

UNITED STATES BANKRUPTCY COURT
Eastern District of California
Honorable René Lastreto II
Hearing Date: Thursday November 16 2017
Place: Department B - Courtroom #13
Fresno, California

INSTRUCTIONS FOR PRE-HEARING DISPOSITIONS

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

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

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

Final Ruling: Unless otherwise ordered, there will be no hearing on these matters. The final disposition of the matter is set forth in the ruling and it will appear in the minutes. The final ruling may or may not finally adjudicate the matter. If it is finally adjudicated, the minutes constitute the court's findings and conclusions. If the parties stipulate to continue the hearing on the matter or agree to resolve the matter in a way inconsistent with the final ruling, then the court will consider vacating the final ruling only if the moving party notifies chambers before 4:00 p.m. (Pacific time) at least one business day before the hearing date: Department A-Kathy Torres (559)499-5860; Department B-Jennifer Dauer (559)499-5870. If a party has grounds to contest a final ruling under FRCP 60(a)(FRBP 9024) because of the court's error ["a clerical mistake (by the court) or a mistake arising from (the court's) oversight or omission"] the party shall notify chambers (contact information above) and any other party affected by the final ruling by 4:00 p.m. (Pacific time) one business day before the hearing.

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

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

9:30 AM

1. [16-13849](#)-B-12 IN RE: DON FALLERT
[DMG-8](#)

MOTION FOR COMPENSATION FOR D. MAX GARDNER, DEBTORS
ATTORNEY(S)
10-26-2017 [[190](#)]

D. GARDNER

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

DISPOSITION: Granted.

ORDER: No appearance is necessary. The Moving Party shall
submit a proposed order in conformance with the
ruling below.

This matter was fully noticed in compliance with the Local Rules of Practice and there is no opposition. 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. Accordingly, the respondents' defaults will be entered.

Counsel is reminded that new Local Rules became effective September 26, 2017. New Rule 9014-1(d)(3)(B) in particular requires the moving party to include more information in Notices than the old Rule 9014-1(d)(3) did. The court urges counsel to review the new rules in order to be compliant in future matters. The new rules can be accessed on the court's website at
<http://www.caeb.circ9.dcn/LocalRules.aspx>.

2. [17-12857](#)-B-11 **IN RE: SAC DEVELOPMENT, INC.**
[DJP-1](#)

MOTION TO DISMISS CASE
10-19-2017 [[65](#)]

MMN FARM MANAGEMENT, LLC/MV
JUSTIN HARRIS
DON POOL/ATTY. FOR MV.
RESPONSIVE PLEADING

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Continued to November 30, 2017 at 9:30 a.m.

ORDER: The court will issue an order.

This motion will be heard in conjunction with the Motion to Sell set for November 30, 2017 at 9:30 a.m. If the Motion to Sell is not granted, this Motion to Dismiss may be granted.

3. [17-12857](#)-B-11 **IN RE: SAC DEVELOPMENT, INC.**
[UST-1](#)

CONTINUED MOTION TO DISMISS CASE
10-4-2017 [[46](#)]

TRACY DAVIS/MV
JUSTIN HARRIS
ROBIN TUBESING/ATTY. FOR MV.

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Continued to November 30, 2017 at 9:30 a.m.

ORDER: The court will issue an order.

This motion will be heard in conjunction with the Motion to Sell set for November 30, 2017 at 9:30 a.m. If the Motion to Sell is not granted, this Motion to Dismiss may be granted.

4. [17-13797](#)-B-9 **IN RE: TULARE LOCAL HEALTHCARE DISTRICT**
[WW-5](#)

MOTION FOR ORDER DIRECTING AND APPROVING FORM OF NOTICE OF
COMMENCEMENT, MOTION FOR ORDER SETTING DEADLINE FOR FILING
OBJECTIONS TO PETITION, MOTION FOR RELIEF UNDER CHAPTER 9
11-1-2017 [[169](#)]

TULARE LOCAL HEALTHCARE
DISTRICT/MV
RILEY WALTER
OST 10/31/17

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Granted.

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

This motion was filed and served pursuant to LRB 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.

5. [17-12998](#)-B-12 **IN RE: LJB FARMS, LLC**

CONTINUED STATUS CONFERENCE RE: CHAPTER 12 VOLUNTARY
PETITION
8-3-2017 [[1](#)]

JACOB EATON

NO RULING.

6. [17-12998](#)-B-12 **IN RE: LJB FARMS, LLC**
[KDG-3](#)

CONTINUED MOTION TO USE CASH COLLATERAL, AND/OR MOTION FOR
ADEQUATE PROTECTION
8-24-2017 [[33](#)]

LJB FARMS, LLC/MV
JACOB EATON
RESPONSIVE PLEADING

NO RULING.

7. [17-12998](#)-B-12 **IN RE: LJB FARMS, LLC**
[KDG-5](#)

MOTION TO CONFIRM CHAPTER 12 PLAN
10-4-2017 [[84](#)]

LJB FARMS, LLC/MV
JACOB EATON
RESPONSIVE PLEADING

TENTATIVE RULING: This matter will be called as a scheduling conference.

DISPOSITION: None.

ORDER: The court will issue an order.

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. The parties shall be prepared for the court to set deadlines and a schedule for the evidentiary hearing on this matter.

Based on the record, the factual issues appear to include whether the plan is feasible and whether the plan was filed in good faith.

8. [17-13797](#)-B-9 **IN RE: TULARE LOCAL HEALTHCARE DISTRICT**
[WW-1](#)

MOTION FOR IMPLEMENTING EFFECTIVE DATE ON MOTION FOR
AUTHORIZATION TO REJECT EXECUTORY CONTRACT
11-9-2017 [[182](#)]

TULARE LOCAL HEALTHCARE
DISTRICT/MV
RILEY WALTER

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Granted.

ORDER: The minutes of the hearing will be the court's findings and conclusions. The court will determine whether any party will be directed to prepare the order.

This motion was filed and served pursuant to LRB 9014-1(f)(2) and will proceed as scheduled. The court has received and reviewed the opposition and notes that HCCA requests through November 22, 2017 for the effective date of the order to remove what they contend is

their equipment. The court will issue an order if a further hearing is necessary.

1:30 PM

1. [17-13103](#)-B-13 **IN RE: GARY LOY**
[MHM-1](#)

MOTION TO DISMISS CASE
10-12-2017 [[39](#)]

MICHAEL MEYER/MV
JERRY LOWE
DISMISSED

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

DISPOSITION: Dropped from calendar as moot.

ORDER: An order dismissing the case has already been entered.

2. [16-12309](#)-B-13 **IN RE: ELVIRA SABANGAN**
[FW-2](#)

MOTION FOR COMPENSATION BY THE LAW OFFICE OF FEAR WADDELL,
P.C. FOR GABRIEL J. WADDELL, DEBTORS ATTORNEY(S)
10-5-2017 [[50](#)]

GABRIEL WADDELL

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

DISPOSITION: Granted.

ORDER: No appearance is necessary. The Moving Party shall submit a proposed order in conformance with the ruling below.

This matter was fully noticed in compliance with the Local Rules of Practice and there is no opposition. 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. Accordingly, the respondents' defaults will be entered.

Counsel is reminded that new Local Rules became effective September 26, 2017. New Rule 9014-1(d)(3)(B) in particular requires the moving party to include more information in Notices than the old Rule 9014-1(d)(3) did. The court urges counsel to review the new rules in order to be compliant in future matters. The new rules can

be accessed on the court's website at
<http://www.caeb.circ9.dcn/LocalRules.aspx>.

3. [17-12214](#)-B-13 **IN RE: KENNETH/JANE HOSTETLER**
[TCS-2](#)

OBJECTION TO CLAIM OF CITIBANK, N.A., CLAIM NUMBER 3
10-11-2017 [[61](#)]

KENNETH HOSTETLER/MV
TIMOTHY SPRINGER
NO ORDER CONTINUING TO 11/30/17

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

DISPOSITION: Overruled without prejudice.

ORDER: No appearance is necessary. The court will issue an
order.

This objection was initially scheduled to be heard on November 16, 2017 at 1:30 p.m. The objection was then re-filed with a hearing date of November 30, 2017 at 1:30 p.m. Pursuant to LR 9014-1(j), continuances must be approved by the court. This continuance was not approved by the court.

Additionally, the language in the notice was not compliant under LR 3007-1(b)(2). The hearing was not noticed on 44 days, so the notice needed to state that a party in interest is not required to file written opposition. The notice and amended notice both stated that written opposition was required. The objection therefore is overruled without prejudice.

4. [16-14015](#)-B-13 **IN RE: ROY DRESSEL**
[AP-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY, AND/OR MOTION FOR
RELIEF FROM CO-DEBTOR STAY
10-12-2017 [[37](#)]

WELLS FARGO BANK, N.A./MV
SCOTT LYONS
JAMIE HANAWALT/ATTY. FOR MV.

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

DISPOSITION: Granted on both prayers for relief.

ORDER: No appearance is necessary. The Moving Party shall
submit a proposed order in conformance with the
ruling below.

This motion for relief from stay was fully noticed in compliance with the Local Rules of Practice and there was no opposition. The

debtor and the trustee's defaults will be entered. The automatic stay is terminated as it applies to the movant's right to enforce its remedies against the subject property under applicable nonbankruptcy law. The record shows that cause exists to terminate the automatic stay.

The proposed order shall specifically describe the property or action to which the order relates.

The order shall also provide that the bankruptcy proceeding has been finalized for purposes of California Civil Code § 2923.5.

This motion also seeks relief from the automatic co-debtor stay in order to foreclose upon and obtain possession of the real property located at 1025 Creek Court Avenue, Farmersville, CA 93223. By law a creditor is stayed by the automatic co-debtor stay until "the case is closed, dismissed, or converted to a case under Chapter 7 or 11" of the Code. 11 U.S.C. § 1301(a)(2).

However, pursuant to 11 U.S.C. § 1301(c)(2), on request of a party in interest and after notice and a hearing, the court shall grant relief from the stay to the extent that such creditor's interest would be irreparably harmed by continuation of such stay. Here, the creditor's interest would be irreparably harmed by continuation of the stay because the debtor has not paid any post-petition mortgage payments.

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).

5. [17-12717](#)-B-13 **IN RE: DALJIT SINGH**
[HWW-2](#)

CONTINUED MOTION TO CONFIRM PLAN
8-22-2017 [[23](#)]

DALJIT SINGH/MV
HANK WALTH
RESPONSIVE PLEADING

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

DISPOSITION: Continued to December 21, 2017 at 1:30 p.m.

ORDER: The court will issue an order.

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 as a scheduling conference for an evidentiary hearing.

6. [14-11321](#)-B-13 **IN RE: RONALD/LEANNA BUYS**
[PBB-6](#)

MOTION TO MODIFY PLAN
10-6-2017 [[84](#)]

RONALD BUYS/MV
PETER BUNTING

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

DISPOSITION: Granted.

ORDER: No appearance is necessary. The Moving Party shall submit a proposed order in conformance with the ruling below.

This matter was fully noticed in compliance with the Local Rules of Practice and there is no opposition. 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. Accordingly, the respondents' defaults will be entered.

Counsel is reminded that new Local Rules became effective September 26, 2017. New Rule 9014-1(d)(3)(B) in particular requires the moving party to include more information in Notices than the old Rule 9014-1(d)(3) did. The court urges counsel to review the new rules in order to be compliant in future matters. The new rules can be accessed on the court's website at <http://www.caeb.circ9.dcn/LocalRules.aspx>.

7. [17-13323](#)-B-13 **IN RE: ANGELA ANGULO**
[MHM-1](#)

MOTION TO DISMISS CASE
10-13-2017 [[14](#)]

MICHAEL MEYER/MV
RABIN POURNAZARIAN

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

DISPOSITION: Granted.

ORDER: The court will issue an order.

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

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

8. [17-13323](#)-B-13 **IN RE: ANGELA ANGULO**
[MHM-2](#)

MOTION TO DISMISS CASE
10-18-2017 [[22](#)]

MICHAEL MEYER/MV
RABIN POURNAZARIAN

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

DISPOSITION: Dropped from calendar as moot.

ORDER: No order is required.

The case will be dismissed on the trustee's motion [MHM-1, matter #7] on calendar above.

9. [17-13524](#)-B-13 **IN RE: BRYAN/SHILOH CLOWER**
[MHM-1](#)

MOTION TO DISMISS CASE
10-19-2017 [[18](#)]

MICHAEL MEYER/MV
SCOTT LYONS

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

DISPOSITION: Withdrawn by Moving Party.

ORDER: No order is required.

10. 13-16626-B-13 **IN RE: KRIS HERSTEIN AND JASON BOYER**
JDW-4

MOTION FOR COMPENSATION BY THE LAW OFFICE OF THE WINTER LAW
GROUP FOR JOEL D. WINTER, DEBTORS ATTORNEY(S)
10-25-2017 [47]

JOEL WINTER

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

DISPOSITION: Granted.

ORDER: No appearance is necessary. The Moving Party shall
submit a proposed order in conformance with the
ruling below.

This matter was fully noticed in compliance with the Local Rules of Practice and there is no opposition. 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. Accordingly, the respondents' defaults will be entered.

Counsel is reminded that new Local Rules became effective September 26, 2017. New Rule 9014-1(d)(3)(B) in particular requires the moving party to include more information in Notices than the old Rule 9014-1(d)(3) did. The court urges counsel to review the new rules in order to be compliant in future matters. The new rules can be accessed on the court's website at
<http://www.caeb.circ9.dcn/LocalRules.aspx>.

11. 17-13228-B-13 **IN RE: BENJAMIN WRIGHT**
MHM-1

CONTINUED MOTION TO DISMISS CASE
9-29-2017 [24]

MICHAEL MEYER/MV
TIMOTHY SPRINGER
RESPONSIVE PLEADING

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

DISPOSITION: Dropped from calendar.

ORDER: No order required.

The Moving Party has withdrawn the motion.

12. [17-12829](#)-B-13 IN RE: JJ VALENCIA-HIGAREDA AND ANA VALENCIA
[MHM-1](#)

CONTINUED OBJECTION TO CONFIRMATION OF PLAN BY MICHAEL H.
MEYER
9-5-2017 [[16](#)]

MICHAEL MEYER/MV
THOMAS GILLIS
RESPONSIVE PLEADING

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Continue to January 11, 2018 at 1:30 p.m.

ORDER: The court will issue an order.

Debtor must have their chapter 13 plan confirmed and objections to claims must be filed by January 11, 2018 or the case will be dismissed on the trustee's declaration.

13. [17-12829](#)-B-13 IN RE: JJ VALENCIA-HIGAREDA AND ANA VALENCIA
[MHM-2](#)

CONTINUED OBJECTION TO DEBTOR'S CLAIM OF EXEMPTIONS
9-8-2017 [[22](#)]

MICHAEL MEYER/MV
THOMAS GILLIS
RESPONSIVE PLEADING

NO RULING.

14. [17-13630](#)-B-13 **IN RE: MOHAMMAD KHAN**
[LHL-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
10-19-2017 [\[13\]](#)

U.S. BANK NATIONAL
ASSOCIATION/MV
JERRY LOWE
LAURIE HOWELL/ATTY. FOR MV.

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

DISPOSITION: Granted.

ORDER: No appearance is necessary. The court will issue the
order.

Debtor filed a previous bankruptcy case in the Eastern District of California on February 21, 2017 (Case No. 17-10547) which was dismissed on May 10, 2017. Debtor filed this bankruptcy case on September 21, 2017. Thus two bankruptcy cases have been filed within a one year period.

In cases where an individual debtor has already filed a chapter 13 case, and within one year after dismissal files for chapter 13 again, the automatic stay expires after 30 days. 11 U.S.C. § 362(c)(3). Under 11 U.S.C. § 362(c)(3)(B) however, the court may extend the automatic stay if notice and a hearing are completed before the expiration of the 30-day period only if the party in interest demonstrates that the filing of the latter case is in good faith as to the creditors to be stayed. The debtor did not request such a hearing and therefore the stay was terminated 30 days after the petition was filed, October 22, 2017 (October 21, 2017 was a Sunday).

This motion will be deemed as a request under § 362(j) for an order confirming that the automatic stay has been terminated under § 362(c)(3). No further relief will be awarded.

15. [17-13331](#)-B-13 **IN RE: RODOLFO RAMIREZ**
[TOG-1](#)

MOTION TO VALUE COLLATERAL OF GOLDEN 1 CREDIT UNION
9-9-2017 [8]

RODOLFO RAMIREZ/MV
THOMAS GILLIS

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

DISPOSITION: Granted.

ORDER: No appearance is necessary. The Moving Party shall submit a proposed order in conformance with the ruling below.

The motion will be granted without oral argument based on well-pled facts. 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 2014 Chevy Sonic. 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 \$7,725.00. The proposed order shall specifically identify the collateral, and if applicable, the proof of claim to which it relates. The order will be effective upon confirmation of the chapter 13 plan.

16. [17-13331](#)-B-13 **IN RE: RODOLFO RAMIREZ**
[TOG-2](#)

MOTION TO VALUE COLLATERAL OF DITECH
9-9-2017 [[13](#)]

RODOLFO RAMIREZ/MV
THOMAS GILLIS

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

DISPOSITION: Granted.

ORDER: No appearance is necessary. The Moving Party shall submit a proposed order in conformance with the ruling below.

The motion will be granted without oral argument based upon well-pled facts.

This motion to value the collateral for a consensual lien against real property was fully noticed in compliance with the Local Rules of Practice and there was 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.

Based on the evidence offered in support of the motion, the respondent's junior priority mortgage claim is found to be wholly unsecured and may be treated as a general unsecured claim in the chapter 13 plan. The debtor may proceed under state law to obtain a reconveyance of respondent's trust deed upon completion of the chapter 13 plan and entry of the discharge. If the chapter 13 plan has not been confirmed, then the order shall specifically state that it is not effective until confirmation of the plan.

This ruling is only binding on the named respondent in the moving papers and any successor who takes an interest in the property after service of the motion.

17. [17-13832](#)-B-13 **IN RE: DAVID BISHOP AND TIESHA GILL**
[FW-1](#)

MOTION TO VALUE COLLATERAL OF SPECIALIZED LOAN SERVICING
10-18-2017 [\[8\]](#)

DAVID BISHOP/MV
PETER FEAR

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

DISPOSITION: Granted.

ORDER: No appearance is necessary. The Moving Party shall submit a proposed order in conformance with the ruling below.

The motion will be granted without oral argument based upon well-pled facts.

This motion to value the collateral for a consensual lien against real property was fully noticed in compliance with the Local Rules of Practice and there was 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.

Based on the evidence offered in support of the motion, the respondent's junior priority mortgage claim is found to be wholly unsecured and may be treated as a general unsecured claim in the chapter 13 plan. The debtor may proceed under state law to obtain a reconveyance of respondent's trust deed upon completion of the chapter 13 plan and entry of the discharge. If the chapter 13 plan has not been confirmed, then the order shall specifically state that it is not effective until confirmation of the plan.

This ruling is only binding on the named respondent in the moving papers and any successor who takes an interest in the property after service of the motion.

18. [17-12836](#)-B-13 **IN RE: SELEDONIO SUAREZ**
[TCS-1](#)

MOTION TO CONFIRM PLAN
9-28-2017 [[23](#)]

SELEDONIO SUAREZ/MV
TIMOTHY SPRINGER

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

DISPOSITION: Granted.

ORDER: No appearance is necessary. The Moving Party shall submit a proposed order in conformance with the ruling below.

The motion will be granted without oral argument based on well-pled facts. 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.

19. [17-12244](#)-B-13 **IN RE: JOSE/JUANITA QUINTERO**
[TOG-1](#)

CONTINUED MOTION TO CONFIRM PLAN
7-29-2017 [[26](#)]

JOSE QUINTERO/MV
THOMAS GILLIS
RESPONSIVE PLEADING

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

DISPOSITION: Granted.

ORDER: No appearance is necessary. The Moving Party shall submit a proposed order in conformance with the ruling below.

The motion will be granted without oral argument based on well-pled facts. This motion to confirm or modify a chapter 13 plan was fully noticed in compliance with the Local Rules of Practice; the Trustee's opposition was withdrawn. 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.

20. [17-11646](#)-B-13 **IN RE: JESSICA BLANCO**
[MHM-2](#)

MOTION TO DISMISS CASE
10-12-2017 [\[51\]](#)

MICHAEL MEYER/MV
TIMOTHY SPRINGER

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

DISPOSITION: Granted.

ORDER: The court will issue an order.

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

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

21. [17-10658](#)-B-13 **IN RE: SILVIA ABARCA**
[HDN-1](#)

MOTION TO VACATE DISMISSAL OF CASE
11-2-2017 [\[47\]](#)

SILVIA ABARCA/MV
HENRY NUNEZ
DISMISSED

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Denied.

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

First, the debtor has not included in her proof before the court any excuse for failing to timely make the payments that prompted the Trustee's NODID. There is therefore no evidence to assure the court that the debtor will be able to timely make the payments should the motion be granted. The debtor is still self-employed. The debtor was two months behind on her Plan payments when the Trustee sent the

NODID. The Plan was just confirmed in July 2017. Virtually an immediate default does not bode well for the Plan's success. This is not a case where there was a "proven track record" of performance before the post-confirmation default occurred.

Second, the debtor states she will make the September 25 and October 25 payments at the time of the hearing if the motion is granted. However, nothing is stated in the debtor's proof that she will also on the day of the hearing make all the payments she allegedly made the day before they were due in September 2017. If she does not, the Plan remains in default.

Third, it is the debtor's burden to show that a mistake was committed justifying FRCP 60 relief. The decision to grant relief under FRCP 60(b)(1) is discretionary with the court. *Cel-A-Pak v. Cal. Agric. Labor Relations Board*, 680 F. 2d 664, 668 (9th Cir, 1982). It is not a motion to simply express the opinion the court was wrong. *Wall St. Plaza, LLC v. JSJF Corp. (In re JSJF Corp.)* 344 BR 94, 104 (9th Cir. BAP 2006) *aff'd and remanded*, 277 F. Appx. 718 (9th Cir, 2006) (internal citations omitted). Simply stating in the motion as the debtor does here that she was "mistaken" or "surprised" or "excusably neglectful" without supporting facts is not proof; just conclusions.

Fourth, it is not explained why the debtor waited nearly a month before suddenly "learning" her default was not cured. It is unreasonable for someone who is waiting until the next to last day to forward payments (through TFS or another mechanism) and not follow up with the Trustee's office to be certain the payment was received.

Fifth, the debtor's motion does not establish that she took responsibility for the failure to timely pay in the first place. Instead the motion insinuates a failure in the system for collecting and crediting payments without proper factual support. There is nothing supporting a court's finding to that effect in the debtor's motion. No explanation as to why this happened to the debtor is forthcoming and it is her burden to provide that explanation: Did she follow up with TFS? What did her attorney do to see the problem does not occur again? How has the debtor's failure to pay the initial post-confirmation Plan payments amount to a "mistake" on the part of TFS?

The motion fails for lack of proof.

Additionally, the trustee has noted in a declaration that the debtor is not current under the plan, the trustee refunded the debtor funds when the case was closed totaling \$5,560.30, and will need to pay nearly \$9,000 to be compliant with the plan.

The motion will be DENIED.

22. [17-13465](#)-B-13 **IN RE: HARDIAL BHULLAR**
[MDE-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY WILMINGTON TRUST,
NATIONAL ASSOCIATION
10-4-2017 [[16](#)]

WILMINGTON TRUST, NATIONAL
ASSOCIATION/MV
ROSALINA NUNEZ
MARK ESTLE/ATTY. FOR MV.

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

DISPOSITION: Continued to December 21, 2017 at 1:30 p.m.

ORDER: The court will issue an order.

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 as a scheduling conference for an evidentiary hearing.

23. [16-11473](#)-B-13 **IN RE: SHELBY/CAROL KING**
[LKW-14](#)

MOTION FOR COMPENSATION FOR LEONARD K. WELSH, DEBTORS
ATTORNEY(S)
10-18-2017 [[318](#)]

LEONARD WELSH

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

DISPOSITION: Granted.

ORDER: No appearance is necessary. The Moving Party shall submit a proposed order in conformance with the ruling below.

This matter was fully noticed in compliance with the Local Rules of Practice and there is no opposition. 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. Accordingly, the respondents' defaults will be entered. Counsel is reminded that new Local Rules became effective September 26, 2017. New Rule 9014-1(d)(3)(B) in particular requires the

moving party to include more information in Notices than the old Rule 9014-1(d)(3) did. The court urges counsel to review the new rules in order to be compliant in future matters. The new rules can be accessed on the court's website at <http://www.caeb.circ9.dcn/LocalRules.aspx>.

24. [17-13674](#)-B-13 **IN RE: DAVID ALANIS**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES
10-31-2017 [[17](#)]

CHRISTOPHER FISHER

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

DISPOSITION: The OSC will be vacated.

ORDER: The court will issue an order.

The record shows that the required fee has been paid in full.

25. [17-12979](#)-B-13 **IN RE: MERCED PEREZ**
[SL-2](#)

CONTINUED MOTION TO VALUE COLLATERAL OF EDUCATIONAL
EMPLOYEES CREDIT UNION
8-8-2017 [[15](#)]

MERCED PEREZ/MV
SCOTT LYONS
DISMISSED

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

DISPOSITION: Dropped from calendar.

NO ORDER REQUIRED: No appearance is necessary. An order
 dismissing the case has already been entered.

26. [17-13188](#)-B-13 **IN RE: JOHN/FLORINDA TORRES**
[PBB-1](#)

MOTION TO CONFIRM PLAN
10-3-2017 [[19](#)]

JOHN TORRES/MV
PETER BUNTING

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

DISPOSITION: Granted.

ORDER: No appearance is necessary. The Moving Party shall submit a proposed order in conformance with the ruling below.

The motion will be granted without oral argument based on well-pled facts. 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.

27. [17-13389](#)-B-13 **IN RE: AMY DICKINSON CAMPBELL AND ERIC CAMPBELL**

MOTION TO VALUE COLLATERAL OF WELLS FARGO BANK N.A.
10-27-2017 [[38](#)]

AMY DICKINSON CAMPBELL/MV
AMY DICKINSON CAMPBELL/ATTY. FOR MV.
RESPONSIVE PLEADING

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

DISPOSITION: Denied without prejudice.

ORDER: No appearance is necessary. The court will issue an order.

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

28. [17-13389](#)-B-13 **IN RE: AMY DICKINSON CAMPBELL AND ERIC CAMPBELL**

MOTION TO VALUE COLLATERAL OF USAA FEDERAL SAVINGS BANK
10-27-2017 [[39](#)]

AMY DICKINSON CAMPBELL/MV
AMY DICKINSON CAMPBELL/ATTY. FOR MV.

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

DISPOSITION: Denied without prejudice.

ORDER: No appearance is necessary. The court will issue an order.

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

29. [17-13389](#)-B-13 **IN RE: AMY DICKINSON CAMPBELL AND ERIC CAMPBELL**
[APN-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY WELLS FARGO BANK, N.A.
10-24-2017 [[28](#)]

WELLS FARGO BANK, N.A./MV
AUSTIN NAGEL/ATTY. FOR MV.
RESPONSIVE PLEADING

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

DISPOSITION: Overruled as moot.

ORDER: No appearance is necessary. The court will issue an order.

This objection will be overruled as moot if the trustee's Motion to Dismiss is granted. If the motion is not granted, this matter will proceed as a scheduling conference.

30. [17-13389](#)-B-13 **IN RE: AMY DICKINSON CAMPBELL AND ERIC CAMPBELL**
[MHM-1](#)

MOTION TO DISMISS CASE
10-19-2017 [[22](#)]

MICHAEL MEYER/MV

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Granted.

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

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

This matter was fully noticed in compliance with the Local Rules of Practice and there is no opposition. Accordingly, the respondents' 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. Accordingly, the case will be dismissed.

31. [17-13493](#)-B-13 **IN RE: JUAN/MARIA AVALOS**
[MHM-1](#)

MOTION TO DISMISS CASE
10-19-2017 [[14](#)]

MICHAEL MEYER/MV
SCOTT LYONS

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

DISPOSITION: Withdrawn by Moving Party.

ORDER: No order is required.

32. 13-16394-B-13 **IN RE: SHAWN LANGEVIN**
JDW-3

MOTION FOR COMPENSATION BY THE LAW OFFICE OF THE WINTER LAW
GROUP FOR JOEL D. WINTER, DEBTORS ATTORNEY(S)
10-25-2017 [48]

JOEL WINTER

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Granted.

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

This motion was filed and served pursuant to LRB 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.

Counsel is reminded that new Local Rules became effective September 26, 2017. New Rule 9014-1(d)(3)(B) in particular requires the moving party to include more information in Notices than the old Rule 9014-1(d)(3) did. The court urges counsel to review the new rules in order to be compliant in future matters. The new rules can be accessed on the court's website at
<http://www.caeb.circ9.dcn/LocalRules.aspx>.

33. 17-13596-B-13 **IN RE: MARIO/VANESSA VEJAR**
MHM-1

MOTION TO DISMISS CASE
10-19-2017 [14]

MICHAEL MEYER/MV
PETER BUNTING

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

DISPOSITION: Withdrawn by Moving Party.

ORDER: No order is required.

34. [17-13596](#)-B-13 **IN RE: MARIO/VANESSA VEJAR**
[RPZ-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY PENNYMAC LOAN SERVICES,
LLC
10-24-2017 [[19](#)]

PENNYMAC LOAN SERVICES, LLC/MV
PETER BUNTING
ROBERT ZAHRADKA/ATTY. FOR MV.

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: None.

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

This motion was filed and served pursuant to LRB 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.

35. [17-11906](#)-B-13 **IN RE: TRACY FLAHERTY**
[MHM-2](#)

CONTINUED OBJECTION TO CONFIRMATION OF PLAN BY TRUSTEE MICHAEL H.
MEYER
9-12-2017 [[38](#)]

MICHAEL MEYER/MV
ROBERT WILLIAMS
WITHDRAWN

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

DISPOSITION: Dropped from calendar.

NO ORDER REQUIRED: No appearance is necessary. The objection has
been withdrawn.

36. [17-11906](#)-B-13 **IN RE: TRACY FLAHERTY**
[MHM-3](#)

CONTINUED MOTION TO DISMISS CASE
9-11-2017 [[33](#)]

MICHAEL MEYER/MV
ROBERT WILLIAMS
WITHDRAWN

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

DISPOSITION: Dropped from calendar.

NO ORDER REQUIRED: No appearance is necessary. The motion to
dismiss has been withdrawn.