

**UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF CALIFORNIA**

Honorable Fredrick E. Clement  
Fresno Federal Courthouse  
2500 Tulare Street, 5<sup>th</sup> Floor  
Courtroom 11, Department A  
Fresno, California

**PRE-HEARING DISPOSITIONS**

**DAY:** WEDNESDAY

**DATE:** DECEMBER 12, 2018

**CALENDAR:** 2:00 P.M. CHAPTERS 11 AND 9 ADVERSARY PROCEEDINGS

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.

**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.

1. [16-10015](#)-A-9     **IN RE: SOUTHERN INYO HEALTHCARE DISTRICT**  
[17-1077](#)     [FWP-5](#)

MOTION TO EXTEND TIME  
11-29-2018    [[137](#)]

SOUTHERN INYO HEALTHCARE  
DISTRICT V. OPTUM BANK, INC.  
GERALD SIMS/ATTY. FOR MV.  
OST 12/3/18

### **Tentative Ruling**

**Motion:** Extend Fact Discovery (Optum Bank only)

**Notice:** LBR 9014-1(f)(3) and order shortening time; written  
opposition required

**Disposition:** Granted

**Order:** Civil minute order

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

### **DISCUSSION**

For cause shown, the court may amend the terms of a scheduling order. Fed. R. Civ. P. 16(b), *incorporated by* Fed. R. Bankr. P. 7016. *Johnson v. Mammoth Recreation, Inc.*, 975 F.2d 604, 609 (9th Cir. 1992); Amended Scheduling Order § 9.0, April 5, 2018, ECF # 72.

Fact discovery closed on November 30, 2018. See Pretrial Order § 1.0, as modified by Civil Minute Order, November 9, 2018, ECF # 136. Defendant Optum Bank, Inc. contends that through no fault, or lack of diligence, of its own it was unable to complete the deposition described in Rule 30(b)(6). Plaintiff does not dispute this contention. This constitutes cause and the court finds that Optum Bank has been duly diligent in seeking the Rule 30(b)(6) discovery. The motion will be granted.

### **CIVIL MINUTE ORDER**

The court shall issue a civil minute order that conforms substantially to the following form:

Optum Bank, Inc.'s motion has been presented to the court. Having entered the default of respondent for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the motion,

IT IS ORDERED that the motion is granted.

IT IS FURTHER ORDERED that the Amended Scheduling Order § 1.0, April 5, 2018, ECF # 72, is amended to allow Optum Bank, Inc., through and

including December 14, 2018, to complete the deposition of Southern Inyo Healthcare District's representative under Rule 30(b)(6).

IT IS FURTHER ORDERED that except as provided herein or as provided in the Civil Minute Order, November 9, 2018, ECF # 136, the terms of the Amended Scheduling Order, April 5, 2018, ECF # 72, shall remain in full force and effect.

2. [16-10015](#)-A-9      **IN RE: SOUTHERN INYO HEALTHCARE DISTRICT**  
[18-1031](#)

CONTINUED STATUS CONFERENCE RE: COMPLAINT  
5-30-2018    [[1](#)]

SOUTHERN INYO HEALTHCARE  
DISTRICT V. HEALTHCARE  
JEFFREY SHINBROT/ATTY. FOR PL.

**Final Ruling**

The status conference is continued to January 23, 2019, at 2:00 p.m. Not later than 7 days prior to the continued hearing, the parties will file a joint status report.