

UNITED STATES BANKRUPTCY COURT
Eastern District of California
Honorable René Lastreto II
Hearing Date: Thursday December 21, 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. [17-11028](#)-B-11 IN RE: PACE DIVERSIFIED CORPORATION

CONTINUED STATUS CONFERENCE RE: VOLUNTARY PETITION
3-23-2017 [[1](#)]

T. BELDEN

NO RULING.

2. [17-11028](#)-B-11 IN RE: PACE DIVERSIFIED CORPORATION

CONTINUED CHAPTER 11 PLAN
10-6-2017 [[310](#)]

T. BELDEN
RESPONSIVE PLEADING

NO RULING.

3. [17-14129](#)-B-11 IN RE: REAL HOSPITALITY, LLC

CONTINUED STATUS CONFERENCE RE: VOLUNTARY PETITION
10-26-2017 [[1](#)]

VINCENT GORSKI

NO RULING.

4. [17-14129](#)-B-11 **IN RE: REAL HOSPITALITY, LLC**
[UST-1](#)

MOTION TO DISMISS CASE
11-29-2017 [[47](#)]

TRACY DAVIS/MV
VINCENT GORSKI
ROBIN TUBESING/ATTY. FOR 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.

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.

Cause exists under 11 U.S.C. §§1112(b)(4)(F) and (H) for dismissing this case because debtor has not timely filed its schedules, provided financial information to the U.S. Trustee in order for the Trustee to adequately conduct the IDI or § 341 meeting, and no proof of insurance has been provided. The debtor has also not closed pre-petition bank accounts, not opened a debtor-in-possession tax account (as required by the bankruptcy rules) and has paid pre-petition obligations without court approval.

Unless the debtor can show any unusual circumstances that show dismissal is not in the best interest of its creditors, AND that the cause for dismissal can be cured in a reasonable time, this motion will be GRANTED.

5. [17-13239](#)-B-12 **IN RE: JOE/MARIA NASCIMENTO**
[WW-7](#)

MOTION FOR COMPENSATION BY THE LAW OFFICE OF WALTER WILHELM
FOR RILEY C. WALTER, DEBTORS ATTORNEY(S)
12-6-2017 [[119](#)]

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
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.

The movant shall be awarded \$24,840.00 in fees and \$2,545.97 for reimbursement of expenses.

6. [16-13345](#)-B-11 **IN RE: JONATHAN/PATRICIA MAYER**
[FW-20](#)

MOTION FOR COMPENSATION FOR BIECHMAN ACCOUNTANCY
CORPORATION, ACCOUNTANT(S)
11-14-2017 [[253](#)]

JONATHAN MAYER/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.

This motion has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The failure of the creditors, the debtor, the U.S. Trustee, and any other party in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014- 1(f)(1)(B) is considered as consent 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.

The Biechman Accountancy Corporation shall be awarded \$5,131.00 for their services.

7. [16-13345](#)-B-11 **IN RE: JONATHAN/PATRICIA MAYER**
[FW-21](#)

MOTION FOR COMPENSATION BY THE LAW OFFICE OF FEAR WADDELL
FOR PETER L. FEAR, DEBTORS ATTORNEY(S)
11-14-2017 [[260](#)]

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.

This motion has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The failure of the creditors, the debtor, the U.S. Trustee, and any other party in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014- 1(f)(1)(B) is considered as consent 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.

The movant shall be awarded \$11,767.50 in fees and reimbursed \$1,136.43 in expenses.

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

CONTINUED MOTION FOR RELIEF FROM AUTOMATIC STAY
11-14-2017 [[198](#)]

JOHN TORREZ/MV
RILEY WALTER
JAMES BULGER/ATTY. FOR MV.
RESPONSIVE PLEADING

NO RULING.

1:30 P.M.

1. [17-14502](#)-B-13 **IN RE: GERALD/PATRICIA SANDERS**
[TCS-1](#)

MOTION TO EXTEND AUTOMATIC STAY
12-4-2017 [8]

GERALD SANDERS/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 court will issue an order.

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

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

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

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

In this case the presumption of bad faith arises. The subsequently filed case is presumed to be filed in bad faith if the debtor failed to perform the terms of a plan confirmed by the court. 11 U.S.C. §362(c)(3)(C)(i)(II)(cc). The prior case was dismissed because the debtor failed to make the payments required under the plan. The party with the burden of proof may rebut the presumption of bad faith by clear and convincing evidence. §362(c)(3)(c). This evidence standard has been defined, in *Singh v. Holder*, 649 F.3d 1161, 1165, n. 7 (9th Cir. 2011), as "between a preponderance of the evidence and proof beyond a reasonable doubt." It may further be defined as a level of proof that will produce in the mind of the fact finder a firm belief or conviction that the allegations sought to be

established are true; it is "evidence so clear, direct and weighty and convincing as to enable the fact finder to come to a clear conviction, without hesitancy, of the truth of the precise facts of the case." *In re Castaneda*, 342 B.R. 90, (Bankr. S.D. Cal. 2006), citations omitted.

However, based on the moving papers and the record, and in the absence of opposition, the court is persuaded that the presumption has been rebutted and that the debtors' petition was filed in good faith, and it intends to grant the motion to extend the automatic stay. Debtors' previous case was dismissed for defaulting when debtor lost his disability benefits. Debtor has now received a raise in IHSS and is expecting disability or retirement in January that will help with the new plan payment. The motion will be granted and the automatic stay extended for all purposes as to all parties who received notice, unless terminated by further order of this court. If opposition is presented at the hearing, the court will consider the opposition and whether further hearing is proper pursuant to LBR 9014-1(f)(2). The court will issue an order.

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. [17-13507](#)-B-13 **IN RE: JUAN/MARIA ROBLES**
[MHM-2](#)

MOTION TO DISMISS CASE
11-15-2017 [[23](#)]

MICHAEL MEYER/MV
THOMAS GILLIS
RESPONSIVE PLEADING

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

DISPOSITION: Withdrawn by moving party.

NO ORDER REQUIRED.

3. [17-14011](#)-B-13 **IN RE: JUAN/MARIA PEREZ**
[TOG-1](#)

MOTION TO VALUE COLLATERAL OF NISSAN MOTOR ACCEPTANCE
CORPORATION
11-10-2017 [[13](#)]

JUAN PEREZ/MV
THOMAS GILLIS

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.

This motion is denied for failure to comply with Local Bankruptcy Rule 9014-1(d)(3)(B)(iii). New Local Rules of Practice in the Eastern District became effective on September 26, 2017. In particular, Rule 9014-1(d)(3)(B), which is about noticing requirements, requires movants to notify respondents that they can determine whether the matter has been resolved without oral argument or if the court has issued a tentative ruling by checking the Court's website at www.caeb.uscourts.gov after 4:00 p.m. the day before the hearing.

4. [17-14112](#)-B-13 **IN RE: ARMANDO NATERA**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES
11-29-2017 [[20](#)]

SCOTT LYONS

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 installment fee now due has been paid.

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. [17-12717](#)-B-13 **IN RE: DALJIT SINGH**
[BCV-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
11-21-2017 [[54](#)]

CIT GROUP, INC./MV
HANK WALTH
BRIAN VANDERHOOF/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.

This motion is denied for failure to comply with Local Bankruptcy Rule 9014-1(d)(3)(B)(iii), for sending the moving papers to the incorrect address of the Office of the U.S. Trustee, and no address was listed for Mr. Meyer, the Chapter 13 Trustee.

The Notice of Correction/Errata filed on November 27, 2017 does not correct the faulty documents because the corrected notice still lacks the language required by LR 9014-1(d)(3)(B)(iii), and the Certificate of Service still lists the incorrect US Trustee address and there is no address listed for Mr. Meyer.

New Local Rules of Practice in the Eastern District became effective on September 26, 2017. In particular, Rule 9014-1(d)(3)(B), which is about noticing requirements, requires movants to notify respondents that they can determine whether the matter has been resolved without oral argument or if the court has issued a tentative ruling by checking the Court's website at www.caeb.uscourts.gov after 4:00 p.m. the day before the hearing.

6. [17-12717](#)-B-13 **IN RE: DALJIT SINGH**
[HRH-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
12-1-2017 [\[66\]](#)

SCOTTRADE BANK EQUIPMENT
FINANCE/MV
HANK WALTH
RAFFI KHATCHADOURIAN/ATTY. FOR 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. Preparation of the order will be determined at the hearing. If opposed, the court may issue a scheduling 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.

The motion will be granted.

The movant, Scottrade Bank Equipment Finance, seeks relief from the automatic stay with respect to a 2016 Kenworth T680 Sleeper Cab Tractor. The movant has produced evidence that the vehicle has a value of \$70,000 and its secured claim is \$117,947.33.

The court concludes that there is no equity in the vehicle, it is not necessary to a reorganization, nor is it actually property of the estate. The tractor is in fact still property of RMG Express, Inc. ("RMG"). Debtor is president of RMG, a now dissolved corporation. The Loan Agreement was signed by debtor, acting as president of RMG, and RMG is listed as the owner of the vehicle of the Certificate of Title. Docket #69, Exhibit 2. California Corporate Code section 2010 states that

"[a] corporation which is dissolved nevertheless continues to exist for the purpose of winding up its affairs, prosecuting and defending actions by or against it and enabling it to collect and discharge obligations, dispose of and convey its property and collect and divide its assets, but not for the purpose of continuing business except so far as necessary for the winding up thereof."

Movant has not received any evidence that RMG has been wound up nor has it filed for bankruptcy. Therefore, RMG is still the owner of the subject property.

Accordingly, the motion will be granted pursuant to 11 U.S.C. § 362(d)(2) to permit the movant to dispose of its collateral pursuant to applicable law and to use the proceeds from its disposition to satisfy its claim. No other relief is awarded.

The 14-day stay of Fed. R. Bankr. P. 4001(a)(3) will be ordered waived due to the fact that the vehicle is depreciating in value and movant has not received evidence that it is insured.

7. [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

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Set for evidentiary hearing if the trustee has not withdrawn the opposition.

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

By prior order of the court, unless the trustee withdraws the opposition, this matter will be called as a scheduling conference for an evidentiary hearing. The court notes that the trustee concluded the meeting of creditors on December 12, 2017.

8. [17-13822](#)-B-13 **IN RE: CESAR CAMPOS**
[MHM-1](#)

MOTION TO DISMISS CASE
11-15-2017 [[21](#)]

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.

The record shows that there has been unreasonable delay by the debtor that is prejudicial to creditors. The debtor has failed to appear at the § 341 meeting of creditors, and has failed to provide the trustee with all of the documentation required by 11 U.S.C. § 521(a)(3) & (4). Accordingly, the case will be dismissed.

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

MOTION TO CONFIRM PLAN
10-25-2017 [[24](#)]

BRYAN CLOWER/MV
SCOTT LYONS
RESPONSIVE PLEADING

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

DISPOSITION: Granted with below conditions.

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 court notes the trustee's opposition and recommendation, and grants this motion. The confirmation order shall include the docket control number of the motion shall reference the plan by the date it was filed, and shall include the following changes: The monthly dividend of the pre-petition mortgage arrears shall be \$400.97, and the plan payment shall be \$3,540.10 commencing in month 7.

10. [17-13825](#)-B-13 **IN RE: FRANCISCO ZUNIGA**
[MHM-1](#)

MOTION TO DISMISS CASE
11-15-2017 [[26](#)]

MICHAEL MEYER/MV
GABRIEL WADDELL
DISMISSED 12/6/17

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

DISPOSITION: Dropped from calendar.

NO ORDER REQUIRED.

This motion will be dropped from calendar. The case has been dismissed.

11. [17-11345](#)-B-13 **IN RE: VALINA WISNER**
[GEG-1](#)

MOTION FOR COMPENSATION FOR GLEN E. GATES, DEBTORS
ATTORNEY(S)
12-6-2017 [[58](#)]

GLEN GATES

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

DISPOSITION: Denied without prejudice.

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

This motion is denied without prejudice for failure to comply with Federal Rule of Bankruptcy Procedure 2002(a)(6) and Local Bankruptcy Rule 9014-1(d)(3)(B)(iii).

Rule 2002(a)(6) requires 21 day notice to parties in interest on a hearing on any entity's request for compensation or reimbursement of expenses if the request exceeds \$1,000. The party's request here is for \$9,870. Notice was given 15 days before the hearing. Therefore, the notice does not comply with the rule.

Additionally, new Local Rules of Practice in the Eastern District became effective on September 26, 2017. In particular, Rule 9014-1(d)(3)(B), which is about noticing requirements, requires movants to notify respondents that they can determine whether the matter has been resolved without oral argument or if the court has issued a tentative ruling by checking the Court's website at www.caeb.uscourts.gov after 4:00 p.m. the day before the hearing.

12. [16-11853](#)-B-13 **IN RE: VICTOR VILLALVAZO**
[MHM-3](#)

CONTINUED MOTION TO DISMISS CASE
9-13-2017 [[89](#)]

MICHAEL MEYER/MV
RICHARD STURDEVANT
RESPONSIVE PLEADING

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

DISPOSITION: Dropped from calendar.

NO ORDER REQUIRED: Movant withdrew the motion.

13. [16-11853](#)-B-13 **IN RE: VICTOR VILLALVAZO**
[RS-3](#)

MOTION TO MODIFY PLAN
11-8-2017 [[96](#)]

VICTOR VILLALVAZO/MV
RICHARD STURDEVANT
RESPONSIVE PLEADING

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

DISPOSITION: Denied without prejudice.

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

This motion is denied for failure to comply with Local Bankruptcy Rule 9014-1(d)(3)(B)(iii). New Local Rules of Practice in the Eastern District became effective on September 26, 2017. In particular, Rule 9014-1(d)(3)(B), which is about noticing requirements, requires movants to notify respondents that they can determine whether the matter has been resolved without oral argument or if the court has issued a tentative ruling by checking the Court's website at www.caeb.uscourts.gov after 4:00 p.m. the day before the hearing.

14. [17-13653](#)-B-13 **IN RE: LARRY/BEATRICE CONTRERAS**
[GEL-1](#)

MOTION TO CONFIRM PLAN
11-6-2017 [[24](#)]

LARRY CONTRERAS/MV
GABRIEL LIBERMAN

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.

15. [17-14157](#)-B-13 **IN RE: VICTOR ISLAS AND LORENA GONZALEZ**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES
12-4-2017 [[19](#)]

THOMAS GILLIS

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: The court intends to dismiss the case.

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

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.

16. [12-16958](#)-B-13 **IN RE: BENJAMIN BRUFFETT**
[MHM-7](#)

MOTION TO DETERMINE FINAL CURE AND MORTGAGE PAYMENT RULE
3002.1
11-21-2017 [[143](#)]

MICHAEL MEYER/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.

This motion has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The failure of the creditors, the debtor, the U.S. Trustee, and any other party in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014- 1(f)(1)(ii) is considered as consent 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.

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

CONTINUED 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.
DISMISSED 12/1/17

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.

18. [17-14166](#)-B-13 **IN RE: JOHN/BOBBIE-ANN HEINRICH**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES
12-5-2017 [[13](#)]

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: The court intends to dismiss the case.

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

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.

19. [17-12373](#)-B-13 **IN RE: KATHERINE RUTHERFORD**
[HDN-2](#)

MOTION TO CONFIRM PLAN
11-10-2017 [[46](#)]

KATHERINE RUTHERFORD/MV
HENRY NUNEZ
RESPONSIVE PLEADING

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Denied without prejudice. Debtor must confirm a plan by March 12, 2018 or the case will be dismissed on the trustee's motion.

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

First, this motion was filed on less than 42 days notice as required by Local Bankruptcy Rule 3015-1(d)(1). The court will not enforce that rule here because the trustee has not raised the issue and waived the issue by filing opposition.

Second, there is insufficient evidence of feasibility. The debtor amended Schedules I and J in two respects: \$20 less is proposed to be spent monthly on electricity, heat and natural gas and \$50 less is proposed to be spent on food monthly. No explanation for these changes is provided by the debtor. The only declaration filed

supporting the change is debtor's counsel's declaration, which just states he discussed the matter with the debtor and she consents to a higher plan payment. In addition to possibly waiving the attorney/client privilege, the information is irrelevant. The debtor must prove feasibility - not that she agrees to a higher payment. The motion is DENIED.

20. [16-13874](#)-B-13 **IN RE: RICHARD DOMENICI**
[DRJ-5](#)

MOTION TO EXTEND TIME TO FILE A MODIFIED PLAN
12-6-2017 [[72](#)]

RICHARD DOMENICI/MV
DAVID JENKINS

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.

Due to the unforeseen and nature of debtor's circumstances, and pursuant to Local Rule 3015-1(g) and Federal Rule of Bankruptcy Procedure 9006(f), this motion will be granted. The deadline to file a confirmable plan will be extended to December 28, 2017, with the confirmation hearing to occur on February 1, 2018.

21. [17-13674](#)-B-13 **IN RE: DAVID ALANIS**
[MHM-1](#)

MOTION TO DISMISS CASE
11-15-2017 [[23](#)]

MICHAEL MEYER/MV
CHRISTOPHER FISHER
RESPONSIVE PLEADING

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Unless the trustee's motion is withdrawn prior to or at the hearing, the court intends to grant the motion to dismiss on the grounds stated in the motion.

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

This matter was noticed pursuant to LBR 9014-1(f)(1) and a timely response was filed. If the trustee's motion is not withdrawn at the hearing, the court intends to grant the motion and dismiss the case on the grounds stated in the motion; the debtor has failed to provide the trustee with all of the documentation required by 11 U.S.C. § 521(a)(3) & (4). The response contains no evidence explaining that the requested documentation is unavailable to the debtor.

22. [17-14374](#)-B-13 **IN RE: ANNA BALL**
[DMG-1](#)

MOTION TO VALUE COLLATERAL OF FORD MOTOR CREDIT
11-20-2017 [[9](#)]

ANNA BALL/MV
D. GARDNER
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 the order.

This motion is denied without prejudice. Service of process of the moving papers was not completed on the Trustee.

Additionally, Local Rule 9014-1(c) requires a docket control number be placed below the case number on all filed documents in the same motion. In this case, no docket control number was included on the proof of service or amended proof of service (docket #19).

23. [17-12881](#)-B-13 **IN RE: RUBEN/KARIMA PARKS**
[JDW-3](#)

MOTION TO VALUE COLLATERAL OF GM FINANCIAL
11-28-2017 [[89](#)]

RUBEN PARKS/MV
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 the
hearing.

This matter will proceed as scheduled. Unless opposition is
presented at the hearing, the court intends to grant the motion
based on well-pled facts as follows.

This motion to value respondent's collateral was served as a
preliminary matter. If no appearance in opposition is presented at
the hearing, 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 2007
Chevrolet Tahoe. Based on the evidence presented, the respondent's
secured claim will be fixed at \$15,350.00. The proposed order
submitted after the hearing shall specifically identify the
collateral, and if applicable, the proof of claim to which it
relates and will be effective upon confirmation of the chapter 13
plan.

24. [17-10187](#)-B-13 **IN RE: PETER SOLORIO**
[MHM-3](#)

MOTION TO DISMISS CASE
11-21-2017 [[93](#)]

MICHAEL MEYER/MV
MARSHALL MOUSHIGIAN
RESPONSIVE PLEADING

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Unless the trustee's motion is withdrawn prior to or at the hearing, the court intends to grant the motion to dismiss on the grounds stated in the motion.

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

This matter was noticed pursuant to LBR 9014-1(f)(1) and a timely response was filed. If the trustee's motion is not withdrawn at the hearing, the court intends to grant the motion and dismiss the case on the grounds stated in the motion; the debtor has failed to confirm a Chapter 13 Plan.

25. [17-10187](#)-B-13 **IN RE: PETER SOLORIO**
[YG-2](#)

MOTION TO CONFIRM PLAN
11-12-2017 [[88](#)]

PETER SOLORIO/MV
MARSHALL MOUSHIGIAN
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 the order.

This motion is denied without prejudice. This motion was filed on less than 42 days notice as required by Local Bankruptcy Rule 3015-1(d)(1).

Additionally, the notice did not comply with Local Bankruptcy Rule 9014-1(d)(3)(B)(iii). New Local Rules of Practice in the Eastern District became effective on September 26, 2017. In particular, Rule 9014-1(d)(3)(B), which is about noticing requirements, requires movants to notify respondents that they can determine whether the matter has been resolved without oral argument or if the court has

issued a tentative ruling by checking the Court's website at www.caeb.uscourts.gov after 4:00 p.m. the day before the hearing.