

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

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

PRE-HEARING DISPOSITIONS

DAY: THURSDAY

DATE: FEBRUARY 14, 2019

CALENDAR: 9:00 A.M. CHAPTERS 13 AND 12 CASES

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. [18-11203](#)-A-13 **IN RE: ROSE FLORES**
[PBB-1](#)

MOTION TO MODIFY PLAN
1-10-2019 [[43](#)]

ROSE FLORES/MV
PETER BUNTING

Final Ruling

Motion: Modify Chapter 13 Plan

Notice: LBR 3015-1(d)(2), 9014-1(f)(1); written opposition required

Disposition: Granted

Order: Prepared by the trustee, approved by debtor's counsel

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 3015-1(d)(2), 9014-1(f)(1)(B). None has been filed. 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).

Chapter 13 plan modification is governed by 11 U.S.C. §§ 1322, 1323, 1325, 1329 and by Federal Rules of Bankruptcy Procedure 2002(a)(5) and 3015(g) and Local Bankruptcy Rule 3015-1. "[T]he only limits on modification are those set forth in the language of the Code itself, coupled with the bankruptcy judge's discretion and good judgment in reviewing the motion to modify." *In re Powers*, 202 B.R. 618, 622 (B.A.P. 9th Cir. 1996).

Chapter 13 debtors seeking plan modification have the burden of proving that all requirements of § 1322(a) and (b) and § 1325(a) have been met. See 11 U.S.C. §§ 1322(a)-(b), 1325(a), 1329(b)(1); see also *In re Powers*, 202 B.R. at 622 ("[Section] 1329(b)(1) protects the parties from unwarranted modification motions by ensuring that the proposed modifications satisfy the same standards as required of the initial plan."); see also *In re Barnes*, 32 F.3d 405, 407 (9th Cir. 1994); *In re Andrews*, 49 F.3d 1404, 1408 (9th Cir. 1995).

The court finds that the debtor has sustained this burden of proof. The court will grant the motion and approve the modification.

2. [18-14706](#)-A-13 **IN RE: JUDY JONES**
[MHM-2](#)

MOTION TO DISMISS CASE
1-11-2019 [[22](#)]

MICHAEL MEYER/MV
MARK ZIMMERMAN
DISMISSED 1/25/19

Final Ruling

The case dismissed, the matter is dropped as moot.

3. [17-14111](#)-A-13 **IN RE: JOHN DAILO AND EVELYN SALAZAR-DAILO**
[DJD-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
1-9-2019 [[41](#)]

VW CREDIT, INC./MV
PATRICK KAVANAGH
DARREN DEVLIN/ATTY. FOR MV.
RESPONSIVE PLEADING

Final Ruling

The motion withdrawn, the matter is dropped as moot.

4. [18-12814](#)-A-13 **IN RE: JIMMY JAMES**
[NSV-4](#)

MOTION TO VALUE COLLATERAL OF SANTANDER CONSUMER USA, INC.
1-9-2019 [[53](#)]

JIMMY JAMES/MV
LUKAS JACKSON

Final Ruling

Motion: Value Collateral [Personal Property; Motor Vehicle (2008 Chevrolet Impala)]

Notice: LBR 9014-1(f)(1); 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). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). None has been filed. The default of the respondent 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).

VALUATION OF COLLATERAL

Chapter 13 debtors may value collateral by noticed motion. Fed. R. Bankr. P. 3012. Section 506(a) of the Bankruptcy Code provides, "An allowed claim of a creditor secured by a lien on property in which the estate has an interest . . . is a secured claim to the extent of the value of such creditor's interest in the estate's interest in such property" and is unsecured as to the remainder. 11 U.S.C. § 506(a). For personal property, value is defined as "replacement value" on the date of the petition. *Id.* § 506(a)(2). For "property acquired for personal, family, or household purposes, replacement value shall mean the price a retail merchant would charge for property of that kind considering the age and condition of the property at the time value is determined." *Id.* The costs of sale or marketing may not be deducted. *Id.*

A debtor's ability to value collateral consisting of a motor vehicle is limited by the terms of the hanging paragraph of § 1325(a). See 11 U.S.C. § 1325(a) (hanging paragraph). Under this statute, a lien secured by a motor vehicle cannot be stripped down to the collateral's value if: (i) the lien securing the claim is a purchase money security interest, (ii) the debt was incurred within the 910-day period preceding the date of the petition, and (iii) the motor vehicle was acquired for the debtor's personal use. 11 U.S.C. § 1325(a) (hanging paragraph).

In this case, the debtor seeks to value collateral consisting of a motor vehicle described as a 2008 Chevrolet Impala. The debt secured by the vehicle was not incurred within the 910-day period preceding the date of the petition. The court values the vehicle at \$3,200.

CIVIL MINUTE ORDER

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

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

The debtor's motion to value collateral consisting of a motor vehicle 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. The personal property collateral described as a 2008 Chevrolet Impala has a value of \$3,200. No senior liens on the collateral have been identified. The respondent has a secured claim in the amount of \$3,200 equal to the value of the collateral that is unencumbered by senior liens. The respondent has a general unsecured claim for the balance of the claim.

5. [18-13019](#)-A-13 **IN RE: RENEE BURTON**
[MHM-4](#)

MOTION TO DISMISS CASE
1-3-2019 [\[54\]](#)

MICHAEL MEYER/MV
SCOTT LYONS

Final Ruling

Motion: Dismiss Case

Notice: LBR 9014-1(f)(1); 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). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). None has been filed. 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).

CASE DISMISSAL

The debtor has failed to confirm a plan within 75 days of September 27, 2018 (*i.e.*, December 11), as ordered by the court. ECF No. 34.

For the reasons stated in the motion, cause exists to dismiss the case. *Id.* § 1307(c)(1), (5).

CIVIL MINUTE ORDER

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

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

The trustee's motion to dismiss has been presented to the court. Having entered the default of the respondent debtor 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 for unreasonable delay by the debtor that is prejudicial to creditors, specifically including failure to confirm a plan by December 11, 2018, as ordered by the court in an order entered on September 28, 2018. ECF No. 34. The court hereby dismisses this case.

6. [18-14719](#)-A-13 **IN RE: ROSALINDA GAYTAN**
[MHM-2](#)

MOTION TO DISMISS CASE
1-16-2019 [[22](#)]

MICHAEL MEYER/MV
MICHAEL AVANESIAN

Final Ruling

Motion: Dismiss Case

Notice: LBR 9014-1(f)(1); 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). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). None has been filed. 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).

CASE DISMISSAL

The debtor has failed to make all payments under the plan and has not produced the following documents to the trustee:

- 1) The Class 1 Checklist with the most recent mortgage statement;
- 2) Evidence of payment to the Class 1 claims;
- 3) The Domestic Support Obligation Checklist;
- 4) The Authorization to Release Information;
- 5) All pages of the most recent Federal Tax Return filed by the debtor;
- 6) Copies of all payments advices or other evidence of payment received within 60 days before the date of filing of the petition;
- 7) A statement of the amount of monthly net income, itemized to show how the amount is calculated;
- 8) Item 28 on Form 122C-2 - Home energy costs;
- 9) Item 29 on form 122C-2 - Education expenses for dependent children under 18;
- 10) Item 43 on Form 122C-2 - deductions for special circumstances.

For the reasons stated in the motion, cause exists to dismiss the case. *Id.* § 1307(c)(1), (4).

CIVIL MINUTE ORDER

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

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

The trustee's motion to dismiss has been presented to the court. Having entered the default of the respondent debtor 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 for unreasonable delay by the debtor that is prejudicial to creditors. The court hereby dismisses this case.

7. [18-13827](#)-A-13 **IN RE: BENICIA CISNEROS**
[EPE-2](#)

MOTION TO CONFIRM PLAN
1-10-2019 [[45](#)]

BENICIA CISNEROS/MV
ERIC ESCAMILLA

Final Ruling

Motion: Confirm Chapter 13 Plan

Notice: LBR 3015-1(d)(1), 9014-1(f)(1); written opposition required

Disposition: Granted

Order: Prepared by the trustee, approved by debtor's counsel

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 3015-1(d)(1), 9014-1(f)(1)(B). None has been filed. 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).

Chapter 13 plan confirmation is governed by 11 U.S.C. §§ 1322, 1325 and by Federal Rule of Bankruptcy Procedure 2002(b) and Local Bankruptcy Rule 3015-1. The debtor has the burden of proving that the plan complies with all statutory requirements of confirmation. *In re Andrews*, 49 F.3d 1404, 1407-08 (9th Cir. 1995); *In re Barnes*, 32 F.3d 405, 407-08 (9th Cir. 1994). The court finds that the debtor has sustained that burden, and the court will approve confirmation of the plan.

8. [18-13528](#)-A-13 **IN RE: JUANITA HINES**
[EPE-1](#)

MOTION TO MODIFY PLAN
1-8-2019 [[24](#)]

JUANITA HINES/MV
ERIC ESCAMILLA

Final Ruling

Motion: Modify Chapter 13 Plan

Notice: LBR 3015-1(d)(2), 9014-1(f)(1); written opposition required

Disposition: Granted

Order: Prepared by the trustee, approved by debtor's counsel

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 3015-1(d)(2), 9014-1(f)(1)(B). None has been filed. 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).

Chapter 13 plan modification is governed by 11 U.S.C. §§ 1322, 1323, 1325, 1329 and by Federal Rules of Bankruptcy Procedure 2002(a)(5) and 3015(g) and Local Bankruptcy Rule 3015-1. "[T]he only limits on modification are those set forth in the language of the Code itself, coupled with the bankruptcy judge's discretion and good judgment in reviewing the motion to modify." *In re Powers*, 202 B.R. 618, 622 (B.A.P. 9th Cir. 1996).

Chapter 13 debtors seeking plan modification have the burden of proving that all requirements of § 1322(a) and (b) and § 1325(a) have been met. See 11 U.S.C. §§ 1322(a)-(b), 1325(a), 1329(b)(1); see also *In re Powers*, 202 B.R. at 622 ("[Section] 1329(b)(1) protects the parties from unwarranted modification motions by ensuring that the proposed modifications satisfy the same standards as required of the initial plan."); see also *In re Barnes*, 32 F.3d 405, 407 (9th Cir. 1994); *In re Andrews*, 49 F.3d 1404, 1408 (9th Cir. 1995).

The court finds that the debtor has sustained this burden of proof. The court will grant the motion and approve the modification.

9. [18-13030](#)-A-13 **IN RE: JESUS PORTILLO-VAQUERO AND ELSA GONZALEZ-PORTILLO**
[PK-2](#)

CONTINUED MOTION TO CONFIRM PLAN
11-9-2018 [[45](#)]

JESUS PORTILLO-VAQUERO/MV
PATRICK KAVANAGH

Final Ruling

Motion: Confirm Chapter 13 Plan

Notice: LBR 3015-1(d)(1), 9014-1(f)(1); written opposition required

Disposition: Granted

Order: Prepared by the trustee, approved by debtor's counsel

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 3015-1(d)(1), 9014-1(f)(1)(B). None has been filed. 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).

Chapter 13 plan confirmation is governed by 11 U.S.C. §§ 1322, 1325 and by Federal Rule of Bankruptcy Procedure 2002(b) and Local Bankruptcy Rule 3015-1. The debtor has the burden of proving that the plan complies with all statutory requirements of confirmation. *In re Andrews*, 49 F.3d 1404, 1407-08 (9th Cir. 1995); *In re Barnes*, 32 F.3d 405, 407-08 (9th Cir. 1994). The court finds that the debtor has sustained that burden, and the court will approve confirmation of the plan.

10. [18-13732](#)-A-12 **IN RE: CHARMAINE BRANNAN**
[MHM-1](#)

CONTINUED MOTION TO DISMISS CASE
10-25-2018 [[10](#)]

MICHAEL MEYER/MV
WITHDRAWN

Final Ruling

The motion withdrawn, the matter is dropped as moot.

11. [18-14836](#)-A-13 **IN RE: FRANK/ANA YBARRA**
[MHM-2](#)

MOTION TO DISMISS CASE
1-11-2019 [\[20\]](#)

MICHAEL MEYER/MV
RANDALL WALTON
RESPONSIVE PLEADING

Final Ruling

Motion: Dismiss Case

Notice: LBR 9014-1(f)(1); 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). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). None has been filed. 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).

CASE DISMISSAL

The chapter 13 trustee moves to dismiss this chapter 13 case due to the debtors' failure to attend their January 8, 2019 meeting of creditors and their failure to produce to the trustee copies of all payments advices or other evidence of payment received within 60 days before the date of filing of the petition. For the reasons stated in the motion, cause exists under § 1307(c)(1) to dismiss the case.

CIVIL MINUTE ORDER

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

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

The trustee's motion to dismiss this chapter 13 case has been presented to the court. Having entered the default of respondent debtor 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 because of the debtors' failure to attend the January 8, 2019 meeting of creditors and their failure to produce payments advices or other evidence of payments received within 60 days before the petition filing. The court hereby dismisses this case.

12. [18-14037](#)-A-13 **IN RE: DESIREE MARTINEZ**
[MHM-4](#)

MOTION TO CONVERT CASE FROM CHAPTER 13 TO CHAPTER 7
1-14-2019 [[41](#)]

SCOTT LYONS
ORDER CONTINUING TO 2/28/19 AT 9:00 AM, ECF NO 54

Final Ruling

The motion having been continued to February 28, 2019, at 9:00 a.m., ECF #54, the matter is dropped as moot.

13. [18-10640](#)-A-13 **IN RE: YESENIA BAROCIO**
[MHM-3](#)

MOTION TO DISMISS CASE
1-16-2019 [[39](#)]

MICHAEL MEYER/MV
BENNY BARCO

Final Ruling

Motion: Dismiss Case

Notice: LBR 9014-1(f)(1); 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). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). None has been filed. 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).

CASE DISMISSAL

The chapter 13 trustee moves to dismiss this chapter 13 case for a delinquency in payments under the debtor's confirmed chapter 13 plan. The debtor is delinquent under the confirmed plan in the amount of \$3,677.50. For the reasons stated in the motion, cause exists under § 1307(c)(6) to dismiss the case.

CIVIL MINUTE ORDER

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

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

The trustee's motion to dismiss this chapter 13 case has been presented to the court. Having entered the default of respondent debtor 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 because of the delinquency under the confirmed chapter 13 plan in this case. The court hereby dismisses this case.

14. [18-14443](#)-A-13 **IN RE: JOSE MERAS**
[MHM-2](#)

OBJECTION TO DEBTOR'S CLAIM OF EXEMPTIONS
1-2-2019 [[31](#)]

MICHAEL MEYER/MV
PETER BUNTING
WITHDRAWN

Final Ruling

The objection withdrawn, the matter is dropped as moot.

15. [19-10144](#)-A-13 **IN RE: MARIA SANDOVAL**
[SL-1](#)

MOTION TO EXTEND AUTOMATIC STAY
1-28-2019 [[14](#)]

MARIA SANDOVAL/MV
SCOTT LYONS

Tentative Ruling

Motion: Extend the Automatic Stay

Notice: LBR 9014-1(f)(2); no 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).

EXTENSION OF THE STAY

Upon request of a party in interest, the court may extend the automatic stay where the debtor has had one previous bankruptcy case that was pending within the 1-year period prior to the filing of the current bankruptcy case but was dismissed. See 11 U.S.C. § 362(c)(3)(B). Procedurally, the automatic stay may be extended only "after notice and a hearing *completed* before the expiration of the 30-day period" after the filing of the petition in the later case. *Id.* (emphasis added). To extend the stay, the court must find that the filing of the *later case* is in good faith as to the creditors to be stayed, and the extension of the stay may be made subject to conditions or limitations the court may impose. *Id.*

For the reasons stated in the motion and supporting papers, the court finds that the filing of the current case is in good faith as to the creditors to be stayed. The motion will be granted.

CIVIL MINUTE ORDER

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

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

A motion to extend the automatic stay has been presented to the court in this case. Having considered the motion, oppositions, responses and replies, if any, and having heard oral argument presented at the hearing,

IT IS ORDERED that the motion is granted, and the automatic stay of § 362(a) is extended in this case. The automatic stay shall remain in effect to the extent provided by the Bankruptcy Code.

16. [15-11245](#)-A-13 **IN RE: WILLIAM O'BRIEN AND JILL ALVARADO-O'BRIEN**
[MHM-3](#)

CONTINUED MOTION TO DISMISS CASE
10-31-2018 [\[72\]](#)

MICHAEL MEYER/MV
MARK SIEGEL
RESPONSIVE PLEADING

No Ruling

17. [15-11245](#)-A-13 **IN RE: WILLIAM O'BRIEN AND JILL**
ALVARADO-O'BRIEN
[MLS-1](#)

CONTINUED MOTION TO USE 401(K) FUNDS TO CURE CHAPTER 13
DELINQUENCY
11-28-2018 [[79](#)]

WILLIAM O'BRIEN/MV
MARK SIEGEL

No Ruling

18. [18-14847](#)-A-13 **IN RE: FRANK CRUZ**
[FC-1](#)

AMENDED MOTION TO VACATE DISMISSAL OF CASE
1-25-2019 [[49](#)]

FRANK CRUZ/MV
DISMISSED 01/17/2019

No Ruling

19. [18-14847](#)-A-13 **IN RE: FRANK CRUZ**
[MHM-1](#)

MOTION TO DISMISS CASE
1-16-2019 [[37](#)]

MICHAEL MEYER/MV
DISMISSED 1/17/19

No Ruling

20. [18-15048](#)-A-13 **IN RE: ALDO ESCRIBENS AND ANA CASTILLO**
[SL-1](#)

MOTION TO VALUE COLLATERAL OF MOR FURNITURE
1-7-2019 [\[13\]](#)

ALDO ESCRIBENS/MV
STEPHEN LABIAK

Tentative Ruling

Motion: Value Collateral [Personal Property; Non-vehicular (sofa, loveseat, dining table, six chairs)]

Notice: LBR 9014-1(f)(1); written opposition required

Disposition: Denied without prejudice

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). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). None has been filed. The default of the respondent 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).

VALUATION OF COLLATERAL

Chapter 13 debtors may value collateral by noticed motion. Fed. R. Bankr. P. 3012. Section 506(a) of the Bankruptcy Code provides, "An allowed claim of a creditor secured by a lien on property in which the estate has an interest . . . is a secured claim to the extent of the value of such creditor's interest in the estate's interest in such property" and is unsecured as to the remainder. 11 U.S.C. § 506(a). For personal property, value is defined as "replacement value" on the date of the petition. *Id.* § 506(a)(2). For "property acquired for personal, family, or household purposes, replacement value shall mean the price a retail merchant would charge for property of that kind considering the age and condition of the property at the time value is determined." *Id.* The costs of sale or marketing may not be deducted. *Id.*

The right to value non-vehicular, personal property collateral in which the creditor has a purchase money security interest is limited to such collateral securing a debt that was incurred more than one year before the date of the petition. 11 U.S.C. §1325(a) (hanging paragraph).

In this case, the debtor seeks to value collateral consisting of personal property described as sofa, loveseat, dining table, and six chairs.

However, the motion will be denied because there is nothing in the record establishing that the debt secured by the collateral property was not incurred within the one-year period preceding the date of the petition.

21. [18-14452](#)-A-13 **IN RE: ARIANA ERKELENS**
[MHM-1](#)

OBJECTION TO DEBTOR'S CLAIM OF EXEMPTIONS
1-8-2019 [[20](#)]

MICHAEL MEYER/MV
MARK ZIMMERMAN

Final Ruling

Objection: Objection to Claim of Exemptions
Notice: LBR 9014-1(f)(1); written opposition required
Disposition: Overruled as moot
Order: Civil minute order

MOOTNESS OF OBJECTION TO EXEMPTIONS

Federal courts have no authority to decide moot questions. *Arizonans for Official English v. Arizona*, 520 U.S. 43, 67-68, 72 (1997). "Mootness has been described as the doctrine of standing set in a time frame: The requisite personal interest that must exist at the commencement of the litigation (standing) must continue throughout its existence (mootness)." *Id.* at 68 n.22 (quoting *U.S. Parole Comm'n v. Geraghty*, 445 U.S. 388, 397 (1980)) (internal quotation marks omitted).

Since this objection was filed, the debtors have filed an Amended Schedule C (ECF No. 23). Accordingly, this objection is moot.

CIVIL MINUTE ORDER

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

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

The trustee's objection to exemptions has been presented to the court. Having considered the motion, any oppositions or replies, and having heard oral argument presented at the hearing, if any,

IT IS ORDERED that the objection is overruled as moot. No relief will be awarded.

22. [18-14155](#)-A-13 **IN RE: SANDRA BOMBITA**
[TCS-1](#)

MOTION TO VALUE COLLATERAL OF BALBOA THRIFT AND LOAN
1-4-2019 [[17](#)]

SANDRA BOMBITA/MV
TIMOTHY SPRINGER

Tentative Ruling

Motion: Value Collateral [Personal Property; Motor Vehicle (2014 Ford Fusion)]

Notice: LBR 9014-1(f)(1); written opposition filed

Disposition: Denied without prejudice

Order: Civil minute order

Chapter 13 debtors may value collateral by noticed motion. Fed. R. Bankr. P. 3012. Section 506(a) of the Bankruptcy Code provides, "An allowed claim of a creditor secured by a lien on property in which the estate has an interest . . . is a secured claim to the extent of the value of such creditor's interest in the estate's interest in such property" and is unsecured as to the remainder. 11 U.S.C. § 506(a). For personal property, value is defined as "replacement value" on the date of the petition. *Id.* § 506(a)(2). For "property acquired for personal, family, or household purposes, replacement value shall mean the price a retail merchant would charge for property of that kind considering the age and condition of the property at the time value is determined." *Id.* The costs of sale or marketing may not be deducted. *Id.*

A debtor's ability to value collateral consisting of a motor vehicle is limited by the terms of the hanging paragraph of § 1325(a). See 11 U.S.C. § 1325(a) (hanging paragraph). Under this statute, a lien secured by a motor vehicle cannot be stripped down to the collateral's value if: (i) the lien securing the claim is a purchase money security interest, (ii) the debt was incurred within the 910-day period preceding the date of the petition, and (iii) the motor vehicle was acquired for the debtor's personal use. 11 U.S.C. § 1325(a) (hanging paragraph).

In this case, the debtor seeks to value collateral consisting of a motor vehicle. The court does not have admissible evidence of value for the vehicle. The only evidence of value in the record is a statement from the debtor in her declaration, stating that the vehicle has a replacement value of \$8,146. ECF No. 19. But, this is an opinion and not a fact, however, and the debtor is a lay person. The declaration does not qualify her as a retail merchant familiar with the requisite specialized knowledge pertaining to the price a retail merchant would charge for the vehicle. See Fed. R. Evid. 702 & 703. And, to the extent the debtor is repeating another person's opinion about the replacement value of the vehicle, the debtor's statement is inadmissible hearsay. See Fed. R. Evid. 801(c) and 802. Accordingly, the motion will be denied.

23. [18-14558](#)-A-13 **IN RE: MARIA MAGALLAN**
[SL-1](#)

MOTION TO CONFIRM PLAN
1-10-2019 [\[25\]](#)

MARIA MAGALLAN/MV
SCOTT LYONS

Final Ruling

Motion: Confirm Chapter 13 Plan

Notice: LBR 3015-1(d)(1), 9014-1(f)(1); written opposition required

Disposition: Granted

Order: Prepared by the trustee, approved by debtor's counsel

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 3015-1(d)(1), 9014-1(f)(1)(B). None has been filed. 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).

Chapter 13 plan confirmation is governed by 11 U.S.C. §§ 1322, 1325 and by Federal Rule of Bankruptcy Procedure 2002(b) and Local Bankruptcy Rule 3015-1. The debtor has the burden of proving that the plan complies with all statutory requirements of confirmation. *In re Andrews*, 49 F.3d 1404, 1407-08 (9th Cir. 1995); *In re Barnes*, 32 F.3d 405, 407-08 (9th Cir. 1994). The court finds that the debtor has sustained that burden, and the court will approve confirmation of the plan.

24. [18-14461](#)-A-13 **IN RE: MARIA RODRIGUEZ**
[MJA-1](#)

AMENDED MOTION TO CONFIRM PLAN
12-21-2018 [\[18\]](#)

MARIA RODRIGUEZ/MV
MICHAEL ARNOLD
WITHDRAWN

Final Ruling

The motion withdrawn, the matter is dropped as moot.

25. [18-14666](#)-A-13 **IN RE: RIANA NIEBLAS**
[MHM-1](#)

MOTION TO DISMISS CASE
1-16-2019 [\[13\]](#)

MICHAEL MEYER/MV
SCOTT LYONS
RESPONSIVE PLEADING

Final Ruling

The motion withdrawn, the matter is dropped as moot.

26. [18-14766](#)-A-13 **IN RE: FAITH MARTIN**
[MHM-2](#)

MOTION TO DISMISS CASE
1-11-2019 [\[15\]](#)

MICHAEL MEYER/MV
SCOTT LYONS

Final Ruling

Motion: Dismiss Case

Notice: LBR 9014-1(f)(1); 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). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). None has been filed. 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).

CASE DISMISSAL

The chapter 13 trustee moves to dismiss this chapter 13 case due to the debtor's failure to file the 2015 and 2016 tax returns as required by section 1308(a). There are no significant nonexempt assets in this case. The court concludes then that dismissal, rather than conversion, is in the best interest of the creditors and the estate. For the reasons stated in the motion, dismissal is appropriate. See 11 U.S.C. § 1307(e).

CIVIL MINUTE ORDER

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

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

The trustee's motion to dismiss this chapter 13 case has been presented to the court. Having entered the default of respondent debtor 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 because of the debtor's failure to file the 2015 and 2016 tax returns as required by section 1308. The court hereby dismisses this case.

27. [13-17268](#)-A-13 **IN RE: CHRISTOPHER/NORMA ABLES**
[JRL-2](#)

MOTION TO SUBSTITUTE DEBTOR AS SUCCESSOR TO CO-DEBTOR, TO
CONTINUE ADMINISTRATION OF CASE, FOR WAIVER OF 1328
REQUIREMENTS, FOR EXEMPTION FROM FINANCIAL MANAGEMENT COURSE
12-27-2018 [\[96\]](#)

CHRISTOPHER ABLES/MV
JERRY LOWE

Final Ruling

Motion: Substitution of Representative, Continued Administration, Waiver of Personal Financial Management and Waiver of Certifications

Notice: LBR 9014-1(f)(1); 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). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). None has been filed. 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).

The debtor Christopher Ables asks that he is substituted as successor in interest to co-debtor Norma Ables, as Norma Ables passed away on July 17, 2017, prior to the full administration of this chapter 13 bankruptcy estate.

DISCUSSION

Suggestion of Death

When a chapter 13 debtor dies, counsel for the debtor shall file a Suggestion of Death.

Notice of Death. In a bankruptcy case which has not been closed, a **Notice of Death of the debtor [Fed. R. Civ. P. 25(a), Fed. R. Bankr. P. 7025]** shall be filed within **sixty (60) days of the death of a debtor by the counsel for the deceased debtor or the person who intends to be appointed as the representative for or successor to a deceased debtor.** The Notice of Death shall be served on the trustee, U.S. Trustee, and all other parties in interest. **A copy of the death certificate (redacted as appropriate) shall be filed as an exhibit to the Notice of Death.**

LBR 1016-1(a) (emphasis added); see also, Fed. R. Civ. P. 25(a), *incorporated by Fed. R. Bank. P. 7025, 9014(c).*

Here, no Suggestion of Death was filed in this case.

Substitution of Representative

Upon the death of the debtor, a personal representative for the debtor must be substituted as the real party in interest.

An action must be prosecuted in the name of the real party in interest. The following may sue in their own names without joining the person for whose benefit the action is brought: (A) an executor; (B) an administrator; (C) a guardian; (D) a bailee; (E) a trustee of an express trust; (F) a party with whom or in whose name a contract has been made for another's benefit; and (G) a party authorized by statute.

Fed. R. Civ. P. 17(a), *incorporated by Fed. R. Bankr. P. 7017, 9014(c)* (emphasis added).

Where the debtor dies during the administration of a chapter 13 case, dismissal of the case is not required. "[I]f further administration is possible and in the best interest of the parties, the case may proceed and be concluded in the same manner, so far as possible, as though the death or incompetency had not occurred." Fed. R. Bankr. P. 1016. But a representative for the now deceased debtor needs to be appointed. And that appointment process is implemented by Rule 25(a).

If a party dies and the claim is not extinguished, the court may order substitution of the proper party. A motion for substitution may be made by any party or by the decedent's successor or representative. If the motion is not made within 90 days after service of a statement noting the death, the action by or against the decedent must be dismissed.

Fed. R. Civ. P. 25, *incorporated by Fed. R. Bankr. P. 7025, 9014(c)* and LBR 1016-1(a).

Co-debtor Norma Ables passed away on July 17, 2017, prior to the full administration of this chapter 13 bankruptcy estate.

Continued Administration

Continued administration on behalf of a deceased chapter 13 debtor is discretionary.

Death or incompetency of the debtor shall not abate a liquidation case under chapter 7 of the Code. In such event the estate shall be administered and the case concluded in the same manner, so far as possible, as though the death or incompetency had not occurred. **If a reorganization, family farmer's debt adjustment, or individual's debt adjustment case is pending under chapter 11, chapter 12, or chapter 13, the case may be dismissed; or if further administration is possible and in the best interest of the parties, the case may proceed and be concluded in the same manner, so far as possible, as though the death or incompetency had not occurred.**

Fed. R. Bankr. P. 1016 (emphasis added).

Administration of the estate continued after Norma Ables' passing, and the case now appears to have concluded. The trustee's final report and account was approved on February 8, 2019. ECF No. 105.

Wavier of Post-Petition Education Requirement

In most cases, individual chapter 13 debtors must complete a post-petition personal financial management course to receive a discharge. 11 U.S.C. 727(a)(11).

The court shall grant the debtor a discharge unless . . .
. . . after filing the petition, the debtor failed to complete an instructional course concerning personal financial management described in section 111, except that this paragraph shall not apply to a debtor who is a person described in section 109(h)(4).

Section 109(h) provides:

The requirements of paragraph (1) shall not apply with respect to **a debtor whom the court determines, after notice and hearing, is unable to complete those requirements because of incapacity, disability,** or active military duty in a military combat zone. For the purposes of this paragraph, incapacity means that the debtor is impaired by reason of mental illness or mental deficiency so that he is incapable of realizing and making rational decisions with respect to his financial responsibilities; and **"disability" means that the debtor is so physically impaired as to be unable, after reasonable effort, to participate in an in person, telephone, or Internet briefing required under paragraph (1).**

11 U.S.C.A. § 109(h)(4) (emphasis added).

Death is a disability within the meaning of § 109(h)(4). Norma Ables then is exempt from the requirement for a post-petition personal financial management course.

WAIVER OF § 1328 CERTIFICATIONS

The motion requests a waiver of the requirement to complete and file § 1328 certifications, including certifications concerning domestic support obligations, prior bankruptcy discharges, exemptions exceeding the amount stated in § 522(q)(1) and pending criminal or civil proceedings described in § 522(q)(1)(A) and (B). These certifications are generally required for debtors by § 1328(a) and Local Bankruptcy Rule 5009-1(b) and (c). The court will waive the requirement that the deceased debtor file certifications concerning compliance with § 1328, including Forms EDC 3-190 and EDC 3-191 required under LBR 5009-1.

CIVIL MINUTE ORDER

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

Christopher Ables' motion has been presented to the court. Having entered the default of the respondents and having considered the motion together with papers filed in support and opposition, and having heard the arguments of counsel, if any,

IT IS ORDERED that the motion is granted.

28. [18-14569](#)-A-13 **IN RE: JESUS/FATIMA AYALA**

CONTINUED MOTION FOR RELIEF FROM AUTOMATIC STAY
1-10-2019 [\[30\]](#)

ALLY BANK/MV
TIMOTHY SPRINGER
ADAM BARASCH/ATTY. FOR MV.
WITHDRAWN

Final Ruling

The motion withdrawn, the matter is dropped as moot.

29. [19-10169](#)-A-13 **IN RE: DAMON/REGINA GUNDERMAN**
[DRJ-2](#)

MOTION TO EXTEND AUTOMATIC STAY
1-25-2019 [\[8\]](#)

DAMON GUNDERMAN/MV
DAVID JENKINS

Tentative Ruling

Motion: Extend the Automatic Stay

Notice: LBR 9014-1(f)(2); no 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).

EXTENSION OF THE STAY

Upon request of a party in interest, the court may extend the automatic stay where the debtor has had one previous bankruptcy case that was pending within the 1-year period prior to the filing of the current bankruptcy case but was dismissed. See 11 U.S.C. § 362(c)(3)(B). Procedurally, the automatic stay may be extended only "after notice and a hearing *completed* before the expiration of the 30-day period" after the filing of the petition in the later case. *Id.* (emphasis added). To extend the stay, the court must find that the filing of the *later case* is in good faith as to the creditors to be stayed, and the extension of the stay may be made subject to conditions or limitations the court may impose. *Id.*

For the reasons stated in the motion and supporting papers, the court finds that the filing of the current case is in good faith as to the creditors to be stayed. The motion will be granted.

CIVIL MINUTE ORDER

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

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

A motion to extend the automatic stay has been presented to the court in this case. Having considered the motion, oppositions, responses and replies, if any, and having heard oral argument presented at the hearing,

IT IS ORDERED that the motion is granted, and the automatic stay of § 362(a) is extended in this case. The automatic stay shall remain in effect to the extent provided by the Bankruptcy Code.

30. [18-14071](#)-A-13 **IN RE: JENNA BEAN**
[JRL-1](#)

MOTION TO CONFIRM PLAN
1-2-2019 [[36](#)]

JENNA BEAN/MV
JERRY LOWE

No Ruling

31. [18-14682](#)-A-13 **IN RE: LUIS AVALOS**
[MHM-1](#)

MOTION TO DISMISS CASE
1-11-2019 [[16](#)]

MICHAEL MEYER/MV
THOMAS GILLIS
RESPONSIVE PLEADING

Final Ruling

The motion withdrawn, the matter is dropped as moot.

32. [18-14083](#)-A-13 **IN RE: SAMUEL/JULIE ROMBAOA**
[DRJ-2](#)

MOTION TO CONFIRM PLAN
1-9-2019 [[30](#)]

SAMUEL ROMBAOA/MV
DAVID JENKINS

Final Ruling

Motion: Confirm Chapter 13 Plan

Notice: LBR 3015-1(d)(1), 9014-1(f)(1); written opposition required

Disposition: Granted

Order: Prepared by the trustee, approved by debtor's counsel

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 3015-1(d)(1), 9014-1(f)(1)(B). None has been filed. 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).

Chapter 13 plan confirmation is governed by 11 U.S.C. §§ 1322, 1325 and by Federal Rule of Bankruptcy Procedure 2002(b) and Local

Bankruptcy Rule 3015-1. The debtor has the burden of proving that the plan complies with all statutory requirements of confirmation. *In re Andrews*, 49 F.3d 1404, 1407-08 (9th Cir. 1995); *In re Barnes*, 32 F.3d 405, 407-08 (9th Cir. 1994). The court finds that the debtor has sustained that burden, and the court will approve confirmation of the plan.

33. [18-14586](#)-A-13 **IN RE: JAMES/LAURA JORGENSEN**
[MHM-2](#)

OBJECTION TO DEBTOR'S CLAIM OF EXEMPTIONS
1-8-2019 [\[24\]](#)

MICHAEL MEYER/MV
NICHOLAS ANIOTZBEHERE
RESPONSIVE PLEADING

Final Ruling

Objection: Objection to Claim of Exemptions
Notice: LBR 9014-1(f)(1); written opposition required
Disposition: Overruled as moot
Order: Civil minute order

MOOTNESS OF OBJECTION TO EXEMPTIONS

Federal courts have no authority to decide moot questions. *Arizonans for Official English v. Arizona*, 520 U.S. 43, 67-68, 72 (1997). "Mootness has been described as the doctrine of standing set in a time frame: The requisite personal interest that must exist at the commencement of the litigation (standing) must continue throughout its existence (mootness)." *Id.* at 68 n.22 (quoting *U.S. Parole Comm'n v. Geraghty*, 445 U.S. 388, 397 (1980)) (internal quotation marks omitted).

Since this objection was filed, the debtors have filed an Amended Schedule C (ECF No. 28). Accordingly, this objection is moot.

CIVIL MINUTE ORDER

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

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

The trustee's objection to exemptions has been presented to the court. Having considered the motion, any oppositions or replies, and having heard oral argument presented at the hearing, if any,

IT IS ORDERED that the objection is overruled as moot. No relief will be awarded.

34. [18-14586](#)-A-13 **IN RE: JAMES/LAURA JORGENSEN**
[MHM-3](#)

OBJECTION TO DEBTOR'S CLAIM OF EXEMPTIONS
1-23-2019 [[44](#)]

MICHAEL MEYER/MV
NICHOLAS ANIOTZBEHERE
RESPONSIVE PLEADING

Final Ruling

The objection withdrawn, the matter is dropped as moot.

35. [18-14592](#)-A-13 **IN RE: MICHAEL/RANDI KESTNER**
[MHM-2](#)

OBJECTION TO DEBTOR'S CLAIM OF EXEMPTIONS
1-8-2019 [[31](#)]

MICHAEL MEYER/MV
STEPHEN LABIAK
RESPONSIVE PLEADING

Final Ruling

Objection: Objection to Claim of Exemptions
Notice: LBR 9014-1(f)(1); written opposition required
Disposition: Overruled as moot
Order: Civil minute order

MOOTNESS OF OBJECTION TO EXEMPTIONS

Federal courts have no authority to decide moot questions. *Arizonans for Official English v. Arizona*, 520 U.S. 43, 67-68, 72 (1997). "Mootness has been described as the doctrine of standing set in a time frame: The requisite personal interest that must exist at the commencement of the litigation (standing) must continue throughout its existence (mootness)." *Id.* at 68 n.22 (quoting *U.S. Parole Comm'n v. Geraghty*, 445 U.S. 388, 397 (1980)) (internal quotation marks omitted).

Since this objection was filed, the debtors have filed an Amended Schedule C (ECF No. 36). Accordingly, this objection is moot.

CIVIL MINUTE ORDER

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

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

The trustee's objection to exemptions has been presented to the court. Having considered the motion, any oppositions or replies, and having heard oral argument presented at the hearing, if any,

IT IS ORDERED that the objection is overruled as moot. No relief will be awarded.

36. [18-14896](#)-A-13 **IN RE: ROBERT DAY**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES
1-14-2019 [[15](#)]

MARK ZIMMERMAN
\$100.00 INSTALLMENT PAYMENT ON 1/30/19

Tentative Ruling

The debtor has paid the sum of \$100, which pays the installment payment due January 9, 2019, in the sum of \$79, and partially pays the installment payment due February 8, 2019. An additional sum of \$56 remains due for the February 8, 2019 installment. Should that unpaid amount remain unpaid at the time of the hearing, the case may be dismissed without further notice or hearing.