

UNITED STATES BANKRUPTCY COURT  
Eastern District of California  
Honorable René Lastreto II  
Hearing Date: Thursday, December 20, 2018  
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.

**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. [18-11166](#)-B-11      **IN RE: JOSE/MARY VALADAO**

CONTINUED STATUS CONFERENCE RE: CHAPTER 11 VOLUNTARY  
PETITION  
3-29-2018    [[1](#)]

RILEY WALTER

NO RULING.

2. [18-11166](#)-B-11      **IN RE: JOSE/MARY VALADAO**  
[BAS-4](#)

MOTION FOR COMPENSATION FOR BRADLEY A. SILVA, CREDITOR COMM.  
ATY(S)  
11-21-2018    [[229](#)]

RILEY WALTER

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.

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.

This motion is GRANTED. Movant is awarded \$6,405.00 in fees and \$610.90 in expenses.

3. [18-11166](#)-B-11     **IN RE: JOSE/MARY VALADAO**  
[WW-10](#)

MOTION TO DISMISS CASE  
12-3-2018    [[243](#)]

JOSE VALADAO/MV  
RILEY WALTER  
OST 12/10/18

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 the order.

This motion was filed and served pursuant to Local Rule of Practice ("LBR") 9014-1(f)(3) and an order shortening time (doc. #242) 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 court notes that the notice of hearing did not include the LBR 9014-1(d)(3)(B)(iii) language, nor was notice clear that written opposition would not need to be filed prior to the hearing.

This motion is GRANTED. 11 U.S.C. § 1112(b) states that "on request of a party in interest, and after notice and a hearing, the court shall" convert a case to chapter 7 or dismiss the case, whichever is in the best interest of creditor and the estate, for cause, inter alia. The court may not dismiss or convert the case if it "finds and specifically identifies unusual circumstances" establishing that dismissal or conversion would not be in the best interests of creditors.

The court does not find any unusual circumstances showing that dismissal would not be in the best interests of creditors or the estate.

The court finds that cause exists to support dismissal. There has been a substantial and continuing loss to the estate. The debtors-in-possession stated that reorganization is not feasible "given the high costs of operation, low milk prices and poor livestock prices we receive from our creamery." Doc. #245. The primary secured creditors apparently will not consent to further uses of cash collateral beyond January 31, 2019 and one is intending to seek relief from the automatic stay. Because debtors are farmers, the

case cannot be converted to chapter 7 without their consent, and debtors do not consent. *Id.*; see 11 U.S.C. § 1112(c).

4. [18-11166](#)-B-11     **IN RE: JOSE/MARY VALADAO**  
[WW-7](#)

CONTINUED AMENDED DISCLOSURE STATEMENT  
8-30-2018    [[176](#)]

RILEY WALTER  
AMENDED DISCLOSURE WITHDRAWN

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

DISPOSITION:                    Dropped from calendar.

NO ORDER REQUIRED:            Movant withdrew the disclosure statement. Doc. #247.

5. [18-13677](#)-B-9     **IN RE: COALINGA REGIONAL MEDICAL CENTER, A CALIFORNIA LOCAL HEALTH CARE DISTRICT**

STATUS CONFERENCE RE: CHAPTER 9 VOLUNTARY PETITION  
9-7-2018    [[1](#)]

RILEY WALTER

NO RULING.

6. [18-13678](#)-B-11     **IN RE: VERSA MARKETING, INC.**  
[WW-11](#)

MOTION FOR COMPENSATION BY THE LAW OFFICE OF WALTER WILHELM  
LAW GROUP FOR RILEY C. WALTER, DEBTORS ATTORNEY(S)  
11-21-2018    [[124](#)]

RILEY WALTER

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.

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 motion will be GRANTED. Debtor-in-possession's bankruptcy counsel, Walter Wilhelm Law Group, requests fees of \$64,889.00 and costs of \$3,010.51 for a total of \$67,899.51 for services rendered from September 7, 2018 through November 16, 2018.

11 U.S.C. § 330(a)(1)(A) & (B) permits approval of "reasonable compensation for actual necessary services rendered by . . .[a] professional person" and "reimbursement for actual, necessary expenses." Movant's services included, without limitation: (1) Advising debtor about the administration of its chapter 11 case and its duties as debtor-in-possession, (2) Attending the meeting of creditors in Fresno, (3) Financing and advising debtor's principals about the use of cash collateral, (4) Working out an overall consensual deal relating to the payment of PACA claimants, and (5) Preparing employment applications for several professionals. The court finds the services reasonable and necessary and the expenses requested actual and necessary.

Movant shall be awarded \$64,889.00 in fees and \$3,010.81 in costs.

7. [17-13797](#)-B-9      **IN RE: TULARE LOCAL HEALTHCARE DISTRICT**  
[BPC-1](#)

FURTHER PRELIMINARY HEARING RE: MOTION TO COMPEL ASSUMPTION  
OR REJECTION OF EQUIPMENT LEASES, DIRECT PAYMENT OF  
POST-PETITION ADMINISTRATIVE RENT, RELIEF FROM AUTOMATIC  
STAY  
6-29-2018    [[581](#)]

WELLS FARGO VENDOR FINANCIAL  
SERVICES, LLC/MV  
RILEY WALTER  
JEANNIE KIM/ATTY. FOR MV.  
WITHDRAWN

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

DISPOSITION:                      Dropped from calendar.

NO ORDER REQUIRED:              Movant withdrew the motion. Doc. #917.

8. [17-13797](#)-B-9      **IN RE: TULARE LOCAL HEALTHCARE DISTRICT**  
[WW-41](#)

CONTINUED MOTION FOR AUTHORITY FOR BORROWING FUNDS, SALES OF  
PERSONAL PROPERTY AND PROVIDING SECURITY,  
ASSUMPTION/ASSIGNMENT OF CONTRACTS AND LEASES AND FOR  
AUTHORITY TO LEASE REAL PROPERTY  
7-20-2018    [[603](#)]

TULARE LOCAL HEALTHCARE  
DISTRICT/MV  
RILEY WALTER  
RESPONSIVE PLEADING

NO RULING.

9. [17-13797](#)-B-9      **IN RE: TULARE LOCAL HEALTHCARE DISTRICT**  
[WW-41](#)

MOTION FOR APPROVAL OF MODIFICATION OF LIST OF ASSIGNED  
CONTRACTS FOR REMOVAL FROM LIST  
12-6-2018    [[924](#)]

TULARE LOCAL HEALTHCARE  
DISTRICT/MV  
RILEY WALTER  
RESPONSIVE PLEADING

NO RULING.

10. [17-13797](#)-B-9      **IN RE: TULARE LOCAL HEALTHCARE DISTRICT**  
[WW-65](#)

MOTION TO REJECT LEASE OR EXECUTORY CONTRACT  
12-6-2018    [[927](#)]

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 Moving Party  
will submit a proposed order after hearing.

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.

11 U.S.C. § 365(a) states that "subject to the court's approval, [the debtor in possession] may assume...any...unexpired lease of the debtor."

In evaluating a decision to reject an executory contract or unexpired lease in the Ninth Circuit, "the bankruptcy court should presume that the debtor-in-possession acted prudently, on an informed basis, in good faith, and in the honest belief that the action taken was in the best interests of the bankruptcy estate." Agarwal v. Pomona Valley Med. Group, Inc. (In re Pomona Valley Med. Group, Inc.), 476 F.3d 665, 670 (9th Cir. 2007) (citations omitted).

Unless opposition is presented at the hearing, the court finds that the presumption has not been rebutted, and therefore the debtor-in-possession's decision to reject is consistent with the business judgment rule and Ninth Circuit precedent.

The debtor-in-possession is authorized to reject the 12 software, service, rental, and medical inpatient/outpatient agreements listed in Exhibit A attached to this motion. Doc. #930.

11. [17-13797](#)-B-9     **IN RE: TULARE LOCAL HEALTHCARE DISTRICT**  
[WW-67](#)

MOTION TO REJECT LEASE OR EXECUTORY CONTRACT  
12-6-2018    [[932](#)]

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 Moving Party will submit a proposed order after hearing.

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.

11 U.S.C. § 365(a) states that "subject to the court's approval, [the debtor in possession] may assume...any...unexpired lease of the debtor."

In evaluating a decision to reject an executory contract or unexpired lease in the Ninth Circuit, "the bankruptcy court should presume that the debtor-in-possession acted prudently, on an informed basis, in good faith, and in the honest belief that the action taken was in the best interests of the bankruptcy estate." Agarwal v. Pomona Valley Med. Group, Inc. (In re Pomona Valley Med. Group, Inc.), 476 F.3d 665, 670 (9th Cir. 2007) (citations omitted).

Unless opposition is presented at the hearing, the court finds that the presumption has not been rebutted, and therefore the debtor-in-possession's decision to reject is consistent with the business judgment rule and Ninth Circuit precedent.

The debtor-in-possession is authorized to reject the "Master Agreement" between the Debtor and Omnicell, Inc., pertaining to certain pharmaceutical dispensing equipment, which was subsequently assigned to Med One Capital Funding, LLC.



12. [17-13239](#)-B-12     **IN RE: JOE/MARIA NASCIMENTO**  
[WW-10](#)

MOTION TO DISMISS CASE  
12-10-2018    [[156](#)]

JOE NASCIMENTO/MV  
RILEY WALTER  
OST 12/10/18

NO RULING.

13. [17-13239](#)-B-12     **IN RE: JOE/MARIA NASCIMENTO**  
[FRB-1](#)

MOTION FOR ORDER TO APPROVE STIPULATION ON MOTION TO DISMISS  
12-13-2018    [[163](#)]

YOSEMITE PRODUCTION CREDIT,  
PCA/MV  
RILEY WALTER  
MICHAEL GOMEZ/ATTY. FOR MV.

NO RULING.

1:30 PM

1. [18-13803](#)-B-13     **IN RE: DAIZY RINCON**  
[NRA-1](#)

MOTION TO CONFIRM PLAN  
11-13-2018    [\[24\]](#)

DAIZY RINCON/MV  
NELLIE AGUILAR

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

DISPOSITION:        Denied as moot.

ORDER:                The court will issue an order.

This motion is DENIED AS MOOT. Debtor filed a modified plan. Doc. #33, 38.

2. [18-13803](#)-B-13     **IN RE: DAIZY RINCON**  
[NRA-2](#)

MOTION TO CONFIRM PLAN  
11-21-2018    [\[33\]](#)

DAIZY RINCON/MV  
NELLIE AGUILAR  
RESPONSIVE PLEADING

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

DISPOSITION:        Denied without prejudice.

ORDER:                The court will issue an order.

This motion is DENIED WITHOUT PREJUDICE for failure to comply with the Local Rules of Practice ("LBR").

LBR 3015-1(d)(1) requires 35 days' notice for chapter 13 plan confirmation hearings.

This motion was filed and served on November 21, 2018 and set for hearing on December 20, 2018. Doc. #34, 39. December 20, 2018 is 29 days after November 21, 2018, and therefore this hearing was set on 35 days' notice. Because this motion was filed, served, and noticed on less than 35 days' notice, the motion is DENIED WITHOUT PREJUDICE.

3. [18-14605](#)-B-13     **IN RE: GUADALUPE SANCHEZ**  
[TOG-1](#)

MOTION TO VALUE COLLATERAL OF CRB AUTO  
11-20-2018    [\[10\]](#)

GUADALUPE SANCHEZ/MV  
THOMAS GILLIS

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.

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 debtor is competent to testify as to the value of the 2014 Toyota Corolla. 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 \$8,701.00. 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.

4. [18-14310](#)-B-13     **IN RE: ALFONSO HUERTA**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES  
11-27-2018    [\[20\]](#)

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.

5. [18-10121](#)-B-13     **IN RE: JOSE/MARTHA ACEVES**  
[MHM-4](#)

OBJECTION TO CLAIM OF CAVALRY INVESTMENTS LLC, CLAIM NUMBER  
6  
11-6-2018    [\[67\]](#)

MICHAEL MEYER/MV  
JANINE ESQUIVEL

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

DISPOSITION:                    Sustained.

ORDER:                            The Objecting Party shall submit a proposed order in conformance with the ruling below.

This objection was set for hearing on 44 days' notice as required by Local Rule of Practice ("LBR") 3007-1(b)(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.

This objection is SUSTAINED.

11 U.S.C. § 502(a) states that a claim or interest, evidenced by a proof filed under section 501, is deemed allowed, unless a party in interest objects.

Federal Rule of Bankruptcy Procedure 3001(f) states that a proof of claim executed and filed in accordance with these rules shall constitute prima facie evidence of the validity and amount of the claim. If a party objects to a proof of claim, the burden of proof is on the objecting party. Lundell v. Anchor Constr. Specialists, Inc., 223 F.3d 1035, 1039 (9th Cir. BAP 2000).

Here, the movant has established that the statute of limitations in California bars a creditor's action to recover on a contract, obligation, or liability founded on an oral contract after two years and one founded on a written instrument after four years. See California Code of Civil Procedure §§ 312, 337(1), and 339. A claim that is unenforceable under state law is also not allowed under 11 U.S.C. § 502(b)(1) once objected to. In re GI Indust., Inc., 204 F.3d 1276, 1281 (9th Cir. 2000). Regardless of whether the contract was written or oral, the last transaction on the account according to the evidence was in October of 1999, which is well past the two and four year mark under the statutes of limitations.

Claim no. 6 filed by Cavalry Investments, LLC is disallowed in its entirety.

6. [18-13527](#)-B-13     **IN RE: GREG/SHERRY KELLY**  
[PK-2](#)

CONTINUED MOTION TO CONFIRM PLAN  
9-28-2018    [[22](#)]

GREG KELLY/MV  
PATRICK KAVANAGH  
RESPONSIVE PLEADING

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

DISPOSITION:        Continued to February 14, 2019 at 1:30 p.m.

ORDER:                The court will issue an order.

The trustee has filed a detailed objection to the debtors' fully noticed motion to confirm a chapter 13 plan. Unless this case is voluntarily converted to chapter 7, dismissed, or the trustee's opposition to confirmation is withdrawn, the debtors shall file and serve a written response not later than January 31, 2019. The response shall specifically address each issue raised in the opposition to confirmation, state whether the issue is disputed or undisputed, and include admissible evidence to support the debtors'

position. If the debtors elect to withdraw this 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 February 7, 2019. If the debtor do not timely file a modified plan or a written response, the motion to confirm the plan will be denied on the grounds stated in the opposition without a further hearing.

7. [18-13727](#)-B-13     **IN RE: JOLYNN DURAN**  
[JHC-2](#)

OBJECTION TO CONFIRMATION OF PLAN BY MERCED COUNTY  
TREASURER-TAX COLLECTOR  
11-29-2018    [[22](#)]

MERCED COUNTY TREASURER-TAX  
COLLECTOR/MV  
PETER BUNTING  
JACQUELYN CHOI/ATTY. FOR MV.  
PLAN WITHDRAWN

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

DISPOSITION:        Overruled as moot.

ORDER:                The court will issue an order.

This objection is OVERRULED AS MOOT. Debtor withdrew the plan. Doc. #28.

8. [16-10431](#)-B-13     **IN RE: FAITH THOMAS**  
[TCS-1](#)

MOTION TO INCUR DEBT  
12-6-2018    [[23](#)]

FAITH THOMAS/MV  
TIMOTHY SPRINGER

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.

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.

This motion is GRANTED. After review of the attached evidence, the court finds that Debtor is able to make the monthly payment for the 2017 Subaru Crosstrek. Debtor is authorized but not required to incur further debt in order to purchase a 2017 Subaru Crosstrek at \$22,890.01 at 20% interest, to be paid over the course of 72 months with a monthly payment of \$553.37.

The court notes that the year and make of the vehicle, as well as the interest rate, would not likely be approved by the court had debtor not have five plan payments left. Doc. #26. The amended Schedules I and J show that Debtor's net monthly income is exactly as much as the plan payment. Doc. #28. Should the debtors' budget prevent maintenance of current plan payment, debtors shall continue making plan payments until the plan is modified.

9. [18-13436](#)-B-13     **IN RE: GILBERTO GARCIA AND OLIVIA ROMERO**  
[TOG-1](#)

MOTION TO CONFIRM PLAN  
11-12-2018    [\[31\]](#)

GILBERTO GARCIA/MV  
THOMAS GILLIS  
RESPONSIVE PLEADING

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

DISPOSITION:        Continued to January 29, 2019 at 1:30 p.m.

ORDER:                The court will issue an order.

This motion will be set for a continued hearing on January 29, 2019 at 1:30 p.m. The court will issue an order. No appearance is necessary.

The trustee has filed a detailed objection to the debtors' fully noticed motion to confirm a chapter 13 plan. Unless this case is voluntarily converted to chapter 7, dismissed, or the trustee's opposition to confirmation is withdrawn, the debtors shall file and serve a written response not later than January 15, 2019. The response shall specifically address each issue raised in the opposition to confirmation, state whether the issue is disputed or undisputed, and include admissible evidence to support the debtors' position. If the debtors elect to withdraw this 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 January 22, 2019. If the debtors do not timely file a modified plan or a written response, the motion to confirm the plan will be denied on the grounds stated in the opposition without a further hearing.

10. [18-14352](#)-B-13     **IN RE: STEVEN CHAVEZ**  
[SFR-2](#)

MOTION TO CONFIRM PLAN  
11-12-2018    [[18](#)]

STEVEN CHAVEZ/MV  
SHARLENE ROBERTS-CAUDLE  
RESPONSIVE PLEADING

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

DISPOSITION:                    Dropped from calendar.

NO ORDER REQUIRED.

The Chapter 13 Plan was withdrawn by the Debtor on December 18, 2018. Doc. #41. Therefore, the matter will be dropped from calendar.

11. [18-13654](#)-B-13     **IN RE: STEPHANIE WITHROW**  
[PBB-1](#)

MOTION TO VALUE COLLATERAL OF WELLS FARGO BANK, N.A.  
11-14-2018    [[18](#)]

STEPHANIE WITHROW/MV  
PETER BUNTING

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.

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 respondent's secured claim will be fixed at \$763.12. The only evidence movant submits to support the valuation is creditor's



claim, which lists the same amount as secured. This jurisdiction's local rules require a motion to value collateral be noticed and set for a hearing before a plan can be confirmed if the plan reduces an allowed secured claim in class 2 based on collateral value. See Local Rule of Practice 3015-1(i). Because respondent's secured claim is not in dispute, a declaration from the debtor, an appraisal, or some other form of evidence is unnecessary to value the collateral at \$763.12.

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.

12. [17-14255](#)-B-13     **IN RE: DAVID BAER**  
[AP-1](#)

MOTION TO APPROVE STIPULATION FOR RELIEF FROM THE AUTOMATIC  
STAY AND/OR MOTION FOR RELIEF FROM CO-DEBTOR STAY  
11-14-2018    [\[55\]](#)

BANK OF NEW YORK MELLON TRUST  
COMPANY, N.A./MV  
TIMOTHY SPRINGER  
WENDY LOCKE/ATTY. FOR MV.

TENTATIVE RULING:            This matter will proceed as scheduled.

DISPOSITION:                Granted in part, denied in part.

ORDER:                        Movant shall prepare order in conformance with  
the ruling below.

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.

Bank of New York Mellon Trust Company, N.A. as Trustee for Mortgage Assets Management Series 1 Trust ("BONY") and the debtor jointly move for an order approving a stipulation that the debtor has no interest in certain real property located at 702 N. Teakwood Avenue

in Rialto, CA ("subject property"). Also, the stipulation provides that the automatic stay did not go into effect as to subject real property and the "co-debtor stay" of 11 U.S.C. § 1301 likewise did not go into effect. The debtor here apparently did not know about the property and an interest was transferred to him without his knowledge by the actual borrower. This is another example of a transfer to "hijack" a case.

The motion is GRANTED in part and DENIED in part.

First, there is no legal basis, absent an adversary proceeding, for the court to declare by way of a motion that the stay did not arise except as provided by statute. 11 U.S.C. § 362(j) authorizes the court to issue an order confirming the stay is not in effect or expired under § 362(c). That section deals with multiple bankruptcy filings by the same debtor. That is inapplicable to this case.

Second, 11 U.S.C. § 362(d)(4) is inapplicable. There are no facts presented that the transfer was part of a scheme to, delay, hinder or defraud creditors. This is a motion to approve a stipulation which does not include any requisite facts supporting such a finding by stipulation or otherwise.

Third, 11 U.S.C. § 1301 requires that a third party be liable with the debtor on a debt for the co-debtor stay to apply. No such facts are present here. The parties have stipulated in fact that the transfer was purportedly made to the debtor for no consideration and without the debtor's knowledge. This is not a situation where a third party is liable on a debt with the debtor. So, any relief under § 1301 is inapplicable.

Fourth, the Plan confirmed in this case on April 23, 2018 (doc. #51) vests the property of the estate in the debtor upon confirmation. The property is currently not part of the estate.

Fifth, a ruling that the property was not part of the estate will require either an adversary proceeding or stipulated facts on an appropriate motion. Neither has occurred here.

The court will approve the stipulation granting stay relief, only. No other relief will be granted, or other findings made.

The motion is GRANTED in part and DENIED in part.

13. [18-11357](#)-B-13     **IN RE: ENRIQUE/GUADALUPE REYES**  
[MHM-1](#)

CONTINUED MOTION TO DISMISS CASE  
8-27-2018    [\[99\]](#)

MICHAEL MEYER/MV  
JAMES MICHEL  
RESPONSIVE PLEADING

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

DISPOSITION: Dropped from calendar.

NO ORDER REQUIRED: Movant withdrew the motion. Doc. #156.

14. [18-14060](#)-B-13 **IN RE: SCOTTIE/CHRISTINA NABORS**  
[MHM-1](#)

MOTION TO DISMISS CASE  
11-15-2018 [[12](#)]

MICHAEL MEYER/MV  
GABRIEL WADDELL  
RESPONSIVE PLEADING

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

DISPOSITION: Dropped from calendar.

NO ORDER REQUIRED: Movant withdrew the motion. Doc. #20.

15. [18-13172](#)-B-13     **IN RE: MARIAN DIAZ**  
[KWS-1](#)

MOTION TO VALUE COLLATERAL OF PORTFOLIO RECOVERY ASSOCIATES,  
LLC  
11-21-2018    [[35](#)]

MARIAN DIAZ/MV  
SCOTT SAGARIA  
DISMISSED 11/30/18

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

DISPOSITION:                    Dropped from calendar.

NO ORDER REQUIRED:            An order dismissing the case has already been  
entered. Doc. #42.

16. [18-13973](#)-B-13     **IN RE: ANDREW/MICHELLE BUSTOS**  
[MHM-2](#)

MOTION TO DISMISS CASE  
11-15-2018    [[22](#)]

MICHAEL MEYER/MV  
MARK ZIMMERMAN  
DISMISSED 11/30/18

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

DISPOSITION:                    Dropped from calendar.

NO ORDER REQUIRED:            An order dismissing the case has already been  
entered. Doc. #32.

17. [18-10181](#)-B-13     **IN RE: MIGUEL HERNANDEZ**  
[MHM-4](#)

OBJECTION TO CLAIM OF CAVALRY INVESTMENTS LLC, CLAIM NUMBER  
6  
11-6-2018    [[58](#)]

MICHAEL MEYER/MV  
NIMA VOKSHORI

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

DISPOSITION:                    Sustained.

ORDER:                            The Moving Party shall submit a proposed order in  
conformance with the ruling below.

This objection was set for hearing on 44 days' notice as required by  
Local Rule of Practice ("LBR") 3007-1(b)(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.

This objection is SUSTAINED.

11 U.S.C. § 502(a) states that a claim or interest, evidenced by a proof filed under section 501, is deemed allowed, unless a party in interest objects.

Federal Rule of Bankruptcy Procedure 3001(f) states that a proof of claim executed and filed in accordance with these rules shall constitute prima facie evidence of the validity and amount of the claim. If a party objects to a proof of claim, the burden of proof is on the objecting party. Lundell v. Anchor Constr. Specialists, Inc., 223 F.3d 1035, 1039 (9th Cir. BAP 2000).

Here, the movant has established that the statute of limitations in California bars a creditor's action to recover on a contract, obligation, or liability founded on an oral contract after two years and one founded on a written instrument after four years. See California Code of Civil Procedure §§ 312, 337(1), and 339. A claim that is unenforceable under state law is also not allowed under 11 U.S.C. § 502(b)(1) once objected to. In re GI Indust., Inc., 204 F.3d 1276, 1281 (9th Cir. 2000). Regardless of whether the contract was written or oral, the last transaction on the account according to the evidence was in April of 2006, which is well past the two and four year mark under the statutes of limitations.

Claim no. 6 filed by Cavalry Investments, LLC is disallowed in its entirety.

18. [18-13381](#)-B-13     **IN RE: GABRIEL AGTARAP**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES  
11-26-2018    [\[42\]](#)

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

DISPOSITION:                    Dropped as moot.

NO ORDER REQUIRED.            The case will be dismissed. See matter #19  
below, MHM-3.

This matter will be dropped from calendar as moot. The case will be dismissed for cause. See MHM-3 below, matter #19.

19. [18-13381](#)-B-13     **IN RE: GABRIEL AGTARAP**  
[MHM-3](#)

MOTION TO DISMISS CASE  
11-8-2018    [\[35\]](#)

MICHAEL MEYER/MV

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

DISPOSITION:                    Granted.

ORDER:                            The court will issue the order.

This motion was set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of the creditors, the debtor, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). 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.

This motion is Granted. 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.

Here, the trustee has requested dismissal for unreasonable delay by the debtor that is prejudicial to creditors for failing to provide necessary and requested documents to the trustee's office, including

the 2017 tax return, for failure to make plan payments, failure to file complete and accurate schedules and statements, and for failure to file a feasible plan. Doc. #35. The debtor also did not attend a continued meeting of creditors. Debtor did not oppose.

This is the fourth bankruptcy case debtor has filed in this District in less than two years, and debtor's fifth in total. See case nos. 08-16765 (chapter 7, received discharge), 17-10783 (pro se, dismissed), 17-11302 (represented by counsel, dismissed), 18-10373 (pro se, dismissed), and 18-12870 (pro se, dismissed). The cases were dismissed largely due to debtor's failure to either file a complete petition for relief or on motion from the chapter 13 trustee for failure to provide documents, file a plan, etc.

No creditors with unsecured claims were listed by the debtor. The debtor claimed as exempt his interest in a co-owned property. One real property may have equity but the other non-exempt properties are over-encumbered based on the debtor's schedules and the claims filed. There is no benefit to creditors for this case to be converted.

For the above reasons, this motion is GRANTED.

20. [18-13481](#)-B-13     **IN RE: JAVIER VELIZ**  
[MHM-4](#)

MOTION TO DISMISS CASE  
11-14-2018    [\[50\]](#)

MICHAEL MEYER/MV  
PETER BUNTING  
RESPONSIVE PLEADING

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 the order.

This motion was filed and served pursuant to Local Rule of Practice ("LBR") 9014-1(f)(1) and will proceed as scheduled.

The chapter 13 trustee ("Trustee") moves this court to dismiss this bankruptcy case under 11 U.S.C. § 1307(c)(1) for unreasonable delay that is prejudicial to creditors and under § 1307(e) for failure to file debtor file a tax return under § 1308.

11 U.S.C. § 1308 requires the debtor to have filed all applicable tax returns to their respective agencies prior to the § 341 meeting, if required to under applicable bankruptcy law.

11 U.S.C. § 1307(e) states that if the debtor files to abide by § 1308, "the court shall dismiss a case" after notice and a hearing.

The trustee states that debtor failed to file tax returns for the years 2014-2018. The court assumes the dates do not correspond to "fiscal years," as the tax returns for fiscal year 2018 will not come due until mid-April 2019. As proof, Trustee points to the claim no. 5, filed by the Department of the Treasury - Internal Revenue Service. "[t]he priority and unsecured portions of the claim include amounts that are estimated due to Debtor's failure to file certain tax returns classified as FUTA and WT-FICA." Doc. #50.

Debtor timely opposed. Doc. #58. The opposition asserts that debtor has filed all income tax returns that have come due, has provided to Trustee proof of his 2017 personal income tax return, and sent copies of the employee tax returns from 2011 through 2013 as filed with the Internal Revenue Service and Employment Development Department to the Trustee. *Id.* Debtor's declaration states that he works as a self-employed insurance broker and has not had employees working for him since 2011 "and did not know I was supposed to continue filing returns." Doc. #59. He also states that he has "filed all my personal income tax returns." *Id.*

The debtor's declaration states nothing regarding tax returns for employment taxes for 2013, 2015, and 2016. There also may be tax returns due for employment taxes for periods ending March 31, 2018 and June 30, 2018. This matter will be called in order to determine the status of those tax returns. If the court finds that debtor is not in compliance with § 1308, then the case shall be dismissed pursuant to § 1307(e).

21. [18-13895](#)-B-13     **IN RE: CAROL SHIELDS**  
[MHM-2](#)

MOTION TO DISMISS CASE  
11-15-2018    [[23](#)]

MICHAEL MEYER/MV  
DAVID JENKINS  
RESPONSIVE PLEADING

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

DISPOSITION:                    Dropped from calendar.

NO ORDER REQUIRED:            Movant withdrew the motion. Doc. #33.



22. [17-11398](#)-B-13     **IN RE: REYNALDO/MARIA PERALES**  
[ALG-2](#)

MOTION TO MODIFY PLAN  
11-1-2018    [\[56\]](#)

REYNALDO PERALES/MV  
JANINE ESQUIVEL

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.

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 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.

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

23. [18-14098](#)-B-13     **IN RE: RUSSELL FANN AND CHRISTIE GAITAN-FANN**  
[MHM-1](#)

MOTION TO DISMISS CASE  
11-15-2018    [\[27\]](#)

MICHAEL MEYER/MV  
STEPHEN LABIAK  
RESPONSIVE PLEADING

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

DISPOSITION:        Dropped from calendar.

NO ORDER REQUIRED:    Movant withdrew the motion. Doc. #54.

24. [14-10121](#)-B-13     **IN RE: GREGORY/ERIKA IRELAND**  
[FW-6](#)

MOTION TO COMPROMISE CONTROVERSY/APPROVE SETTLEMENT  
AGREEMENT WITH VOLKSWAGEN GROUP OF AMERICA  
12-14-2018    [[148](#)]

GREGORY IRELAND/MV  
PETER FEAR  
OST 12/17/18

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.

This motion was filed and served pursuant to Local Rule of Practice ("LBR") 9014-1(f)(3) and an order shortening time (doc. #155) 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.

It appears from the moving papers that the trustee has considered the standards of In re Woodson, 839 F.2d 610, 620 (9th Cir. 1987) and In re A & C Properties, 784 F.2d 1377, 1381 (9th Cir. 1986):

- a.     the probability of success in the litigation;
- b.     the difficulties, if any, to be encountered in the matter of collection;
- c.     the complexity of the litigation involved, and the expense, inconvenience and delay necessarily attending it; and
- d.     the paramount interest of the creditors and a proper deference to their reasonable views in the premises.

Accordingly, it appears that the compromise pursuant to Federal Rule of Bankruptcy Procedure 9019 is a reasonable exercise of the trustee's business judgment. The order should be limited to the claims compromised as described in the motion.

The trustee requests approval of a settlement agreement between the estate and Volkswagen Group of America ("VW"). The claim was precipitated by a class action claim as a result of issues related to diesel emissions disclosures. At the time debtors filed bankruptcy, they owned a 2012 Volkswagen Jetta SportWagen TDI ("Vehicle"), which was part of a class of vehicles included in this class action lawsuit.

The deadline to accept the terms of the settlement is December 30, 2018. Debtors have opted to accept the "buy-back option" of the

settlement offer. Debtors estimate that they will receive \$18,000.00 and \$19,000.00. Doc. #151.

Under the terms of the compromise, debtors will surrender their vehicle to VW and sign a release, and VW will pay debtors for the vehicle. Doc. #150.

On a motion by the trustee and after notice and a hearing, the court may approve a compromise or settlement. Fed. R. Bankr. P. 9019. Approval of a compromise must be based upon considerations of fairness and equity. In re A & C Properties, 784 F.2d 1377, 1381 (9th Cir. 1986). The court must consider and balance four factors: 1) the probability of success in the litigation; 2) the difficulties, if any, to be encountered in the matter of collection; 3) the complexity of the litigation involved, and the expense, inconvenience, and delay necessarily attending it; and 4) the paramount interest of the creditors with a proper deference to their reasonable views. In re Woodson, 839 F.2d 610, 620 (9th Cir. 1988).

The court concludes that the Woodson factors balance in favor of approving the compromise. That is: the probability of success on the merits is likely, but the cost of pursuing such litigation may likely outweigh the value of the Vehicle; collection will be very easy as VW is a large corporation which gross billions of dollars annually; the litigation involves a very large class-action lawsuit, which by their nature are fairly complex and moving forward would decrease the net to the estate due to the legal fees; and the creditors will greatly benefit from the net to the estate, that would otherwise not exist; the settlement is equitable and fair.

Therefore, the court concludes the compromise to be in the best interests of the creditors and the estate. The court may give weight to the opinions of the trustee, the parties, and their attorneys. In re Blair, 538 F.2d 849, 851 (9th Cir. 1976). Furthermore, the law favors compromise and not litigation for its own sake. *Id.* Accordingly, the motion will be granted.