

**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: APRIL 11, 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. [19-10104](#)-A-13 **IN RE: PRISCILLA VELOZ**
MHM-2

MOTION TO DISMISS CASE
3-6-2019 [[29](#)]

MICHAEL MEYER/MV
YELENA GUREVICH
RESPONSIVE PLEADING

No Ruling

2. [19-10104](#)-A-13 **IN RE: PRISCILLA VELOZ**
MHM-3

MOTION TO DISMISS CASE
3-6-2019 [[33](#)]

MICHAEL MEYER/MV
YELENA GUREVICH
RESPONSIVE PLEADING

No Ruling

3. [18-14107](#)-A-12 **IN RE: EVELYN RAQUEDAN**
MHM-1

MOTION TO DISMISS CASE
3-8-2019 [[27](#)]

MICHAEL MEYER/MV
PHILLIP GILLET

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 file a plan within 90 days of the order for relief date, as required by 11 U.S.C. § 1221. This case was filed on October 10, 2018. The order for relief was entered on that date. As of April 8, 2019, no plan has been filed. Such failure is unreasonable delay by the debtor that is prejudicial to creditors.

For the reasons stated in the motion, cause exists to dismiss the case. *Id.* § 1208(c)(1).

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.

4. 19-10008-A-13 **IN RE: RANDALL CURRY**
MHM-2

OBJECTION TO CONFIRMATION OF PLAN BY TRUSTEE MICHAEL H.
MEYER
3-14-2019 [22]

GABRIEL LIBERMAN

No Ruling

5. 19-10010-A-13 IN RE: JOYCE FITZPATRICK
MHM-2

MOTION TO DISMISS CASE
3-6-2019 [26]

MICHAEL MEYER/MV
PETER BUNTING

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 provide a credit counseling certificate showing that the debtor received the required credit counseling within the 180-day period preceding the petition date. With exceptions not applicable here, an individual cannot be a debtor under Title 11 unless such individual has received credit counseling as prescribed by § 109(h)(1). And credit counseling certificates are required to be filed pursuant to § 521(b) and Fed. R. Bankr. P. 1007(b)(3).

The certificate filed with the court evidences credit counseling completed by the debtor after the January 3, 2019 petition filing, on January 8. ECF No. 1 at 8.

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

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.

6. 19-10223-A-13 **IN RE: RAFAEL SANCHEZ AND CANDELARIA RAMOS**

OBJECTION TO CONFIRMATION OF PLAN BY JPMORGAN CHASE BANK,
N.A.

3-19-2019 [25]

JPMORGAN CHASE BANK, N.A./MV
THOMAS GILLIS
WENDY LOCKE/ATTY. FOR MV.

Tentative Ruling

Objection: Creditor JPMorgan Chase Bank's Objection to Confirmation of Plan

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

Disposition: Sustained and confirmation denied

Order: Civil minute order

Creditor JPMorgan Chase Bank, which holds a claim for \$10,942.32 that is secured by a 2013 Chevrolet Equinox vehicle, objects to confirmation because the plan reduces the claim without a motion to value, below what JPMorgan contends is the replacement value of the vehicle - \$13,020. The plan asserts that the vehicle has a value of \$6,037.

JPMorgan also contends that the plan does not adequately provide for the risk of non-payment on account of the claim, seeking a 9% interest (5.5% prime + 3.5% for risk). The plan provides for 6% interest.

The debtor has filed a non-opposition to the objection, stating that an amended plan will be filed, addressing JPMorgan's concerns.

75-DAY ORDER

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 bar date, the court may dismiss the case on the trustee's motion. See 11 U.S.C. § 1307(c)(1).

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.

Creditor JPMorgan Bank'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, if any,

IT IS ORDERED that the objection is sustained. The court denies confirmation of the chapter 13 plan.

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 bar date, the court may dismiss the case on the trustee's motion. See 11 U.S.C. § 1307(c)(1).

7. 19-10223-A-13 **IN RE: RAFAEL SANCHEZ AND CANDELARIA RAMOS**
MHM-1

OBJECTION TO CONFIRMATION OF PLAN BY TRUSTEE MICHAEL H.
MEYER
3-19-2019 [22]

THOMAS GILLIS

Tentative Ruling

Objection: Trustee's Objection to Confirmation of Plan

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

Disposition: Sustained and confirmation denied

Order: Civil minute order

The trustee objects to confirmation because it will take two extra months for the plan to fund, above what the plan requires. The plan provides for payments over 42 months, but it needs another two months to pay as proposed.

The debtors have filed a non-opposition to the objection, stating that an amended plan will be filed, addressing the objection.

75-DAY ORDER

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 bar date, the court may dismiss the case on the trustee's motion. See 11 U.S.C. § 1307(c)(1).

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 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. The court denies confirmation of the chapter 13 plan.

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 bar date, the court may dismiss the case on the trustee's motion. See 11 U.S.C. § 1307(c)(1).

8. 18-12827-A-13 IN RE: JOSE GALLEGOS
MHM-1

MOTION TO DISMISS CASE
3-7-2019 [65]

MICHAEL MEYER/MV
THOMAS GILLIS
WITHDRAWN

Final Ruling

The motion withdrawn, the matter is dropped as moot.

9. 18-12827-A-13 IN RE: JOSE GALLEGOS
MHM-2

OBJECTION TO CONFIRMATION OF PLAN BY TRUSTEE MICHAEL H.
MEYER
3-19-2019 [70]

THOMAS GILLIS

Tentative Ruling

Objection: Trustee's Objection to Confirmation of Plan

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

Disposition: Sustained and confirmation denied

Order: Civil minute order

The trustee objects to confirmation because the debtors have not made one plan payment and the plan does not provide for payment to unsecured creditors of all projected disposable income.

The debtor has filed a non-opposition to the objection, stating that an amended plan will be filed, addressing the objection.

75-DAY ORDER

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 bar date, the court may dismiss the case on the trustee's motion. See 11 U.S.C. § 1307(c)(1).

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 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. The court denies confirmation of the chapter 13 plan.

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 bar date, the court may dismiss the case on the trustee's motion. See 11 U.S.C. § 1307(c)(1).

10. 18-12827-A-13 IN RE: JOSE GALLEGOS
TOG-2

CONTINUED MOTION TO CONFIRM PLAN
2-6-2019 [42]

JOSE GALLEGOS/MV
THOMAS GILLIS
RESPONSIVE PLEADING

Final Ruling

This motion will be denied as moot because the debtor has indicated, in connection with the trustee's objection to plan confirmation, that he will be filing an amended plan. See ECF No. 88.

11. 19-10228-A-13 IN RE: ARMIDA CEDARIO
MHM-1

OBJECTION TO CONFIRMATION OF PLAN BY TRUSTEE MICHAEL H.
MEYER
3-19-2019 [16]

THOMAS GILLIS

Final Ruling

Objection: Trustee's Objection to Confirmation of Plan

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

Disposition: Continued

Order: Civil minute order

The trustee objects to confirmation because the plan fails the hypothetical liquidation test. See 11 U.S.C. § 1325(a)(4). Specifically, the debtor has not accounted in the hypothetical liquidation test for a scheduled real property she has labeled as belonging to her son. The trustee asks for a continuance, in order for the debtor to present proof about ownership of the real property.

The debtor has filed a response, also seeking a continuance in order to provide evidence of ownership about the real property.

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 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, if any,

IT IS ORDERED that the hearing on the objection is continued to May 2, 2019 at 9:00 a.m. The debtor may supplement her response to the objection no later than April 18. The trustee may file a reply to any response no later than April 25.

12. 18-14133-A-13 IN RE: CHARLES SMITH
MHM-4

MOTION TO DISMISS CASE
3-8-2019 [[43](#)]

MICHAEL MEYER/MV
MICHAEL ARNOLD
DISMISSED 3/26/19

Final Ruling

The case dismissed, the matter is dropped as moot.

13. 19-10139-A-13 IN RE: HAROLD/CONSTANCE LYONS
MHM-2

MOTION TO DISMISS CASE
3-6-2019 [[24](#)]

MICHAEL MEYER/MV
SCOTT LYONS
RESPONSIVE PLEADING

No Ruling

14. 19-10139-A-13 IN RE: HAROLD/CONSTANCE LYONS
MHM-3

OBJECTION TO CONFIRMATION OF PLAN BY TRUSTEE MICHAEL H.
MEYER
3-13-2019 [[30](#)]

SCOTT LYONS
RESPONSIVE PLEADING

No Ruling

15. 18-14146-A-13 IN RE: JULIAN/GLORIA TORRES
MHM-3

CONTINUED MOTION TO DISMISS CASE
2-6-2019 [[44](#)]

MICHAEL MEYER/MV
NIMA VOKSHORI
RESPONSIVE PLEADING

No Ruling

16. 18-14146-A-13 IN RE: JULIAN/GLORIA TORRES
NSV-1

CONTINUED MOTION TO CONFIRM PLAN
1-30-2019 [40]

JULIAN TORRES/MV
NIMA VOKSHORI

No Ruling

17. 18-15048-A-13 IN RE: ALDO ESCRIBENS AND ANA CASTILLO
SL-2

MOTION TO VALUE COLLATERAL OF MOR FURNITURE
3-4-2019 [29]

ALDO ESCRIBENS/MV
STEPHEN LABIAK

Final Ruling

Motion: Value Collateral [Personal Property; Non-vehicular]

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.*

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. The debt secured by such property was not incurred within the 1-year period preceding the date of the petition. The court values the collateral at \$1,000.

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 non-vehicular, personal property collateral 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 sofa, loveseat, dining table, and six chairs has a value of \$1,000. No senior liens on the collateral have been identified. The respondent has a secured claim in the amount of \$1,000 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.

18. 19-10251-A-13 **IN RE: RAFAEL VALDOVINOS AND BERTA DE AGUILAR**
MHM-1

OBJECTION TO CONFIRMATION OF PLAN BY TRUSTEE MICHAEL H.
MEYER
3-19-2019 [25]

THOMAS GILLIS

Tentative Ruling

Objection: Trustee's Objection to Confirmation of Plan

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

Disposition: Sustained and confirmation denied

Order: Civil minute order

The trustee objects to confirmation because the plan fails the hypothetical liquidation test. See 11 U.S.C. § 1325(a)(4).

The debtors have filed a non-opposition to the objection, stating that an amended plan will be filed, addressing the objection.

75-DAY ORDER

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 bar date, the court may dismiss the case on the trustee's motion. See 11 U.S.C. § 1307(c)(1).

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 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. The court denies confirmation of the chapter 13 plan.

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 bar date, the court may dismiss the case on the trustee's motion. See 11 U.S.C. § 1307(c)(1).

19. 16-13752-A-13 IN RE: GURMIT SANDHU AND KARMIT BRAR
GEG-4

MOTION FOR COMPENSATION BY THE LAW OFFICE OF GATES LAW GROUP
FOR GLEN E. GATES, DEBTORS ATTORNEY(S)
3-7-2019 [83]

GLEN GATES

Final Ruling

Application: Allowance of Interim 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, Gates Law Group, APC has applied for an allowance of first interim compensation and reimbursement of expenses. The application requests that the court allow compensation in the amount of \$5,745 and reimbursement of expenses in the amount of \$0.00.

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 an interim basis. Such amounts shall be perfected, and may be adjusted, by a final application for compensation and expenses, which shall be filed prior to case closure.

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.

Gates Law Group's application for allowance of first interim 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 an interim basis. The court allows interim compensation in the amount of \$5,745 and reimbursement of expenses in the amount of \$0.00. The aggregate allowed amount equals \$5,745. As of the date of the application, the applicant held a retainer in the amount of \$0.00. The amount of \$5,745 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.

IT IS FURTHER ORDERED that the fees and costs are allowed pursuant to 11 U.S.C. § 331 as interim fees and costs, subject to final review and allowance pursuant to 11 U.S.C. § 330. Such allowed amounts shall be perfected, and may be adjusted, by a final application for allowance of compensation and reimbursement of expenses, which shall be filed prior to case closure.

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. 19-10555-A-13 IN RE: TARA SYSAKNOI
APN-1

MOTION FOR RELIEF FROM AUTOMATIC STAY
3-11-2019 [13]

GATEWAY ONE LENDING &
FINANCE/MV
STEVEN ALPERT
AUSTIN NAGEL/ATTY. FOR MV.

Final Ruling

Motion: Stay Relief

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

Disposition: Granted

Order: Civil minute order

Subject: 2016 Nissan Altima

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).

STAY RELIEF

The debtor has defaulted on a loan from the moving party secured by the property described above, and postpetition payments are past due. In addition, the proposed plan provides for the surrender of the property. ECF No. 2 at 4. Cause exists to grant relief from stay under § 362(d)(1).

The motion will be granted, and the 14-day stay of Federal Rule of Bankruptcy Procedure 4001(a)(3) will be waived. No other relief will be awarded.

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.

Gateway One Lending & Finance's motion for relief from the automatic stay 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 automatic stay is vacated with respect to the property described in the motion, commonly known as 2016 Nissan Altima, as to all parties in interest. The 14-day stay of the order under Federal Rule of Bankruptcy Procedure 4001(a)(3) is waived. Any party with standing may pursue its rights against the property pursuant to applicable non-bankruptcy law.

IT IS FURTHER ORDERED that no other relief is awarded. To the extent that the motion includes any request for attorney's fees or other costs for bringing this motion, the request is denied.

21. 15-12062-A-13 IN RE: JUAN/GINA CIENFUEGOS
PBB-4

MOTION TO REFINANCE
3-27-2019 [56]

JUAN CIENFUEGOS/MV
PETER BUNTING

Final Ruling

The motion will be denied without prejudice because there is no evidence that the motion was served on anyone. The proof of service for the motion is neither signed, nor dated. ECF No. 60 at 2.

22. 18-15167-A-13 IN RE: RANDY ADAMS
MHM-3

MOTION TO DISMISS CASE
3-12-2019 [23]

MICHAEL MEYER/MV
ROBERT WILLIAMS

Final Ruling

This motion to dismiss will be denied as moot because the case was dismissed already on April 4, 2019.

23. 18-14569-A-13 IN RE: JESUS/FATIMA AYALA
MHM-2

MOTION TO DISMISS CASE
3-8-2019 [63]

MICHAEL MEYER/MV
TIMOTHY SPRINGER

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).

For the reasons stated in the motion, cause exists under § 1307(c)(1) and (6) to dismiss the case. The debtor has failed to make all payments due under the confirmed plan. Payments are delinquent in the amount of \$1,980.

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. The debtor has failed to make all payments due under the confirmed chapter 13 plan in this case. This delinquency constitutes cause to dismiss this case. 11 U.S.C. § 1307(c)(1), (6). The court hereby dismisses this case.

24. [19-10169](#)-A-13 IN RE: DAMON/REGINA GUNDERMAN
MHM-1

OBJECTION TO CONFIRMATION OF PLAN BY TRUSTEE MICHAEL H.
MEYER
3-19-2019 [44]

DAVID JENKINS

Final Ruling

Pursuant to Civil Minute Order ECF #63, the matter has been continued to April 25, 2019, at 9:00 a.m.

25. [18-11470](#)-A-13 IN RE: BENNY/JEAN WEBB
WJH-1

MOTION FOR RELIEF FROM AUTOMATIC STAY
2-8-2019 [30]

BRENDA NORTON/MV
SCOTT LYONS
JAY CHRISTOFFERSON/ATTY. FOR MV.

Final Ruling

Motion: Stay Relief to Pursue State-Court Litigation
Notice: LBR 9014-1(f)(1); written opposition required
Disposition: Granted only to the extent specified in this ruling
Order: Civil minute order

Subject: Pending state-court litigation described in the motion

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).

STAY RELIEF

Section 362(d)(1) authorizes stay relief for cause. Cause is determined on a case-by-case basis and may include the existence of litigation pending in a non-bankruptcy forum that should properly be pursued. *In re Tucson Estates, Inc.*, 912 F.2d 1162, 1169 (9th Cir. 1990).

The Ninth Circuit Bankruptcy Appellate Panel has "agree[d] that the *Curtis* factors are appropriate, nonexclusive, factors to consider in deciding whether to grant relief from the automatic stay to allow

pending litigation to continue in another forum." *In re Kronemyer*, 405 B.R. 915, 921 (B.A.P. 9th Cir. 2009).

These factors include: "(1) whether relief would result in a partial or complete resolution of the issues; (2) lack of any connection with or interference with the bankruptcy case; (3) whether the other proceeding involves the debtor as a fiduciary; (4) whether a specialized tribunal with the necessary expertise has been established to hear the cause of action; (5) whether the debtor's insurer has assumed full responsibility for defending it; (6) whether the action primarily involves third parties; (7) whether litigation in another forum would prejudice the interests of other creditors; (8) whether the judgment claim arising from the other action is subject to equitable subordination; (9) whether movant's success in the other proceeding would result in a judicial lien avoidable by the debtor; (10) the interests of judicial economy and the expeditious and economical resolution of litigation; (11) whether the parties are ready for trial in the other proceeding; and (12) impact of the stay on the parties and the balance of harms." *Sonnax Indus., Inc. v. TRI Component Prods. Corp. (In re Sonnax Indus., Inc.)*, 907 F.2d 1280, 1286 (2nd Cir. 1990) (citing *In re Curtis*, 40 B.R. 795, 799-800 (Bankr. D. Utah 1984)).

Courts may consider whichever factors are relevant to the particular case. See *id.* (applying only four of the factors that were relevant in the case). The decision whether to lift the stay is within the court's discretion. *Id.*

Having considered the motion's well-pleaded facts, the court finds cause to grant stay relief subject to the limitations described in this ruling.

The moving party shall have relief from stay to pursue through judgment the pending state-court litigation identified in the motion. The moving party may also file post-judgment motions, and appeals. But no bill of costs may be filed without leave of this court, no attorney's fees shall be sought or awarded, and no action shall be taken to collect or enforce any judgment, except: (1) from applicable insurance proceeds; or (2) by filing a proof of claim in this court.

The motion will be granted to the extent specified herein, and the stay of the order provided by Federal Rule of Bankruptcy Procedure 4001(a)(3) will be waived. No other relief will be awarded.

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.

Brenda Norton's motion for relief from the automatic stay 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 to the extent specified in this order. The automatic stay is vacated to allow the movant to pursue through judgment the pending state-court litigation described in the motion. The movant may also file post-judgment motions and appeals. But the movant shall not take any action to collect or enforce any judgment, or pursue costs or attorney's fees against the debtor, except (1) from applicable insurance proceeds; or (2) by filing a proof of claim in this case. The 14-day stay of the order under Federal Rule of Bankruptcy Procedure 4001(a)(3) is waived. No other relief is awarded.

26. 18-10772-A-13 **IN RE: EDUARDO FELIX**
JRL-3

MOTION TO MODIFY PLAN
2-28-2019 [45]

EDUARDO FELIX/MV
JERRY LOWE
RESPONSIVE PLEADING

No Ruling

27. 15-10373-A-13 **IN RE: GREGORIO/CYNTHIA SALAZAR**
SJS-6

MOTION FOR COMPENSATION FOR SUSAN J. SALEHI, DEBTORS
ATTORNEY(S)
3-20-2019 [76]

SUSAN SALEHI
WITHDRAWN

Final Ruling

The motion withdrawn, the matter is dropped as moot.

28. [15-10373](#)-A-13 IN RE: GREGORIO/CYNTHIA SALAZAR
SJS-7

MOTION FOR COMPENSATION FOR SUSAN J. SALEHI, DEBTORS
ATTORNEY(S)
3-20-2019 [[79](#)]

SUSAN SALEHI
WITHDRAWN

Final Ruling

The motion withdrawn, the matter is dropped as moot.

29. [18-14896](#)-A-13 IN RE: ROBERT DAY

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES
3-15-2019 [[29](#)]

MARK ZIMMERMAN

Final Ruling

The case dismissed, the order to show cause is discharged.