

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Fredrick E. Clement

Bankruptcy Judge

1300 18th Street, First Floor

Bakersfield, California

Each prehearing disposition starts with the words "Final Ruling," "Tentative Ruling" or "No Tentative Ruling." Matters for which a "Final Ruling" has been indicated will not be called and counsel need not appear; matters for which a "Tentative Ruling" or "No Tentative Ruling" has been indicated will be called.

March 29, 2012

9:00 a.m.

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1. [10-14601](#)-A-13 DARREN/CLAUDIA HAGER MOTION TO SELL
LKW-5 3-1-12 [[78](#)]
DARREN HAGER/MV
LEONARD WELSH/Atty. for dbt.

Tentative Ruling. The motion is granted. 11 United States Code section 363(b), made applicable by Section 1303, governs the sale of property of the estate out of the ordinary course of business. The debtor seeks to sell a partial interest in a judgment to Law Finance Group, Inc. The proceeds will be used to pay in full his Chapter 13 plan. Doing so is consistent with the terms of the confirmed plan and is in the best interests of creditor. (Dkt. 17)

But the proposed order filed in support of motion (Exhibit D) shall be modified as follows. First, all sale proceeds shall be paid either to the Chapter 13 trustee or, at the option of the debtor, Leonard Welsh, to be held in his trust account pending payment in full of all amounts required to pay claims and administrative fees in full. Once discharge issues, counsel may disburse unused funds to the debtor. Second, paragraph 4 of the order is stricken; the debtor must make the motion for discharge required by 11 United States Code section 1328.

Counsel for the moving party shall prepare and lodge an order consistent with the findings herein.

2. [10-12404](#)-A-13 ROY/JACQUELYN AMBROSE MOTION TO MODIFY PLAN
DMG-2 1-13-12 [[57](#)]
ROY AMBROSE/MV
D. GARDNER/Atty. for dbt.

Final Ruling. The motion is denied without prejudice. Motions must be supported by admissible evidence showing the moving party's entitlement to the relief sought. (LBR 9014-1(d)(6)) In this case, the motion is unsupported by any evidence showing that the plan complies with United States Code sections 1322 and 1325.

Moreover, a party seeking to confirm a modified Chapter 13 plan needs to

file amended Schedules I and J to demonstrate feasibility.

The court will issue a minute order.

3. [11-62505](#)-A-13 HIGINIO GUEVARA AND ALMA MOTION TO DISMISS CASE FOR
MHM-2 ARREOLA UNREASONABLE DELAY THAT IS
MICHAEL MEYER/MV PREJUDICIAL TO CREDITORS
2-8-12 [[21](#)]
NEIL SCHWARTZ/Atty. for dbt.

Final Ruling. The motion is granted and the case is dismissed. (11 U.S.C. §1307(c)(1)) The debtor has failed to produce the required six months of pay advices and, hence, has deprived the Chapter 13 trustee of the ability to fairly evaluate the plan.

The court will issue a minute order.

4. [11-62009](#)-A-13 RAFAEL TORRES MOTION TO DISMISS CASE FOR
MHM-3 UNREASONABLE DELAY THAT IS
MICHAEL MEYER/MV PREJUDICIAL TO CREDITORS
2-8-12 [[25](#)]
NEIL SCHWARTZ/Atty. for dbt.

Final Ruling. The motion having been withdrawn by the moving party, the matter is dropped from calendar as moot.

5. [10-17611](#)-A-13 JESUS ESTRELLA MOTION FOR RELIEF FROM
PPR-1 AUTOMATIC STAY
U.S. BANK NATIONAL 2-23-12 [[60](#)]
ASSOCIATION/MV
LALEH ENSAFI/Atty. for mv.
CASE REOPENED 11/23/10

Final Ruling. The motion is denied as moot. The stay ceases to operate as to the debtor or property of the estate when the case is closed. (11 U.S.C. §362(c)) This case was closed on September 7, 2010. (Dkt. 22) When it did so the stay complete evaporated. The United States Trustee re-opened the case to disgorge fees. But the stay was not reinstated.

The court will issue a minute order.

6. [11-62414](#)-A-13 RICHARD/KATHLEEN MORGAN MOTION TO CONFIRM PLAN
DMG-2 2-17-12 [[31](#)]
RICHARD MORGAN/MV
D. GARDNER/Atty. for dbt.

Final Ruling. The motion is denied without prejudice. First, inadequate notice was provided; 42 days is required but only 41 days was provided. (Fed. R. Bankr. P. 2002(b); 9014-1(f)(1))

Second, the debtors have not properly effectuated service of the motion to confirm on Safe 1 Credit Union. (Fed. R. Bankr. P. 7004(b)(3))

Third, motions must be supported by admissible evidence showing the moving party's entitlement to the relief sought. (LBR 9014-1(d)(6)) In

this case, the motion is unsupported by any evidence showing that the plan complies with United States Code sections 1322 and 1325.

Fourth, the court cannot pass on the feasibility of the plan without amended Schedules I and J. This case was filed four months ago. Income and expense evidence is now too stale to support confirmation.

The court will issue a minute order.

7. [11-62414](#)-A-13 RICHARD/KATHLEEN MORGAN
MHM-1
MICHAEL MEYER/MV
MOTION TO DISMISS CASE FOR
UNREASONABLE DELAY THAT IS
PREJUDICIAL TO CREDITORS AND/OR
MOTION TO DISMISS CASE FOR
FAILURE TO FILE DOCUMENTS
2-6-12 [[27](#)]

D. GARDNER/Atty. for dbt.

Final Ruling. The motion having been withdrawn, the matter is dropped from calendar as moot.

The court will issue a minute order.

8. [11-61017](#)-A-13 HERLINDO ZERAPIO SANCHEZ
MHM-2 AND VIRGINIA ZERAPIO
MICHAEL MEYER/MV
MOTION TO DISMISS CASE FOR
UNREASONABLE DELAY THAT IS
PREJUDICIAL TO CREDITORS AND/OR
MOTION TO DISMISS CASE FOR
FAILURE TO FILE DOCUMENTS
2-8-12 [[44](#)]

RABIN POURNAZARIAN/Atty. for dbt.
OPPOSITION BY DEBTORS

Final Ruling. The matter is continued to April 26, 2012, at 9:00 a.m.

The court will issue a minute order.

9. [11-63718](#)-A-13 TIMOTHY/ALLISON DOLAN
B. HUGHES/MV
OBJECTION TO CONFIRMATION OF
PLAN BY CREDITORS B. WAYNE
HUGHES, JR. AND MARIPOSA DE
ORO, LLC
2-29-12 [[32](#)]

JACOB EATON/Atty. for dbt.
JEFFREY DULBERG/Atty. for mv.

Final Ruling. The matter is denied as moot, in light of the court's ruling on the Chapter 13 trustee's Motion to Convert or Dismiss the Case (MHM-2).

The court will issue a minute order.

10. [11-63718](#)-A-13 TIMOTHY/ALLISON DOLAN
MHM-1
MICHAEL MEYER/MV
OBJECTION TO CONFIRMATION OF
PLAN BY TRUSTEE MICHAEL H.
MEYER
2-29-12 [[25](#)]

JACOB EATON/Atty. for dbt.

Final Ruling. The matter is denied as moot, in light of the court's

ruling on the Chapter 13 trustee's Motion to Convert or Dismiss the Case (MHM-2)

The court will issue a minute order.

11. [11-63718](#)-A-13 TIMOTHY/ALLISON DOLAN MOTION TO CONVERT CASE FROM
MHM-2 CHAPTER 13 TO CHAPTER 7 OR
MICHAEL MEYER/MV CHAPTER 11 AND/OR MOTION TO
DISMISS CASE/PROCEEDING
2-29-12 [[28](#)]

JACOB EATON/Atty. for dbt.
JOINDER BY B. WAYNE HUGHES,
JR. AND MARIPOSA DE ORO,
LLC, ET AL.

Final Ruling. Upon the consent of the debtors, the Chapter 13 trustee's motion is granted and the case is converted to Chapter 7.

The court will issue a minute order.

12. [11-63718](#)-A-13 TIMOTHY/ALLISON DOLAN MOTION FOR RELIEF FROM
RSL-1 AUTOMATIC STAY
BANK OF AMERICA, N.A./MV 2-27-12 [[19](#)]
JACOB EATON/Atty. for dbt.
ROBERT LAMPL/Atty. for mv.
NON-OPPOSITION BY DEBTORS

Final Ruling. In light of the conversion of the case to Chapter 7, the matter is continued to April 25, 2012, at 9:00 a.m. The moving party will serve notice of the continued hearing on the Chapter 7 trustee and will file a Certificate of Service so indicating.

The court will issue a minute order.

13. [12-10519](#)-A-7 JAVIER OCHOA MOTION TO DISMISS CASE FOR
MHM-1 UNREASONABLE DELAY THAT IS
MICHAEL MEYER/MV PREJUDICIAL TO CREDITORS AND/OR
MOTION TO DISMISS CASE FOR
FAILURE TO PROVIDE TAX
DOCUMENTS
2-29-12 [[20](#)]

CONVERTED TO CH. 7 3/6/12

Final Ruling. The case having been converted to Chapter 7 on March 6, 2012, the matter is dismissed as moot.

14. [11-16822](#)-A-13 RUBY TOMAS MOTION TO VALUE COLLATERAL OF
RSW-1 BANK OF AMERICA, N.A.
RUBY TOMAS/MV 2-21-12 [[36](#)]
ROBERT WILLIAMS/Atty. for dbt.

Final Ruling. The Motion is granted. The value of the residence is \$204,500; senior liens are \$366,347.68. There is no equity to support the junior deed of trust in favor of Bank of America.

Counsel for the moving party shall prepare and lodge an order consistent with the findings herein.

15. [12-10827](#)-A-13 JAMES HOOVER DEFENDANT'S MOTION TO DISMISS
[12-1025](#) PJB-1 CASE/PROCEEDING
HOOVER V. BASSET 2-29-12 [[7](#)]
OPPOSITION BY PLAINTIFF

No tentative ruling.

16. [12-10827](#)-A-13 JAMES HOOVER MOTION TO DISMISS
PJB-5 CASE/PROCEEDING AND/OR MOTION
PATRICIA BASSET/MV TO ADJUDGE MOVANT AS LEGAL
OWNER OF THE PROPERTY NAMED IN
THE BANKRUPTCY
3-13-12 [[42](#)]
STEVEN SMITH/Atty. for dbt.
OPPOSITION BY DEBTOR

Tentative Ruling. The motion will be denied. First, creditor Patricia Basset has elected to proceed under Section 707(b). Dismissal under Section 707(b) are confined to cases filed under Chapter 7 of the Bankruptcy Code. The debtor has elected to proceed under Chapter 13 and, hence, any analysis under Section 707(b) is inapplicable.

Second, dismissal for cause under 11 United States Code section 1307(c) is not warranted. Initially, the court notes that Section 1307(c) was not noticed as a basis for the dismissal. The notice of hearing fails to fully and fairly describe the relief sought. Local Bankruptcy Rule 9014-1(d)(2) requires that each motion be accompanied by a separate notice. Among other things, the notice should state "with particularity the grounds therefor, and shall set forth the relief or order sought." (Fed. R. Bankr. P. 9013; Cf., Hinz v. Neuroscience, Inc., 538 F.3d 979, 983 (8th Cir. 2008) (construing Fed. R. Civ. P. 7(b)) Moreover, the acts of which creditor Patricia Basset complains do not fall within the defined "for cause" acts described in Section 1307(c). And though cause does include non-enumerated other grounds, in the court's view, the acts of which the debtor complains do not satisfy the "totality of the circumstances" test that governs non-enumerated grounds for dismissal under Section 1307(c). (In re Ellsworth, --B.R. --(9th Cir. BAP 2011); In re Leavitt, 171 F.3d 1291, 1224-1225 (9th Cir. 1999)) In such instances the court looks to misrepresentation of the facts in the petition and unfair manipulation of the Bankruptcy Code, the history of filings and dismissals, whether the debtor intended to defeat state court litigation, and the presence of egregious behavior. Viewed most favorably to Ms. Basset, the declarations show only an attempt to defeat an unlawful detainer proceeding, forgery and general bad character. The exhibits are inadmissible as unauthenticated.

The court will issue a minute order.

17. [12-10827](#)-A-13 JAMES HOOVER CONTINUED MOTION TO EXTEND
SES-1 AUTOMATIC STAY
JAMES HOOVER/MV 2-27-12 [[15](#)]
STEVEN SMITH/Atty. for dbt.
ORDER 3/8/12, OPP BY
PATRICIA BASSET

Tentative Ruling. The motion is denied.

This is the debtor's second bankruptcy within the last year. On June 28, 2011, debtor James Hoover filed a petition pursuant to Chapter 13 of Title 11 of the United States Code. (In re Hoover (E.D. Cal. Case No. 11-17369)) On December 29, 2011, the case was dismissed for failure to pay all required monthly payments to the Chapter 13 trustee. Between those dates the debtor did make four payments of \$415 each, approximately.

On January 31, 2012, debtor James Hoover filed this case; it was also a petition pursuant to Chapter 13 of Title 11 of the United States Code. On February 24, 2012, the debtor filed a Motion to Extend the Stay pursuant to 11 United States Code section 362(c)(3)(B); apparently mindful of the 30 day stay of 11 United States Code section 362(c)(3)(B), the motion included an ex parte request for an expedited hearing. The motion was not actually filed until February 27, 2012. And on February 29, 2012, the court issued the following order: "Movant/Debtor James Virgil Hoover ("Debtor") having applied pursuant to Local Bankruptcy Rule 9014-1(f)(3) for an order, ex parte, to conditionally extend the Automatic Stay to the hearing date of March 7, 2012[,] on the Motion to Extend the Automatic Stay, and good cause having been shown, [t]herefore, it is ordered that the application is granted." At the hearing on the March 7, 2012, the matter was continued to March 29, 2012, and the stay extending until a ruling has been made.

On March 1, 2012, creditor Patricia Basset filed opposition to extension of the stay, arguing lack of notice of the motion and bad faith.

Debtors who file a second bankruptcy within one year receive a stay of only 30 days, subject to extension by order of the court. The circumstances under which the court may extend the stay are delineated in 11 United States Code section 362(c)(3)(B), which provides: "...[O]n the motion of a party in interest for continuation of the automatic stay and upon notice and a hearing, the court may extend the stay in particular cases as to any or all creditors (subject to such conditions or limitations as the court may then impose) after notice and a hearing completed before the expiration of the 30-day period only if the party in interest demonstrates that the filing of the later case is in good faith as to the creditors to be stayed..." The statute continues and defines situations, both as to all creditors and as to specific creditors, in which the court shall presume a lack of good faith. (11 U.S.C. §362(c)(3)(C)) It also provides that the presumption of a lack of good faith "may be rebutted by clear and convincing evidence to the contrary..." (Id.)

There are four elements for relief under Section 362(c)(3)(B): a motion; notice and a hearing; the hearing is held before the expiration of the original 30 day period; and the new filing is in good faith. (In re Castaneda, 342 B.R. 90, 96-97 (Bankr. S.D. Cal. 2006); In re Elliott-Cook, 357 B.R. 811, 814 (Bankr. N.D. Cal. 2006)) The debtor bears the burden of proof on each of these elements.

In this case, the debtor fails on two of the four elements. First, the hearing did not occur within 30 days. The debtor's second petition was filed January 31, 2012, and, accordingly, absent extension the stay would have expired on March 1, 2012. On February 24, 2012, the debtor served and on February 27, 2012, the debtor filed a Motion to Extend the Stay and sought expedited relief. The court granted conditional relief, subject to a final hearing. It is the debtor's burden to bring the

matter to hearing within the 30 day window described in Section 362(c)(3)(B)) They did not do so. Moreover, the failure was occasioned by the debtor's own delays. The matter could have been properly noticed within February 2012, under Local Bankruptcy Rule 9014-1(f)(2). And though the phrase "after notice and a hearing" is a defined term, which authorizes the court to act without hearing in emergency situations (11 U.S.C. §102(1)), in this case the emergency was created by the debtor himself.

Second, the party in interest must prove that the later case is filed "in good faith." (11 U.S.C. §362(c)(3)(B)) Mr. Hoover has not done so. Absent one of the presumptions described in Section 362(c)(3)(C), which the court is unable to ascertain the applicability of in this case, "good faith" depends on the "totality of the circumstances." (In re Castaneda, 342 B.R. 90, 96-97 (Bankr. S.D. Cal. 2006)) In gauging good faith the court should consider: "the timing of the second petition; how the debt(s) arose; the debtor's motive in filing the second petition; how the debtor's action affected creditors; why the debtor's prior case was dismissed; the likelihood that the debtor will have a steady income throughout the bankruptcy case, and will be able to fund a plan; and whether the trustee or creditors object to the motion to continue the stay." (In re Elliott-Cook, 357 B.R. 811, 814 (Bankr. N.D. Cal. 2006)) Because the declaration in support of the motion is very conclusory, little is known about these factors. The second case was filed about one month after the first case was dismissed. At least one creditor has objected. The debtor's first case was dismissed when he fell behind due to an increase in plan payments. The debtor has offered but the barest of conclusions that he will have steady income in the future, "My current employment enables me to work enough to complete and make my current plan payments in the instant case." (Decl. of Hoover, ¶¶5-6) The court cannot say that the debtor has satisfied its burden of proof and the motion will be denied.

The court will issue a minute order.

18. [12-10827](#)-A-13 JAMES HOOVER MOTION TO CONFIRM PLAN
SES-2 2-27-12 [[22](#)]
JAMES HOOVER/MV
STEVEN SMITH/Atty. for dbt.
MOTION WITHDRAWN 3/14/12

Final Ruling. The motion having been withdrawn by the moving party, the matter is dropped from calendar as moot.

19. [11-17628](#)-A-13 DAVID TISLER MOTION TO DISMISS CASE FOR
MHM-3 UNREASONABLE DELAY THAT IS
MICHAEL MEYER/MV PREJUDICIAL TO CREDITORS AND/OR
MOTION TO DISMISS CASE FOR
FAILURE TO MAKE PLAN PAYMENTS
3-13-12 [[39](#)]
ROBERT WILLIAMS/Atty. for dbt.

Tentative Ruling. The movant presents a properly formatted motion Local Bankruptcy Rule 9014-1(f)(2); parties in interest may present opposition at the time of the hearing.

Absent opposition the court will grant the motion. The court is authorized to dismiss a Chapter 13 case for unreasonable delay that is

prejudicial to creditors. (11 U.S.C. §1037(c)(1)) The debtor is delinquent \$645 in payments to the Chapter 13 trustee under the terms of the proposed plan. An additional \$650 was due to the Chapter 13 trustee on March 25, 2012.

The court will issue a minute order.

20. [11-63130](#)-A-13 DEAN GALLOWAY
MHM-2
MICHAEL MEYER/MV
- MOTION TO DISMISS CASE FOR
UNREASONABLE DELAY THAT IS
PREJUDICIAL TO CREDITORS AND/OR
MOTION TO DISMISS FOR FAILURE
TO PROVIDE TAX DOCUMENTS
2-7-12 [[30](#)]

Final Ruling. The motion is granted and the case is dismissed for unreasonable delay that is prejudicial to creditors. (11 U.S.C. §1307(c)(1)) The debtor failed to attend the meeting of creditors and failed to provide the Chapter 13 trustee will tax returns and pay stubs.

The court will issue a minute order.

21. [11-63130](#)-A-13 DEAN GALLOWAY
MHM-3
MICHAEL MEYER/MV
- MOTION TO DISMISS CASE FOR
UNREASONABLE DELAY THAT IS
PREJUDICIAL TO CREDITORS AND/OR
MOTION TO DISMISS CASE FOR
FAILURE TO MAKE PLAN PAYMENTS
2-24-12 [[36](#)]

Final Ruling. The case having been dismissed for failure to appear at the meeting of creditors and for failure to provide pay stubs and tax returns to the Chapter 13 trustee, the matter is dropped from calendar as moot.

The court will issue a minute order.

22. [11-63730](#)-A-13 PATRICK/FELICIA JOHNSON
MRG-1
HOUSEHOLD FINANCE CORPORATION
OF CALIFORNIA/MV
STEVEN STANLEY/Atty. for dbt.
MICHAEL GONZALES/Atty. for mv.
- OBJECTION TO CONFIRMATION OF
PLAN BY HOUSEHOLD FINANCE
CORPORATION OF CALIFORNIA
2-29-12 [[17](#)]

Final Ruling. The matter resolved by stipulation of the parties, the objection is dropped from calendar as moot.

The court will issue a minute order.

23. [12-10532](#)-A-13 ANDE DOW
- ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
2-24-12 [[20](#)]
- FRANCISCO ALDANA/Atty. for dbt.

No tentative ruling.

24. [12-10532](#)-A-13 ANDE DOW
MHH-1
MICHAEL MEYER/MV
- MOTION TO DISMISS CASE FOR
UNREASONABLE DELAY THAT IS
PREJUDICIAL TO CREDITORS AND/OR
MOTION TO DISMISS CASE/PROCEEDING
2-29-12 [[22](#)]

FRANCISCO ALDANA/Atty. for dbt.

Final Ruling. The motion is denied without prejudice. The Chapter 13 trustee served debtor's counsel at an incorrect email address. (LBR 7005-1(d)(3)) The moving party shall serve the recipient at the address on the roster of those consenting to service by electronic means. A different address was used and the motion is denied.

The court will issue a minute order.

25. [11-19937](#)-A-13 GAVAN/KELSEY COWAN
MHH-4
MICHAEL MEYER/MV
- MOTION TO DISMISS CASE FOR
UNREASONABLE DELAY THAT IS
PREJUDICIAL TO CREDITORS AND/OR
MOTION TO DISMISS CASE FOR
FAILURE TO MAKE PLAN PAYMENTS
3-13-12 [[43](#)]

ROBERT WILLIAMS/Atty. for dbt.

Tentative Ruling. The movant presents a properly formatted motion under Local Bankruptcy Rule 9014-1(f)(2); parties in interest may present opposition at the time of the hearing.

Absent opposition the court will grant the motion. The court is authorized to dismiss a Chapter 13 case for unreasonable delay that is prejudicial to creditors. (11 U.S.C. §1037(c)(1)) The debtor is delinquent \$1,589.11 in payments to the Chapter 13 trustee under the terms of the proposed plan. An additional \$1,589.11 was due to the Chapter 13 trustee on March 25, 2012.

The court will issue a minute order

26. [11-19937](#)-A-13 GAVAN/KELSEY COWAN
RSW-1
GAVAN COWAN/MV 1-13-12 [[32](#)]
ROBERT WILLIAMS/Atty. for dbt.
OPP BY TRUSTEE, EVERHOME
MORTGAGE
- CONTINUED MOTION TO CONFIRM
PLAN

Tentative Ruling. If the court does not grant the Motion to Dismiss for Unreasonable Delay (Item #23), the court will take up the merits of this motion and intends to deny confirmation. The fact that the debtor is delinquent is evidence of a lack of feasibility. (11 U.S.C. §1325(a)(6))

27. [12-10038](#)-A-13 TOMMY/JANET SVARE
JPMORGAN CHASE BANK, NATIONAL
ASSOCIATION/MV 2-29-12 [[24](#)]
ROBERT WILLIAMS/Atty. for dbt.
KATHERINE WALKER/Atty. for mv.
- OBJECTION TO CONFIRMATION OF
PLAN BY CREDITOR JPMORGAN CHASE
BANK, N.A.

Tentative Ruling. The dispute between the debtor and creditor JP Morgan Chase has been resolved by agreement. But the joinder by the chapter 13

trustee has not been resolved. The matter will be continued to April 26, at 9:00 a.m. Not less than fourteen days in advance of the hearing, debtor's counsel shall either amend the schedules and, if necessary, file a new plan, or shall brief the issues raised by the chapter 13 trustee's joinder.

The court will issue a minute order.

28. [06-11241](#)-A-13 SYLVIA HERNANDEZ MOTION FOR ENTRY OF DISCHARGE
PLG-2 1-24-12 [[61](#)]
SYLVIA HERNANDEZ/MV
ALLAN WILLIAMS/Atty. for dbt.

Final Ruling. The motion is granted and debtor has show entitlement to discharge.

The court will issue a minute order.

29. [11-18243](#)-A-13 RICHARD BERLIN MOTION TO DISMISS CASE FOR
MHM-2 UNREASONABLE DELAY THAT IS
MICHAEL MEYER/MV PREJUDICIAL TO CREDITORS AND/OR
MOTION TO DISMISS CASE FOR
FAILURE TO PROVIDE TAX
DOCUMENTS, MOTION TO DISMISS
CASE/PROCEEDING
2-29-12 [[53](#)]

STEVEN ALPERT/Atty. for dbt.

Final Ruling. The motion is granted for unreasonable delay that is prejudicial to creditors. (11 U.S.C. §1307(c)(1)) The debtor has failed to provide the following documents to the Chapter 13 trustee: Class 1 mortgage checklist, tax returns, six months pay stubs. The debtor has also failed to obtain credit counseling.

The court will issue a minute order.

30. [11-63843](#)-A-13 MARK DOBBS MOTION TO DISMISS CASE FOR
MHM-2 UNREASONABLE DELAY THAT IS
MICHAEL MEYER/MV PREJUDICIAL TO CREDITORS AND/OR
MOTION TO DISMISS CASE FOR
FAILURE TO FILE DOCUMENTS
3-1-12 [[25](#)]

PHILLIP GILLET/Atty. for dbt.
DECL IN OPP BY PHILLIP
GILLET, JR.

Final Ruling. The motion having been withdrawn on March 23, 2012, the matter is dropped from calendar as moot.

31. [12-11943](#)-A-13 JOSE BARBA MOTION FOR RELIEF FROM
ETL-1 AUTOMATIC STAY
FEDERAL NATIONAL MORTGAGE
ASSOCIATION/MV 3-8-12 [[8](#)]
ERICA LOFTIS/Atty. for mv.

Final Ruling. The case having been dismissed on March 16, 2012, the matter is dropped from calendar as moot.

32. [08-12244](#)-A-13 MIGUEL ROMO AND ALICIA CONTINUED MOTION TO MODIFY PLAN
PWG-5 NARRO 12-12-11 [[69](#)]
MIGUEL ROMO/MV
PHILLIP GILLET/Atty. for dbt.
OPPOSITION BY TRUSTEE

Tentative Rulings. The motion to confirm will be denied. The following problems are noted. First, the plan does not provide sufficient funds to perform its stated terms within 60 months. Second, the plan is not feasible, requiring payments by the trustee of \$2,010.44 but only proposing payments of \$1,164.00. Third, the debtors are delinquent in the amount of \$1,440.58, suggesting that the plan is not feasible.

The court will issue a minute order.

33. [09-18148](#)-A-13 RICHARD/ROBIN CHAMBERS MOTION FOR COMPENSATION FOR
LKW-3 LEONARD K. WELSH, DEBTOR'S
LEONARD WELSH/MV ATTORNEY(S), FEE: \$1031.50,
EXPENSES: \$0.00.
2-22-12 [[89](#)]

LEONARD WELSH/Atty. for dbt.

Final Ruling. The motion is granted. Title 11 of the United States Code section 330(a) provides for a reasonable fee for debtor's counsel. The court finds that the sum of \$1,031.50 represents reasonable compensation for actual and necessary services.

The court does note that counsel has not fully complied with the procedural requirements requisite to such a motion in that the motion is unsupported by a declaration. (LBR 9014-1(d)(6); Revised Guidelines for the Preparation of Documents, para. 3(a)) Counsel has utilized the disfavored practice of verified pleadings.

The court will issue the following minute order: It is ordered that the application is approved on an interim basis in the amount of \$1,031.50 in fees and \$0.00 in costs, for a total of \$1,031.50. Counsel for the debtor is holding no retainer. The amount (\$1,031.50) may be paid as an administrative expense. This amount is in addition to any compensation or costs previously ordered by the court.

34. [12-10448](#)-A-13 DENNIS/JILL FERGUSON MOTION TO DISMISS CASE FOR
MHM-1 UNREASONABLE DELAY THAT IS
MICHAEL MEYER/MV PREJUDICIAL TO CREDITORS
2-29-12 [[18](#)]

WILLIAM OLCOTT/Atty. for dbt.

Final Ruling. The motion is granted and the case is dismissed for unreasonable delay that is prejudicial to creditors. (11 U.S.C. §1307(c)(1)) The debtors have not set the Chapter 13 plan for confirmation hearing.

The court will issue a minute order.

35. [11-63151](#)-A-13 MARIA GONZALEZ
MHM-2
MICHAEL MEYER/MV
- MOTION TO DISMISS CASE FOR
UNREASONABLE DELAY THAT IS
PREJUDICIAL TO CREDITORS AND/OR
MOTION TO DISMISS FOR FAILURE
TO PROVIDE TAX DOCUMENTS
2-7-12 [[34](#)]

Final Ruling. The motion is granted and the case is dismissed for unreasonable delay that is prejudicial to creditors. (11 U.S.C. §1307(c)(1)) The debtors have not provided tax returns, pay stubs and Class 1 mortgage checklist to the Chapter 13 trustee.

The court will issue a minute order.

36. [11-63151](#)-A-13 MARIA GONZALEZ
MHM-3
MICHAEL MEYER/MV
- MOTION TO DISMISS CASE FOR
UNREASONABLE DELAY THAT IS
PREJUDICIAL TO CREDITORS AND/OR
MOTION TO DISMISS CASE FOR
FAILURE TO MAKE PLAN PAYMENTS
2-27-12 [[39](#)]

Final Ruling. The case having been dismissed for failure to provide documents to the Chapter 13 trustee, the matter is dropped from calendar as moot.

37. [12-11452](#)-A-13 ROGELIO SALAZAR
- ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
3-8-12 [[16](#)]

DISMISSED 3/12/12

Final Ruling. The case having been dismissed, the matter is dropped from calendar.

38. [11-19453](#)-A-13 CRAIG/DEAHN ROBBINS
CEF-1
CRAIG ROBBINS/MV
CURTIS FLOYD/Atty. for dbt.
- MOTION TO VALUE COLLATERAL OF
GMAC MORTGAGE
2-3-12 [[23](#)]

Final Ruling. The motion to value is granted. The property has a value of \$391,000; senior liens exceed \$415,000. The deed of trust in favor of GMAC is unsupported by equity.

Counsel for the moving party shall prepare and lodge an order consistent

with the findings herein.

39. [11-62955](#)-A-13 PAUL HERNANDEZ MOTION TO CONFIRM PLAN
CEF-1 2-21-12 [[30](#)]
PAUL HERNANDEZ/MV
CURTIS FLOYD/Atty. for dbt.

Final Ruling. The motion is denied without prejudice. First, the debtor has given insufficient notice. Forty-two days notice is required. (Fed. R. Bankr. P. 2002(b); LBR 9014-1(f)(1)) Only 37 days notice was given. Second, Bank of America was not served certified mail, as required by Federal Rule of Bankruptcy Procedure 7004(h). Third, not all creditors were noticed, as required by Federal Rule of Bankruptcy Procedure 2002(b). And Portfolio Investments, I, who requested Special Notice, was not served.

The court will issue a minute order.

40. [11-62955](#)-A-13 PAUL HERNANDEZ MOTION TO DISMISS
MHM-2 CASE/PROCEEDING FOR
MICHAEL MEYER/MV UNREASONABLE DELAY THAT IS
PREJUDICIAL TO CREDITORS
2-8-12 [[20](#)]
CURTIS FLOYD/Atty. for dbt.
WITHDRAWN 3/9/12

Final Ruling. The motion having been withdrawn, the matter is dropped from calendar as moot.

41. [10-61461](#)-A-13 STEVEN/JULIETTE WEST MOTION FOR COMPENSATION FOR
LKW-6 LEONARD K. WELSH, DEBTOR'S
LEONARD WELSH/MV ATTORNEY(S), FEE: \$693.00,
EXPENSES: \$0.00
2-15-12 [[83](#)]
LEONARD WELSH/Atty. for dbt.

Final Ruling. The motion is granted. Title 11 of the United States Code section 330(a) provides for a reasonable fee for debtor's counsel. The court finds that the sum of \$693.00 represents reasonable compensation for actual and necessary services.

The court does note that counsel has not fully complied with the procedural requirements requisite to such a motion in that the motion is unsupported by a declaration. (LBR 9014-1(d)(6); Revised Guidelines for the Preparation of Documents, para. 3(a)) Counsel has utilized the disfavored practice of verified pleadings.

The court will issue the following minute order: It is ordered that the application is approved on an interim basis in the amount of \$693.00 in fees and \$0.00 in costs, for a total of \$693.00. Counsel for the debtor is holding no retainer. The amount (\$693.00) may be paid as an administrative expense. This amount is in addition to any compensation or costs previously ordered by the court.

42. [11-63961](#)-A-13 KENNETH/NANCY WORTHEN OBJECTION TO CONFIRMATION OF
MHM-1 PLAN BY MICHAEL H. MEYER
MICHAEL MEYER/MV 2-29-12 [[23](#)]
THOMAS CASA/Atty. for dbt.

Final Ruling. The matter is continued to April 26, 2012, at 9:00 a.m. The Chapter 13 trustee served debtors' counsel via email. But counsel for the debtor has opted out of service by electronic means. The Chapter 13 trustee shall serve the objection on the debtors' counsel no later than 14 days before the continued hearing and shall also serve notice of the continued hearing. The Chapter 13 trustee shall file a Certificate of Service reflecting proper service of these documents.

The court will issue a minute order.

43. [10-11864](#)-A-13 DANIEL/APRIL RODRIGUEZ MOTION TO MODIFY PLAN
CRS-1 2-9-12 [[28](#)]
DANIEL RODRIGUEZ/MV
CYNTHIA SCULLY/Atty. for dbt.

Final Ruling. The motion is denied without prejudice for improper service. First, Class 2 creditors, including Safe One Credit Union, Wells Fargo National Bank, and Golden One Credit Union were not served as required by Federal Rule of Bankruptcy Procedure 7004(b)(3), made applicable by Rule 9014(b).

Second, the Internal Revenue Service was not served in compliance with Local Bankruptcy Rule 2002-1(c). Neither the United States Attorney in Fresno, nor the Department of Justice in Washington, DC were served.

The court will issue a minute order.

44. [12-10564](#)-A-13 RAUL RODRIGUEZ MOTION FOR RELIEF FROM
DMG-1 AUTOMATIC STAY
BERNARD ROTHSCHILD/MV 2-27-12 [[18](#)]
ROBERT WILLIAMS/Atty. for dbt.
D. GARDNER/Atty. for mv.

Final Ruling. The matter resolved by agreement of the parties, the matter is dropped from calendar as moot.

45. [10-14865](#)-A-13 JOSE MELGAR AND ALMA MOTION TO MODIFY PLAN
PWG-2 POLANCO MELGAR 2-16-12 [[39](#)]
JOSE MELGAR/MV
PHILLIP GILLET/Atty. for dbt.

Final Ruling. The motion is denied without prejudice for failure of proper service. First, Class 2 creditors are parties "against whom relief is sought." (Fed. R. Bankr. P. 9014-1(a)) Accordingly, the service rules of Rule 7004(b)(3) are triggered. (Fed. R. Bankr. P. 9014(b)) These creditors were not served as required by Federal Rule of Bankruptcy Procedure 7004(b)(3) (officer or agent service). Second, Class 2 creditor Bank of America is insured by the FDIC and was not served as required by Federal Rule of Bankruptcy Procedure 7004(h).

The court will issue a minute order.

46. [11-63565](#)-A-13 GILBERT SABEDRA OBJECTION TO CONFIRMATION OF
MHM-1 PLAN BY TRUSTEE MICHAEL H.
MICHAEL MEYER/MV MEYER
2-29-12 [[19](#)]
LEONARD WELSH/Atty. for dbt.

Final Ruling. The objection having been withdrawn, the matter is dropped from calendar as moot.

47. [11-63566](#)-A-13 GLORIA RODRIGUEZ ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
3-6-12 [[40](#)]

No tentative ruling.

48. [11-63566](#)-A-13 GLORIA RODRIGUEZ MOTION TO DISMISS CASE FOR
MHM-1 UNREASONABLE DELAY THAT IS
MICHAEL MEYER/MV PREJUDICIAL TO CREDITORS AND/OR
MOTION TO DISMISS CASE FOR
FAILURE TO MAKE PLAN PAYMENTS
2-23-12 [[28](#)]

Tentative Ruling. The movant presents a properly formatted motion under Local Bankruptcy Rule 9014-1(f)(2); parties in interest may present opposition at the time of the hearing.

Absent opposition, the court will grant the motion under 11 United States Code section 1307(c)(1). The debtor is delinquent \$1,500 as of January 25, 2012. Additional monthly payments were due on February 25 and March 25, 2012.

The court will issue a minute order.

49. [11-63566](#)-A-13 GLORIA RODRIGUEZ OBJECTION TO CONFIRMATION OF
MHM-2 PLAN BY TRUSTEE MICHAEL H.
MICHAEL MEYER/MV MEYER
2-29-12 [[33](#)]

RESPONSE BY BANK OF AMERICA

Tentative Ruling. If the court does not grant the Motion to Dismiss (Item No. 48) the court will consider the merits of the motion. The movant presents a properly formatted motion under Local Bankruptcy Rule 9014-1(f)(2); parties in interest may present opposition at the time of the hearing.

Absent objection, the court will sustain the objection. The debtor failed to appear at the meeting of creditors or provide documents to the Chapter 13 trustee.

The court will issue a minute order.

50. [11-63566](#)-A-13 GLORIA RODRIGUEZ MOTION TO DISMISS CASE FOR
MHM-3 UNREASONABLE DELAY THAT IS
MICHAEL MEYER/MV PREJUDICIAL TO CREDITORS AND/OR
MOTION TO DISMISS CASE/PROCEEDING
2-29-12 [[36](#)]

Tentative Ruling. If the court does not grant the Motion to Dismiss (Item No. 48) the court will consider the merits of the motion. The movant presents a properly formatted motion under Local Bankruptcy Rule 9014-1(f)(2); parties in interest may present opposition at the time of the hearing.

Absent opposition the court will dismiss the case for unreasonable delay prejudicial to creditors. (11 U.S.C. §1307(c)(1)) The debtor has failed to appear at the meeting of creditors or provide documents to the Chapter 13 trustee.

The court will issue a minute order.

51. [11-60267](#)-A-13 CLINTON/JANET GAREIS MOTION TO MODIFY PLAN
KDG-2 2-14-12 [[37](#)]
CLINTON GAREIS/MV
JACOB EATON/Atty. for dbt.
OPPOSITION BY TRUSTEE

Final Ruling. The motion is denied. The debtor has failed to serve Class 2 creditors (Chrysler Financial and GMAC Mortgage) as required by

Federal Rule of Bankruptcy Procedure 7004(b)(3). The opposition of the Chapter 13 trustee was untimely and therefore not considered.

The court will issue a minute order.

52. [11-19869](#)-A-13 GLENN HARDIN AND KAMRUL MOTION TO EXTEND TIME TO FILE
PD-1 ABDULLAH PROOF OF CLAIM
U.S. BANK, NATIONAL 1-25-12 [[32](#)]
ASSOCIATION/MV
ROBERT WILLIAMS/Atty. for dbt.
MEGAN LEES/Atty. for mv.

Tentative Ruling. The court will deny the motion. Bankruptcy Courts have very narrow discretion to enlarge time for filing a claim. (Fed. R. Bankr. P. 3002, 9006(b)(3); In re Coastal Alaska Lines, Inc., 920 F.2d 1428, 1431-1433 (9th Cir. 1990))

In most instances, enlargement of time is only allowed as provided in Rule 3002(c). Insofar as the court can ascertain, the moving party has failed to bring the matter within that rule. Other exceptions occur when the creditor is misled (In re Anwiler, 958 F.2d 925, 927-929 (9th Cir. 1992) and when the doctrine of force majeure applies. (In re Edelman, 237 B.R. 146, 151-154 (9th Cir. BAP 1999)) The moving party has not identified either exception as applicable.

Moreover, the motion is unsupported by declaration. (LBR 9014-1(d)(6))

The court will issue a minute order.

53. [12-10469](#)-A-13 MARY MACKEY OBJECTION TO CONFIRMATION OF
MHM-1 PLAN BY TRUSTEE MICHAEL H.
MICHAEL MEYER/MV MEYER
2-29-12 [[18](#)]

Final Ruling. In light of the court's ruling on Item No. 54, the motion is dropped from calendar as moot.

54. [12-10469](#)-A-13 MARY MACKEY MOTION TO DISMISS CASE FOR
MHM-2 UNREASONABLE DELAY THAT IS
MICHAEL MEYER/MV PREJUDICIAL TO CREDITORS AND/OR
MOTION TO DISMISS CASE/PROCEEDING
2-29-12 [[21](#)]

Final Ruling. The case is dismissed for unreasonable delay that is prejudicial to creditors. (11 U.S.C. §1307(c)(1); see also, 11 U.S.C. §521(e)(2)(B)) The debtor has failed to provide tax returns.

The court will issue a minute order.

55. [11-63470](#)-A-13 ALVARO PINON MOTION TO DISMISS CASE FOR
MHM-2 UNREASONABLE DELAY THAT IS
MICHAEL MEYER/MV PREJUDICIAL TO CREDITORS
2-7-12 [[25](#)]

THOMAS GILLIS/Atty. for dbt.
RESPONSE BY DEBTOR

Final Ruling. The motion is granted for unreasonable delay that is prejudicial to creditors. (11 U.S.C. §1307(c)(1)) The information provided in Exhibit B to the debtor's response does not match the time period described in 11 United States Code section 101(10A).

The court will issue a minute order.

56. [11-62571](#)-A-13 GORDON LOO MOTION TO DISMISS CASE FOR
MHM-1 UNREASONABLE DELAY THAT IS
MICHAEL MEYER/MV PREJUDICIAL TO CREDITORS AND/OR
MOTION TO DISMISS CASE/PROCEEDING
3-1-12 [[36](#)]

HENRY NUNEZ/Atty. for dbt.

Final Ruling. The motion is granted for unreasonable delay that is prejudicial to creditors. (11 U.S.C. §1307(c)(1)) The debtor has failed to provide the Chapter 13 trustee tax returns and proof of income. The debtor has not set his modified Chapter 13 plan for confirmation hearing. Debtor has filed a non-opposition and consent to trustee's motion to dismiss.

The court will issue a minute order.

57. [11-62871](#)-A-13 CIMARON CAVE AND JANET MOTION TO DISMISS CASE FOR
MHM-2 FLORES UNREASONABLE DELAY THAT IS
MICHAEL MEYER/MV PREJUDICIAL TO CREDITORS
2-8-12 [[28](#)]

PHILLIP GILLET/Atty. for dbt.
WITHDRAWN 3/6/12

Final Ruling. The motion having been withdrawn, the matter is dropped from calendar as moot.

58. [11-62772](#)-A-13 JOHN/BETH NEMETH MOTION TO EXTEND TIME TO OBJECT

ALS-002
POPA FEDERAL CREDIT UNION/MV

TO EXEMPTIONS AND/OR MOTION TO
EXTEND DEADLINE TO FILE A
COMPLAINT OBJECTING TO
DISCHARGEABILITY OF A DEBT
2-17-12 [[44](#)]

PHILLIP GILLET/Atty. for dbt.
A. SIMON/Atty. for mv.

Tentative Ruling. As to the date to object to exemptions, the court will grant the motion and extend the time to object to exemptions to April 30, 2012. The court may do so for cause shown. (Fed. R. Bankr. P. 4003(b)(1) The declaration of Cathy Gradillas, paras. 6-7, shows cause.

As to the date to file a complaint under Section 523(c), the court will grant the motion and extend time to file a Section 523 action until April 30, 2012. The court may do so for cause shown. (Fed. R. Bankr. P. 4007(c)The declaration of Cathy Gradillas, paras. 6-7, shows cause.

The court will issue a minute order.

59. [11-62772](#)-A-13 JOHN/BETH NEMETH OBJECTION TO DEBTORS' CLAIM OF
MHM-2 EXEMPTIONS
MICHAEL MEYER/MV 2-17-12 [[41](#)]
PHILLIP GILLET/Atty. for dbt.
MEMO P&A IN OPPOSITION

Tentative Ruling. The court intends to set an evidentiary hearing. The parties dispute whether specified animals are held primarily for personal, family or household uses or are inventory of a livestock operation. The parties should be prepared to provide the court with a time estimate and to select dates, and venue of the trial.

60. [11-15775](#)-A-13 NEIL/ELISABETH HOYLE MOTION TO MODIFY PLAN
RSW-3 2-23-12 [[51](#)]
NEIL HOYLE/MV
ROBERT WILLIAMS/Atty. for dbt.
OPPOSITION BY TRUSTEE

Tentative Ruling. The court is inclined to continue this matter to April 25, 2012, at 9:00 a.m. to allow the debtors to supplement the record with respect to increased expenses. Supplemental declarations shall be filed and served by the debtors no later than April 12, 2012; trustee may file and serve a reply by April 19, 2012.

Absent the parties' assent to the continuance, the court will sustain the objection.

The court will issue a minute order.

61. [12-10277](#)-A-13 FELIPE DOMINGUEZ MOTION TO DISMISS CASE FOR
MHM-1 UNREASONABLE DELAY THAT IS
MICHAEL MEYER/MV PREJUDICIAL TO CREDITORS AND/OR
MOTION TO DISMISS CASE/PROCEEDING
2-29-12 [[20](#)]

Final Ruling. The motion is granted for unreasonable delay that is prejudicial to creditors. (11 U.S.C. §1307(c)(1)) The debtor has failed to provide the trustee documents and credit counseling certificates, and failed to file a correct form of plan approved by General Order 05-03.

The court will issue a minute order.

62. [07-14381](#)-A-13 MARIO/LINDA MARTINEZ OBJECTION TO CLAIM OF REAL TIME
RSW-6 RESOLUTIONS, INC., CLAIM NUMBER
MARIO MARTINEZ/MV 27-2
2-29-12 [[133](#)]

ROBERT WILLIAMS/Atty. for dbt.

Final Ruling. The matter is continued to April 26, 2012, at 9:00 a.m. Both the debtor and the Chapter 13 trustee are directed to brief the issue of whether the liberal policy of claim amendments (See e.g. In re Sambos Restaurants, Inc., 754 F.2d 811, 816 (9th Cir. 1985) (Chapter 11) or the anti-discrimination provision of 11 United States Code section 1322(a)(3) control the change in status of a creditor from secured to unsecured resulting in a lesser dividend to the amending claimant than other creditors. Briefs shall be filed and served on the opposing party no later than 14 days before the hearing.

The court will issue a minute order.

63. [11-19581](#)-A-13 JARRETT/VALERIE TURNER MOTION TO MODIFY PLAN
DMG-3 2-17-12 [[32](#)]
JARRETT TURNER/MV
D. GARDNER/Atty. for dbt.

Final Ruling. An amended plan filed March 14, 2012, the matter is dropped from calendar as moot.

64. [11-15082](#)-A-13 DANIEL MWANIKI AND CONTINUED MOTION TO DISMISS
MHM-2 CATHERINE KIAMA CASE FOR UNREASONABLE DELAY
MICHAEL MEYER/MV THAT IS PREJUDICIAL TO
CREDITORS AND/OR MOTION TO
DISMISS CASE/PROCEEDING
1-13-12 [[46](#)]
PHILLIP GILLET/Atty. for dbt.

Tentative Ruling. The court suggests a short continuance to allow the debtors to move to confirm their modified plan filed February 23, 2012. (Dkt. 71).

The court will issue a minute order.

65. [11-15082](#)-A-13 DANIEL MWANIKI AND MOTION TO CONFIRM PLAN
PWG-3 CATHERINE KIAMA 2-14-12 [[64](#)]
DANIEL MWANIKI/MV
PHILLIP GILLET/Atty. for dbt.
OPPOSITION BY TRUSTEE

Tentative Ruling. The motion is dropped from calendar, as moot. The debtor filed a modified plan on February 23, 2012. (Dkt. 71).

66. [11-60983](#)-A-13 FAVIAN/MARIA BLANCO MOTION TO DISMISS CASE FOR
MHM-2 UNREASONABLE DELAY THAT IS
MICHAEL MEYER/MV PREJUDICIAL TO CREDITORS
2-6-12 [[53](#)]
THOMAS GILLIS/Atty. for dbt.

Final Ruling. The motion is granted and the case dismissed for unreasonable delay that is prejudicial to creditors. (11 U.S.C. §1307(c)(1)) The debtor has not filed a modified plan or set it for hearing.

The court will issue a minute order.

67. [11-63487](#)-A-13 KENNETH/BARBARA HARRIS MOTION TO CONFIRM PLAN
PK-2 1-18-12 [[23](#)]
KENNETH HARRIS/MV
PATRICK KAVANAGH/Atty. for dbt.

Final Ruling. The motion is denied without prejudice. First, it is unsupported by any evidence. (LBR 9014-1(d)(6)) The moving party bears the burden of showing entitlement to relief.

Second, the Internal Revenue Service was not served as required by Local Bankruptcy Rule 2002-1(c) The debtor served only one of three addresses.

Third, Class 2 creditors were not served as specified in Federal Rule of Bankruptcy Procedure 7004(b)(3), (h).

The court will issue a minute order.

68. [11-18788](#)-A-13 STEVE/JENNIFER WAGNER MOTION TO MODIFY PLAN
PK-1 2-13-12 [[30](#)]
STEVE WAGNER/MV
PATRICK KAVANAGH/Atty. for dbt.
OPPOSITION BY TRUSTEE

Tentative Ruling. The court will sustain the objection. The debtors have not adequately documented their decrease in income, either as to current amount or the duration of the reduction.

The court will issue a minute order.

69. [11-14490](#)-A-13 ELIHU/D/GENOVEVA GRIJALVA MOTION FOR COMPENSATION FOR
LKW-4 LEONARD K. WELSH, DEBTOR'S
LEONARD WELSH/MV ATTORNEY(S), FEE: \$1166.00,
EXPENSES: \$0.00
2-16-12 [[79](#)]
LEONARD WELSH/Atty. for dbt.

Final Ruling. The motion is granted. Title 11 of the United States Code section 330(a) provides for a reasonable fee for debtor's counsel. The court finds that the sum of \$1,166.00.00 represents reasonable compensation for actual and necessary services.

The court will issue the following minute order: It is ordered that the application is approved on an interim basis in the amount of \$1,166.00 in fees and \$0.00 in costs, for a total of \$1,166.00. Counsel for the debtor is holding no retainer. The amount (\$1,166.00.00) may be paid as an administrative expense.

70. [11-19392](#)-A-13 ROBERTO/LETICIA HERRERA MOTION TO VALUE COLLATERAL OF
RSW-1 THE BANK OF NEW YORK MELLON
ROBERTO HERRERA/MV 2-17-12 [[21](#)]
ROBERT WILLIAMS/Atty. for dbt.

Final Ruling. The motion is granted. The property's value is \$193,319.00; senior liens exceed \$267,000. There is no equity to support

the lien held by The Bank of New York Mellon.

The moving party shall prepare and lodge an order consistent with the findings herein.

71. [11-61193](#)-A-13 EFRAIN MARTINEZ AND MOTION TO DISMISS CASE FOR
MHM-3 GRISELDA RODRIGUEZ UNREASONABLE DELAY THAT IS
MICHAEL MEYER/MV PREJUDICIAL TO CREDITORS AND/OR
MOTION TO DISMISS CASE FOR
FAILURE TO MAKE PLAN PAYMENTS
3-13-12 [[45](#)]
- SUSAN SALEHI/Atty. for dbt.

Tentative Ruling. The movant presents a properly formatted motion under Local Bankruptcy Rule 9014-1(f)(2); parties in interest may present opposition at the time of the hearing.

Absent opposition, the court will grant the motion and dismiss the case. (11 U.S.C. §1307(c)(1)) The debtor is delinquent \$1,152.00; another payment of the same amount came due on March 25, 2012.

The court will issue a minute order.

72. [11-63393](#)-A-13 MARC CORDIER MOTION TO CONFIRM PLAN
WDO-2 2-14-12 [[28](#)]
MARC CORDIER/MV
WILLIAM OLCOTT/Atty. for dbt.
OPPOSITION BY TRUSTEE

Tentative Ruling. The court will grant the motion. The plan fails to comply with Section 1325(b).

The court will issue a minute order.

73. [11-63295](#)-A-13 FIDEL/ELVIRA GONZALEZ MOTION TO DISMISS CASE FOR
MHM-2 UNREASONABLE DELAY THAT IS
MICHAEL MEYER/MV PREJUDICIAL TO CREDITORS
2-7-12 [[25](#)]
- WILLIAM OLCOTT/Atty. for dbt.
WITHDRAWN 3/9/12

Final Ruling. The motion having been withdrawn, the matter is dropped from calendar as moot.

74. [11-63295](#)-A-13 FIDEL/ELVIRA GONZALEZ OBJECTION TO DEBTORS' CLAIM OF
MHM-3 EXEMPTIONS
MICHAEL MEYER/MV 2-7-12 [[29](#)]
WILLIAM OLCOTT/Atty. for dbt.

Final Ruling. The objection having been withdrawn, the matter is dropped from calendar as moot.

75. [11-63295](#)-A-13 FIDEL/ELVIRA GONZALEZ MOTION TO CONFIRM PLAN
WDO-2 2-7-12 [[34](#)]
FIDEL GONZALEZ/MV
WILLIAM OLCOTT/Atty. for dbt.

Final Ruling. The motion is denied without prejudice. The debtors have failed to effectuate service on Class 2 creditors as required by Federal Rule of Bankruptcy Procedure 7004(b)(3), (h).

The court will issue a minute order.

76. [11-63395](#)-A-13 FELIPE/DIANE GIL MOTION TO DISMISS CASE FOR
MHM-2 UNREASONABLE DELAY THAT IS
MICHAEL MEYER/MV PREJUDICIAL TO CREDITORS AND/OR
MOTION TO DISMISS CASE FOR
FAILURE TO MAKE PLAN PAYMENTS
2-27-12 [[30](#)]
SUSAN SALEHI/Atty. for dbt.

Tentative Ruling. The movant presents a properly formatted motion under Local Bankruptcy Rule 9014-1(f)(2); parties in interest may present opposition at the time of the hearing.

The court will grant the motion for unreasonable delay that is prejudicial to creditors. (11 U.S.C. §1307(c)(1)) The debtor is delinquent two, and perhaps, three months on required plan payments to the Chapter 13 trustee.

The court will issue a minute order.

77. [11-63395](#)-A-13 FELIPE/DIANE GIL CONTINUED MOTION TO CONFIRM
SJS-1 PLAN
FELIPE GIL/MV 1-22-12 [[17](#)]
SUSAN SALEHI/Atty. for dbt.

Tentative Ruling. The court will sustain the objection, if the debtor did not appear at the meeting of creditors.

The court will issue a minute order.

78. [12-10195](#)-A-13 CRISTINA GARCIA AYALA ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES 3-12-12 [[40](#)]

FRANCISCO ALDANA/Atty. for dbt.

Final Ruling. The case having been dismissed at Item 82 below, the matter is dropped as moot.

79. [12-10195](#)-A-13 CRISTINA GARCIA AYALA ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES 3-15-12 [[42](#)]

FRANCISCO ALDANA/Atty. for dbt.

Final Ruling. The case having been dismissed at Item 82 below, the matter is dropped as moot.

80. [12-10195](#)-A-13 CRISTINA GARCIA AYALA OBJECTION TO CONFIRMATION OF
LDH-1 PLAN BY FEDERAL NATIONAL
FEDERAL NATIONAL MORTGAGE MORTGAGE ASSOCIATION
ASSOCIATION/MV 2-28-12 [[29](#)]

FRANCISCO ALDANA/Atty. for dbt.
LAWRENCE HARRIS/Atty. for mv.

Final Ruling. The case having been dismissed at Item 82 below, the matter is dropped as moot.

81. [12-10195](#)-A-13 CRISTINA GARCIA AYALA OBJECTION TO CONFIRMATION OF
MHM-1 PLAN BY TRUSTEE MICHAEL H.
MICHAEL MEYER/MV MEYER 2-29-12 [[37](#)]

FRANCISCO ALDANA/Atty. for dbt.

Final Ruling. The case having been dismissed at Item 82 below, the matter is dropped as moot.

82. [12-10195](#)-A-13 CRISTINA GARCIA AYALA MOTION TO DISMISS CASE FOR
MHM-2 UNREASONABLE DELAY THAT IS
MICHAEL MEYER/MV PREJUDICIAL TO CREDITORS AND/OR
MOTION TO DISMISS CASE/PROCEEDING,
MOTION TO DISMISS CASE FOR FAILURE
TO PROVIDE TAX DOCUMENTS
2-29-12 [[33](#)]

FRANCISCO ALDANA/Atty. for dbt.

Final Ruling. The motion is granted for unreasonable delay that is prejudicial to creditors. (11 U.S.C. §1307(c)) The debtor has failed to

provide the Chapter 13 trustee tax returns or proof of income.

The court will issue a minute order.

83. [11-63197](#)-A-13 RODNEY/SHIRLEY BRUCE CONTINUED MOTION TO CONFIRM PLAN
PK-2 1-5-12 [[20](#)]
RODNEY BRUCE/MV
PATRICK KAVANAGH/Atty. for dbt.
OPPOSITION BY TRUSTEE

Final Ruling. The matter having been withdrawn by the moving party (Dkt. 324), the motion is dropped from calendar as moot.

10:00 a.m.

1. [11-19916](#)-A-11 ARTHUR/EILEEN DEMERATH CONTINUED MOTION TO USE CASH
WW-3 COLLATERAL
ARTHUR DEMERATH/MV 9-1-11 [[6](#)]
RILEY WALTER/Atty. for dbt.
LMTED OPP TRI-COUNTIES BANK,
CONV. TO CH. 11 3/6/12

Tentative Ruling. The court will grant the motion under the budget submitted. The parties are asked to comment on the duration of the order.

The moving party will prepare an order; opposing counsel to approve as to form.

2. [09-16950](#)-A-12 SCOTT/GALE SHACKLETT MOTION FOR COMPENSATION FOR
LKW-2 LEONARD K. WELSH, DEBTOR'S
LEONARD WELSH/MV ATTORNEY(S), FEE: \$417.00,
EXPENSES: \$0.00.
2-24-12 [[89](#)]

LEONARD WELSH/Atty. for dbt.

Final Ruling. The motion is granted. Title 11 of the United States Code section 330(a) provides for a reasonable fee for debtor's counsel. The court finds that the sum of \$417.00.00 represents reasonable compensation for actual and necessary services.

The moving party has failed to provide a supporting declaration, as required by Local Bankruptcy Rule 9014-1(d)(6). Future applications

should be so supported.

The court will issue the following minute order: It is ordered that the application is approved on an interim basis in the amount of \$417.00 in fees and \$0.00 in costs, for a total of \$417.00. Counsel for the debtor is holding no retainer. The amount (\$417.00) may be paid as an administrative expense.

11:00 a.m.

1. [11-62935](#)-A-7 CORBY/CAROLYN ROWLEY REAFFIRMATION AGREEMENT WITH
A-L FINANCIAL CORP 2-13-12 [[14](#)]
CHELSEA RYAN/Atty. for dbt.

No tentative ruling.

2. [12-11050](#)-A-7 NATALIE BAKER REAFFIRMATION AGREEMENT WITH
ALTAONE FEDERAL CREDIT UNION
3-5-12 [[13](#)]

No tentative ruling.

3. [11-61472](#)-A-7 BRIAN LEHMAN REAFFIRMATION AGREEMENT WITH
AMERICREDIT FINANCIAL SERVICES,
INC. 1-24-12 [[15](#)]

No tentative ruling.

4. [12-10189](#)-A-7 HECTOR/LIDIA DIEZ REAFFIRMATION AGREEMENT WITH
ALLY FINANCIAL 2-14-12 [[13](#)]
ROSETTA REED/Atty. for dbt.

No tentative ruling.