 2024, at 11:00 am. If a motion to approve compromise is filed and served by that date, the Status Conference will be continued to "track" the motion. If no motion is filed and served by that date, Plaintiff shall file and serve a status report on or before January 3, 2024.

5. [17-11028](#)-B-11     **IN RE: PACE DIVERSIFIED CORPORATION**  
[18-1006](#)

PRE-TRIAL CONFERENCE RE: COMPLAINT  
2-5-2018    [[1](#)]

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

NO RULING.