

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

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

**PRE-HEARING DISPOSITIONS**

**DAY: THURSDAY**  
**DATE: FEBRUARY 16, 2017**  
**CALENDAR: 9:00 A.M. CHAPTERS 13 AND 12 CASES**

**GENERAL DESIGNATIONS**

Each pre-hearing disposition is prefaced by the words "Final Ruling," "Tentative Ruling" or "No Tentative Ruling." Except as indicated below, matters designated "Final Ruling" will not be called and counsel need not appear at the hearing on such matters. Matters designated "Tentative Ruling" or "No Tentative Ruling" will be called.

**COURT'S ERRORS IN FINAL RULINGS**

If a party believes that a final ruling contains an error that would, if reflected in the order or judgment, warrant a motion under Federal Rule of Civil Procedure 60(a), as incorporated by Federal Rules of Bankruptcy Procedure 9024, then the party affected by such error shall, not later than 4:00 p.m. (PST) on the day before the hearing, inform the following persons by telephone that they wish the matter either to be called or dropped from calendar, as appropriate, notwithstanding the court's ruling: (1) all other parties directly affected by the motion; and (2) Kathy Torres, Judicial Assistant to the Honorable Fredrick E. Clement, at (559) 499-5860. Absent such a timely request, a matter designated "Final Ruling" will not be called.

1. [12-14603](#)-A-13 JUDITH BROWN  
BCS-3

MOTION FOR COMPENSATION FOR  
BENJAMIN C. SHEIN, DEBTORS  
ATTORNEY(S)  
1-18-17 [[36](#)]

BENJAMIN SHEIN/Atty. for dbt.

### **Final Ruling**

**Application:** Allowance of Final Compensation and Expense Reimbursement

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

**Disposition:** Approved

**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 application was required not less than 14 days before the hearing on the application. 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).

### **COMPENSATION AND EXPENSES**

In this Chapter 13 case, Shein Law Group, PC has applied for an allowance of final compensation and reimbursement of expenses. The applicant requests that the court allow compensation in the amount of \$2650.00 and reimbursement of expenses in the amount of \$120.24. The applicant also asks that the court allow on a final basis all prior applications for fees and costs that the court has previously allowed on an interim basis.

Section 330(a) of the Bankruptcy Code authorizes "reasonable compensation for actual, necessary services" rendered by a debtor's attorney in a Chapter 13 case and "reimbursement for actual, necessary expenses." 11 U.S.C. § 330(a)(1), (4)(B). Reasonable compensation is determined by considering all relevant factors. See *id.* § 330(a)(3).

The court finds that the compensation and expenses sought are reasonable, and the court will approve the application on a final basis. The court also approves on a final basis all prior applications for interim fees and costs that the court has allowed under § 331 on an interim basis.

### **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.

Shein Law Group, PC's application for allowance of final compensation and reimbursement of expenses 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 application,

IT IS ORDERED that the application is approved on a final basis. The court allows final compensation in the amount of \$2650.00 and reimbursement of expenses in the amount of \$120.24. The aggregate allowed amount equals \$2770.24. As of the date of the application, the applicant held a retainer in the amount of \$0.00. The amount of \$2770.24 shall be allowed as an administrative expense to be paid through the plan. The court also approves on a final basis all prior applications for interim fees and costs that the court has allowed under § 331 on an interim basis.

IT IS FURTHER ORDERED that the trustee is authorized to pay the fees allowed by this order from the available funds of the plan in a manner consistent with the terms of the confirmed plan.

2.     [13-15103](#)-A-13     SYLVIA RODRIGUEZ                             MOTION TO MODIFY PLAN  
          SAH-6   12-22-16 [[79](#)]  
          SYLVIA RODRIGUEZ/MV  
          SUSAN HEMB/Atty. for dbt.

**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 confirmation 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. The debtor bears the burden of proof as to each element. *In re Barnes*, 32 F.3d 405, 407 (9th Cir. 1994). The court finds that the debtor has sustained that burden. The court will grant the motion and approve the modification of the plan.

3.     [16-13304](#)-A-13     GERALD STULLER AND                             MOTION TO DISMISS CASE  
          MHM-1                             BARBARA WIKINSON-STULLER             1-10-17 [[38](#)]  
          MICHAEL MEYER/MV  
          SCOTT SAGARIA/Atty. for dbt.  
          RESPONSIVE PLEADING

**No tentative ruling.**

4. [13-14205](#)-A-13 EDDIE NOLEN MOTION TO INCUR DEBT  
HDN-3 1-30-17 [[58](#)]  
EDDIE NOLEN/MV  
HENRY NUNEZ/Atty. for dbt.

**Tentative Ruling**

**Motion:** Approve New Debt [Refinance of Existing Home Loan]

**Notice:** LBR 9014-1(f)(2); no written opposition required

**Disposition:** Granted

**Order:** Prepared by moving party

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).

The debtor seeks to incur new debt to finance the purchase of a new home. Amended Schedules I and J have been filed in August 12, 2014, and the declaration states that the income and expenses set out in those schedules have not changed. These schedules indicate that the debtor can afford the plan payment, which includes the proposed monthly loan payment of principal and interest that would result from obtaining this financing. The court will grant the motion, and the trustee will approve the order as to form and content.

5. [16-14612](#)-A-13 JOSE GARCIA OBJECTION TO CONFIRMATION OF  
MHM-1 PLAN BY MICHAEL H. MEYER  
1-26-17 [[13](#)]  
THOMAS GILLIS/Atty. for dbt.  
RESPONSIVE PLEADING  
WITHDRAWN

**Final Ruling**

The objection withdrawn, the matter is dropped as moot.

6. [16-11416](#)-A-13 LINDA GILBREATH MOTION TO MODIFY PLAN  
ACL-2 1-5-17 [[35](#)]  
LINDA GILBREATH/MV  
JANINE ESQUIVEL/Atty. for dbt.

**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 confirmation 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. The debtor bears the burden of proof as to each element. *In re Barnes*, 32 F.3d 405, 407 (9th Cir. 1994). The court finds that the debtor has sustained that burden. The court will grant the motion and approve the modification of the plan.

7. [16-12720](#)-A-13 FRED/KAREN FRANK MOTION TO CONFIRM PLAN  
RSW-1 1-3-17 [[46](#)]  
FRED FRANK/MV  
ROBERT WILLIAMS/Atty. for dbt.  
RESPONSIVE PLEADING

**No tentative ruling.**

8. [16-13620](#)-A-13 RUBEN/KARIMA PARKS MOTION TO VALUE COLLATERAL OF  
JDW-3 GM FINANCIAL  
RUBEN PARKS/MV 1-13-17 [[47](#)]  
JOEL WINTER/Atty. for dbt.  
RESPONSIVE PLEADING

**Tentative Ruling**

**Motion:** Value Collateral [Personal Property; Motor Vehicle]

**Notice:** Written opposition filed by responding party

**Disposition:** Continued for evidentiary hearing

**Order:** Civil Minute Order

The motion seeks to value collateral consisting of a motor vehicle. The court will hold a scheduling conference for the purpose of setting an evidentiary hearing under Federal Rule of Bankruptcy Procedure 9014(d). An evidentiary hearing is required because the disputed, material factual issue of the collateral's value must be resolved before the court can rule on the relief requested.

All parties shall appear at the hearing for the purpose of determining the nature and scope of the matter, identifying the disputed and undisputed issues, and establishing the relevant scheduling dates and deadlines. Alternatively, the court may continue the matter to allow the parties to file a joint status report that states:

- (1) all relief sought and the grounds for such relief;
- (2) the disputed factual or legal issues;
- (3) the undisputed factual or legal issues;
- (4) whether discovery is necessary or waived;
- (5) the deadline for Rule 26(a)(1)(A) initial disclosures;

(6) the deadline for Rule 26(a)(2) expert disclosures (including written reports);  
(7) the deadline for the close of discovery;  
(8) whether the alternate-direct testimony procedure will be used;  
(9) the deadlines for any dispositive motions or evidentiary motions;  
(10) the dates for the evidentiary hearing and the trial time that will be required;  
(11) any other such matters as may be necessary or expedient to the resolution of these issues.

Unless the parties request more time, such a joint status report shall be filed 14 days in advance of the continued hearing date. The parties may jointly address such issues orally at the continued hearing in lieu of a written joint status report.

9. [16-13620](#)-A-13 RUBEN/KARIMA PARKS MOTION TO VALUE COLLATERAL OF  
JDW-4 CAPITAL ONE AUTO  
RUBEN PARKS/MV 1-13-17 [\[51\]](#)  
JOEL WINTER/Atty. for dbt.

### **Final Ruling**

**Motion:** Value Collateral [Personal Property; Motor Vehicle]

**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 2013 Chevrolet Camaro. 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 \$19,282.00.

#### **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 2013 Chevrolet Camaro has a value of \$19,282.00. No senior liens on the collateral have been identified. The respondent has a secured claim in the amount of \$19,282.00 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.

10. [16-14020](#)-A-13 KURT/SABRINA PRINDIVILLE  
MHM-2  
JERRY LOWE/Atty. for dbt.
- OBJECTION TO CONFIRMATION OF  
PLAN BY TRUSTEE MICHAEL H.  
MEYER  
1-26-17 [[27](#)]

**No tentative ruling.**

11. [12-11221](#)-A-13 KELLY YOST  
MHM-1  
MICHAEL MEYER/MV  
PETER FEAR/Atty. for dbt.  
WITHDRAWN, ORDER ECF NO. 78
- MOTION TO DISMISS CASE  
1-19-17 [[71](#)]

#### **Final Ruling**

The motion withdrawn, the matter is dropped as moot.

12. [16-13635](#)-A-13 STEVEN/MARGARITA STROUD MOTION TO CONFIRM PLAN  
MAZ-1 12-8-16 [[28](#)]  
STEVEN STROUD/MV  
MARK ZIMMERMAN/Atty. for dbt.

**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 bears the burden of proof as to each element. *In re Barnes*, 32 F.3d 405, 407 (9th Cir. 1994). The court finds that the debtor has sustained that burden, and the court will approve confirmation of the plan.

13. [17-10237](#)-A-13 SYLVIA ARELLANO MOTION TO EXTEND AUTOMATIC STAY  
SL-1 2-2-17 [[8](#)]  
SYLVIA ARELLANO/MV  
SCOTT LYONS/Atty. for dbt.

**Tentative Ruling**

**Motion:** Extend the Automatic Stay

**Notice:** LBR 9014-1(f)(2); no written opposition required

**Disposition:** Granted except as to any creditor without proper notice of this motion

**Order:** Prepared by moving party pursuant to the instructions below

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).

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 except as to any creditor without proper notice of this motion.

14. [17-10138](#)-A-13 GASPAR/FRANCISCA MENDEZ MOTION TO EXTEND AUTOMATIC STAY  
PBB-1 1-31-17 [[10](#)]  
GASPAR MENDEZ/MV  
PETER BUNTING/Atty. for dbt.

### **Tentative Ruling**

**Motion:** Extend the Automatic Stay

**Notice:** LBR 9014-1(f)(2); no written opposition required

**Disposition:** Granted except as to any creditor without proper notice of this motion

**Order:** Prepared by moving party pursuant to the instructions below

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).

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 except as to any creditor without proper notice of this motion.

15. [16-14444](#)-A-13 STEVEN WILLIAMS  
KAZ-1  
WELLS FARGO BANK, NA/MV  
MICHAEL AVANESIAN/Atty. for dbt.  
KRISTIN ZILBERSTEIN/Atty. for mv.

OBJECTION TO CONFIRMATION OF  
PLAN BY WELLS FARGO BANK, NA  
1-30-17 [[35](#)]

### **Tentative Ruling**

**Objection:** Creditor's Objection to Confirmation of Plan

**Notice:** LBR 3015-1(c)(4), 9014-1(f)(2); no written opposition required

**Disposition:** Sustained

**Order:** Civil minute order

No responding party is required to file written opposition to the objection; opposition may be presented at the hearing. LBR 3015-1(c)(4), 9014-1(f)(2)(C). If opposition is presented at the hearing, the court may rule on the merits or set a briefing schedule. Absent such opposition, the court will adopt this tentative ruling.

### **CONFIRMATION**

The court takes judicial notice of the plan and its contents. Fed. R. Evid. 201. The plan provides for a Class 1 claim of the objecting party, Wells Fargo Bank, N.A., but it does not provide for an ongoing mortgage payment. The plan does not comply with its own terms. Ch. 13 Plan § 2.08(b). In addition, the plan does not comply with § 1322(b)(5) and § 1325(a)(5)(B)(ii).

Because the plan payment is only \$489.06, and the ongoing mortgage payment is \$1321.49 as set forth in Wells Fargo Bank, N.A.'s proof of claim, the plan is also not feasible under § 1325(a)(6).

The objection will be sustained and confirmation denied.

### **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.

Wells Fargo Bank, N.A.'s objection to confirmation has been presented to the court. Having considered the objection, oppositions, responses and replies, if any, and having heard oral argument presented at the hearing,

IT IS ORDERED that the objection is sustained.

IT IS FURTHER ORDERED that a Chapter 13 plan must be confirmed no later than the first hearing date available after the 75-day period that commences on the date of this hearing. If a Chapter 13 plan has not been confirmed by such date, the court may dismiss the case on the trustee's motion. See 11 U.S.C. § 1307(c)(1).

16. [16-13250](#)-A-13 SONYA SIDHU MOTION TO DISMISS CASE  
MHM-3 1-13-17 [[39](#)]  
MICHAEL MEYER/MV  
TIMOTHY SPRINGER/Atty. for dbt.

**No tentative ruling.**

17. [16-14351](#)-A-13 JESUS LANDEROS AND MOTION TO DISMISS CASE  
MHM-1 VICTORIA BUENAVIDA 1-11-17 [[23](#)]  
MICHAEL MEYER/MV  
THOMAS GILLIS/Atty. for dbt.  
RESPONSIVE PLEADING  
WITHDRAWN

**Final Ruling**

The motion withdrawn, the matter is dropped as moot.

18. [16-13752](#)-A-13 GURMIT SANDHU AND KARMIT CONTINUED MOTION TO CONFIRM  
GEG-3 BRAR PLAN  
GURMIT SANDHU/MV 12-1-16 [[35](#)]  
GLEN GATES/Atty. for dbt.  
RESPONSIVE PLEADING

**No tentative ruling.**

19. [12-18353](#)-A-13 LEROY CORDOVA MOTION FOR COMPENSATION BY THE  
BCS-5 LAW OFFICE OF SHEIN LAW GROUP,  
BENJAMON SHEIN/MV PC FOR BENJAMIN C. SHEIN,  
DEBTOR'S FORMER ATTORNEY  
1-18-17 [[69](#)]

**Final Ruling**

**Application:** Allowance of Final Compensation and Expense Reimbursement

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

**Disposition:** Approved

**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 application was required not less than 14 days before the hearing on the application. 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).

## **COMPENSATION AND EXPENSES**

In this Chapter 13 case, Shein Law Group, PC has applied for an allowance of final compensation and reimbursement of expenses. The applicant requests that the court allow compensation in the amount of \$967.50 and reimbursement of expenses in the amount of \$93.58. The applicant also asks that the court allow on a final basis all prior applications for fees and costs that the court has previously allowed on an interim basis.

Section 330(a) of the Bankruptcy Code authorizes "reasonable compensation for actual, necessary services" rendered by a debtor's attorney in a Chapter 13 case and "reimbursement for actual, necessary expenses." 11 U.S.C. § 330(a)(1), (4)(B). Reasonable compensation is determined by considering all relevant factors. See *id.* § 330(a)(3).

The court finds that the compensation and expenses sought are reasonable, and the court will approve the application on a final basis. The court also approves on a final basis all prior applications for interim fees and costs that the court has allowed under § 331 on an interim basis.

## **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.

Shein Law Group, PC's application for allowance of final compensation and reimbursement of expenses 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 application,

IT IS ORDERED that the application is approved on a final basis. The court allows final compensation in the amount of \$967.50 and reimbursement of expenses in the amount of \$93.58. The aggregate allowed amount equals \$1,061.08. As of the date of the application, the applicant held a retainer in the amount of \$0.00. The amount of \$1,061.08 shall be allowed as an administrative expense to be paid through the plan, and the remainder of the allowed amounts, if any, shall be paid from the retainer held by the applicant. The applicant is authorized to draw on any retainer held. The court also approves on a final basis all prior applications for interim fees and costs that the court has allowed under § 331 on an interim basis.

IT IS FURTHER ORDERED that the trustee is authorized to pay the fees allowed by this order from the available funds of the plan in a manner consistent with the terms of the confirmed plan.

20. [16-14254](#)-A-13 RICHARD/VERONICA ESPINOZA MOTION TO DISMISS CASE  
MHM-1 1-11-17 [[29](#)]  
MICHAEL MEYER/MV  
TIMOTHY SPRINGER/Atty. for dbt.

### **Final Ruling**

**Motion:** Dismiss Case

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

**Disposition:** Granted

**Order:** Civil minute order

### **CASE DISMISSAL**

The chapter 13 trustee moves to dismiss this chapter 13 case for a delinquency in payments under the debtor's proposed chapter 13 plan and for a failure to appear at the meeting of creditors.

The debtors oppose, promising to appear at the continued meeting of creditors on February 14, 2017. The debtors' opposition does not address the plan delinquency.

The record does indicate at the debtors appeared at the meeting of creditors on February 14, 2017, which moots that component of the motion.

But because the debtors have not opposed dismissal based on plan delinquency cause exists under § 1307(c)(1), (c)(4) and § 1326(a)(1)(A) to dismiss the case. Payments under the proposed plan are delinquent in the amount of \$3,300.00.

### **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 proposed chapter 13 plan in this case. The court hereby dismisses this case.

21. [16-14259](#)-A-13 CHARLES BROWN AND LATASHA MOTION FOR RELIEF FROM  
JWC-2 DIXON-BROWN AUTOMATIC STAY  
FRESNO MANAGEMENT CO./MV 2-2-17 [[25](#)]  
TIMOTHY SPRINGER/Atty. for dbt.  
JOHN CADWALADER/Atty. for mv.

**No tentative ruling.**

22. [15-13461](#)-A-13 RAMIRO OCHOA MOTION FOR RELIEF FROM  
AP-1 AUTOMATIC STAY  
DITECH FINANCIAL LLC/MV 1-13-17 [[179](#)]  
NELLIE AGUILAR/Atty. for dbt.  
ALEXANDER LEE/Atty. for mv.

**Tentative Ruling**

**Motion:** Stay Relief

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

**Disposition:** Denied as moot

**Order:** Civil minute order

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).

The confirmed chapter 13 plan in this case provides for the moving party's claim in Class 4. Class 4 secured claims are long-term claims that are not modified by the plan and that were not in default prior to the filing of the petition. They are paid directly by the debtor or a third party. Section 2.11 of the plan provides that "[u]pon confirmation of the plan, all bankruptcy stays are modified to allow the holder of a Class 4 secured claim to exercise its rights against its collateral and any nondebtor in the event of a default under applicable law or contract."

Because the plan has been confirmed, the automatic stay has already been modified to allow the moving party to exercise its rights against its collateral. No effective relief can be awarded. The movant's personal interest in obtaining relief from the stay no longer exists because the stay no longer affects its collateral. The motion will be denied as moot.

23. [16-14362](#)-A-13 FRANCISCO SANDOVAL  
EAT-1  
NATIONSTAR MORTGAGE LLC/MV  
DARLENE VIGIL/Atty. for mv.                      OBJECTION TO CONFIRMATION OF  
PLAN BY NATIONSTAR MORTGAGE LLC  
1-30-17 [[25](#)]

**No tentative ruling.**

24. [16-14362](#)-A-13 FRANCISCO SANDOVAL  
MHM-1  
MICHAEL MEYER/MV  
WITHDRAWN                      MOTION TO DISMISS CASE  
1-30-17 [[28](#)]

**Final Ruling**

The motion withdrawn, the matter is dropped as moot.

25. [16-14564](#)-A-13 FRANK/REBECCA MARTINEZ  
DWE-1  
U.S. BANK NATIONAL  
ASSOCIATION/MV  
SCOTT LYONS/Atty. for dbt.                      OBJECTION TO CONFIRMATION OF  
PLAN BY U.S. BANK NATIONAL  
ASSOCIATION  
1-31-17 [[28](#)]  
DANE EXNOWSKI/Atty. for mv.

**Tentative Ruling**

**Objection:** Creditor's Objection to Confirmation of Plan

**Notice:** LBR 3015-1(c)(4), 9014-1(f)(2); no written opposition required

**Disposition:** Overruled as moot

**Order:** Civil minute order

No responding party is required to file written opposition to the motion; opposition may be presented at the hearing. LBR 9014-1(f)(2)(C). If opposition is presented at the hearing, the court may rule on the merits or set a briefing schedule. Absent such opposition, the court will adopt this tentative ruling.

The objection will be overruled because any understatement of the amount of the creditor's claim (or arrearage claim) in the plan does not alter the creditor's rights. Section 2.04 of the plan provides that the proof of claim, not the plan, controls the amount and classification of the creditor's claim unless the claim amount or classification is otherwise altered by the court after ruling on one of the three types of matters listed in the section.

26. [16-13265](#)-A-13 MICHELLE KEVORKIAN  
TCS-1  
MICHELLE KEVORKIAN/MV

CONTINUED OBJECTION TO CLAIM OF  
AMERICAN INFOSOURCE, CLAIM  
NUMBER 2 AND/OR OBJECTION TO  
CLAIM OF AMERICAN INFOSOURCE,  
CLAIM NUMBER 3  
11-23-16 [[14](#)]

TIMOTHY SPRINGER/Atty. for dbt.  
CONTINUED TO 3/2 PER ORDER  
#52

**Final Ruling**

Pursuant to order, ECF #52, the matter is continued to March 2, 2017,  
at 9:00 a.m.

27. [16-13480](#)-A-13 DANIEL CISNEROS TORRES  
MHM-2 AND ANGELINA RODRIGUEZ  
MICHAEL MEYER/MV  
SCOTT LYONS/Atty. for dbt.  
RESPONSIVE PLEADING

MOTION TO DISMISS CASE  
1-13-17 [[45](#)]

**No tentative ruling.**

28. [11-61987](#)-A-13 JOSE/LETICIA CERDA  
MHM-6  
MICHAEL MEYER/MV  
ADRIAN WILLIAMS/Atty. for dbt.  
RESPONSIVE PLEADING  
WITHDRAWN

MOTION TO DISMISS CASE  
1-11-17 [[106](#)]

**Final Ruling**

The motion withdrawn, the matter is dropped as moot.

29. [16-14288](#)-A-13 RYAN/NIKOLE EKIZIAN  
MHM-1  
MICHAEL MEYER/MV  
PETER FEAR/Atty. for dbt.  
RESPONSIVE PLEADING  
WITHDRAWN

MOTION TO DISMISS CASE  
1-11-17 [[16](#)]

**Final Ruling**

The motion withdrawn, the matter is dropped as moot.



30. [16-13197](#)-A-13 BENJAMIN CASTILLO  
SAH-2  
BENJAMIN CASTILLO/MV  
SUSAN HEMB/Atty. for dbt.

MOTION TO AVOID LIEN OF  
MEDVETTA FINANCIAL, INC.  
12-22-16 [[37](#)]

### **Final Ruling**

**Motion:** Avoid Lien that Impairs Exemption

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

**Disposition:** Granted

**Order:** Prepared by moving party

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).

Section 522(f) of the Bankruptcy Code authorizes the court to avoid a lien "on an interest of the debtor in property to the extent that such lien impairs an exemption to which the debtor would have been entitled." 11 U.S.C. § 522(f)(1). There are four elements to avoidance of a lien that impairs an exemption: (1) there must be an exemption to which the debtor would have been entitled; (2) the property must be listed on the schedules and claimed as exempt; (3) the lien must impair the exemption claimed; and (4) the lien must be a judicial lien or nonpossessory, nonpurchase-money security interest in property described in § 522(f)(1)(B). *Goswami v. MTC Distrib. (In re Goswami)*, 304 B.R. 386, 390-91 (B.A.P. 9th Cir. 2003). Impairment is statutorily defined: a lien impairs an exemption "to the extent that the sum of - (i) the lien; (ii) all other liens on the property; and (iii) the amount of the exemption that the debtor could claim if there were no liens on the property; exceeds the value that the debtor's interest in the property would have in the absence of any liens." 11 U.S.C. § 522(f)(2)(A).

The responding party's judicial lien, all other liens, and the exemption amount together exceed the property's value by an amount greater than or equal to the debt secured by the responding party's lien. As a result, the responding party's judicial lien will be avoided entirely.