

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

Honorable Fredrick E. Clement  
Fresno Federal Courthouse  
510 19th Street, Second Floor  
Bakersfield, California

**PRE-HEARING DISPOSITIONS**

**DAY:** WEDNESDAY  
**DATE:** JUNE 5, 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. [19-11101](#)-A-13     **IN RE: SERGIO LAZARO,**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES  
4-26-2019    [\[15\]](#)

SUSAN SALEHI

**Tentative Ruling**

If the installment fee of \$79.00 due April 22, 2019 and the installment fee of \$77.00 due May 21, 2019 has not been paid in full by the time of the hearing, the case may be dismissed without further notice or hearing.

2. [19-11009](#)-A-13     **IN RE: KEVIN/TAMEKA BLUEBAUGH**  
[DMG-1](#)

MOTION TO VALUE COLLATERAL OF AQUA FINANCE, INC.  
5-8-2019    [\[26\]](#)

KEVIN BLUEBAUGH/MV  
D. GARDNER  
RESPONSIVE PLEADING

**Tentative Ruling**

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

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

**Disposition:** Denied without prejudice

**Order:** Civil minute order

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

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).

Both the trustee and the respondent oppose the motion.

The motion will be denied.

First, in addition to seeking to value a collateral securing a creditor's claim, the motion seems to be asking the court to determine the validity, priority, and/or extent of the respondent's interest in the property and in the debtors' real property.

The debtors borrowed money to purchase and have a pool installed at their residence. Now, by this motion, they are seeking to have the pool equipment valued at \$5,769, reducing the respondent creditor's claim of \$35,215 to \$5,769. The debtors argue that the claim cannot be secured by their residence, however, even though the claim was secured by the pool the debtors purchased.

To the extent the motion seeks determination of the validity, priority, and/or extent of the respondent's interest in any property, such relief requires an adversary proceeding. The court cannot award such relief on a motion. See Fed. R. Bankr. P. 7001(2).

Second, while the motion admits that the collateral is the pool the debtors purchased, it inexplicably limits the valuation only to the pool equipment. The debtors' reply also firmly contends that the collateral is limited to the pool equipment. On the other hand, the respondent asserts security interest in the debtors' residence, as the pool has arguably become part of the real property.

There is then a genuine dispute over what is the respondent's collateral, *i.e.*, question about the validity, priority, and/or extent of the respondent's interest in property.

Until this dispute is resolved, the court cannot address the valuation motion. Nor will the court resolve such dispute on a motion. It requires an adversary proceeding. See Fed. R. Bankr. P. 7001(2).

#### **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 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 denied without prejudice.

3. [19-11009](#)-A-13     **IN RE: KEVIN/TAMEKA BLUEBAUGH**  
[MHM-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY TRUSTEE MICHAEL H.  
MEYER  
5-3-2019    [[17](#)]

D. GARDNER  
RESPONSIVE PLEADING

**No Ruling**

4. [19-11009](#)-A-13     **IN RE: KEVIN/TAMEKA BLUEBAUGH**  
[RPZ-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY PENNYMAC LOAN SERVICES,  
LLC  
5-7-2019    [[22](#)]

PENNYMAC LOAN SERVICES, LLC/MV  
D. GARDNER  
ROBERT ZAHRADKA/ATTY. FOR MV.

**No Ruling**

5. [18-13311](#)-A-13     **IN RE: MELINDA MARTINDALE**  
[MHM-2](#)

MOTION TO DISMISS CASE  
4-12-2019    [[80](#)]

MICHAEL MEYER/MV  
D. GARDNER  
RESPONSIVE PLEADING

**No Ruling**

6. [18-13311](#)-A-13     **IN RE: MELINDA MARTINDALE**  
[RP-1](#)

MOTION FOR COMPENSATION FOR RANDELL PARKER, CHAPTER 7  
TRUSTEE(S)  
4-25-2019    [\[89\]](#)

RANDELL PARKER/MV  
D. GARDNER

**Final Ruling**

**Application:** Allowance of Final Compensation to a Former Chapter 7 Trustee

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

**Disposition:** Approved

**Order:** Prepared by applicant

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, applicant Randell Parker was the former Chapter 7 trustee in this case before it was converted to a case under Chapter 13. The applicant has applied for an allowance of compensation in the amount of \$1,750 and reimbursement of expenses in the amount of \$133.55.

Chapter 7 trustees are entitled to compensation for their work in a case under Chapter 7 that is converted to a case under Chapter 13. *In re Hages*, 252 B.R. 789, 794-95, 797-99 (Bankr. N.D. Cal. 2000). Subject to the statutory cap of § 326(a) of the Bankruptcy Code, *id.* at 795, "a chapter 7 trustee's compensation should be determined independently under § 330," *id.* at 798. Section 330 authorizes "reasonable compensation for actual, necessary services." 11 U.S.C. § 330(a)(1). Reasonable compensation is determined by considering all relevant factors. See *id.* § 330(a)(3). Such amount is paid pro rata with other administrative expenses out of each distribution made by the Chapter 13 trustee. See *id.* §§ 503(b)(2), 507(a)(2), 1322(a)(2) , 1326(b)(1).

In addition, "it is entirely appropriate to impute the moneys that will be distributed by the chapter 13 trustee to the chapter 7 trustee for purposes of computing the maximum fee the chapter 7 trustee can charge, and allowing interim fees up to that maximum." *In re Hages*, 252 B.R. at 794. The amount of anticipated plan payments, rather than actual plan payments, may be used as the basis

for calculating the maximum trustee's fee under § 326(a). *Id.* at 793-94.

The court finds that the compensation and expenses sought are reasonable and within the cap of § 326(a). As a result, the court will approve the compensation and expenses on a final 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.

Chapter 7 trustee Randell Parker's application for allowance of 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 to the trustee compensation in the amount of \$1,750 and reimbursement of expenses in the amount of \$133.55.

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 and § 1326(b) (3) of the Bankruptcy Code.

7. [15-12017](#)-A-13     **IN RE: MICHAEL/TRISA GONZOLAS**  
[MHM-3](#)

CONTINUED MOTION TO DISMISS CASE  
4-5-2019    [\[70\]](#)

MICHAEL MEYER/MV  
ROBERT WILLIAMS  
RESPONSIVE PLEADING

#### **No Ruling**

8. [15-12017](#)-A-13     **IN RE: MICHAEL/TRISA GONZOLAS**  
[RSW-2](#)

MOTION TO MODIFY PLAN  
4-24-2019    [\[75\]](#)

MICHAEL GONZOLAS/MV  
ROBERT WILLIAMS  
RESPONSIVE PLEADING

#### **No Ruling**

9. [19-10719](#)-A-13     **IN RE: JAMESON/DAYNA SHEPHERD**  
[MHM-1](#)

MOTION TO DISMISS CASE  
4-12-2019    [\[23\]](#)

MICHAEL MEYER/MV  
PATRICK KAVANAGH  
WITHDRAWN

#### **Final Ruling**

The motion was withdrawn, the matter is dropped as moot.

10. [16-10720](#)-A-13     **IN RE: PHILIP/SUSANNE ICARDO**  
[RSW-4](#)

MOTION TO MODIFY PLAN  
4-11-2019    [\[75\]](#)

PHILIP ICARDO/MV  
ROBERT WILLIAMS

#### **No Ruling**

11. [19-10030](#)-A-13     **IN RE: ALICE CAMERON**  
[MHM-4](#)

MOTION TO DISMISS CASE  
5-2-2019    [\[29\]](#)

MICHAEL MEYER/MV  
ROBERT WILLIAMS  
DISMISSED 5/10/19

#### **Final Ruling**

The case was dismissed, the matter is dropped as moot.

12. [18-15139](#)-A-13     **IN RE: AARON/ANNIE LUCAS**  
[PK-1](#)

MOTION TO VALUE COLLATERAL OF TD RETAIL CARD SERVICES (MOR  
FURNITURE FOR LESS)  
5-22-2019    [\[49\]](#)

AARON LUCAS/MV  
PATRICK KAVANAGH

### **Tentative Ruling**

**Motion:** Value Collateral [Personal Property; Non-vehicular  
(furniture)]

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

**Disposition:** Granted

**Order:** Civil minute order

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

### **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 furniture, including a table, chairs, a desk, a dresser, and a mattress. 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 \$400.

### **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 a table, chairs, a desk, a dresser, and a mattress has a value of \$400. No senior liens on the collateral have been identified. The respondent has a secured claim in the amount of \$400, 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.

13. [18-13845](#)-A-13     **IN RE: CURTIS ROSS**  
[MHM-3](#)

CONTINUED MOTION TO DISMISS CASE  
1-29-2019    [[42](#)]

MICHAEL MEYER/MV  
ROBERT WILLIAMS  
RESPONSIVE PLEADING

**No Ruling**

14. [18-13845](#)-A-13     **IN RE: CURTIS ROSS**  
[RSW-2](#)

MOTION TO CONFIRM PLAN  
4-8-2019    [[68](#)]

CURTIS ROSS/MV  
ROBERT WILLIAMS  
RESPONSIVE PLEADING

**No Ruling**

15. [18-13845](#)-A-13     **IN RE: CURTIS ROSS**  
[RSW-3](#)

MOTION TO VALUE COLLATERAL OF HYUNDAI MOTOR FINANCE  
5-22-2019    [\[85\]](#)

CURTIS ROSS/MV  
ROBERT WILLIAMS

### **Tentative Ruling**

**Motion:** Value Collateral [Personal Property; Motor Vehicle; 2012 Hyundai Genesis vehicle]

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

**Disposition:** Granted

**Order:** Civil minute order

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

### **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 2012 Hyundai Genesis vehicle. 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 \$9,725.

### **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 2012 Hyundai Genesis vehicle has a value of \$9,725. No senior liens on the collateral have been identified. The respondent has a secured claim in the amount of \$9,725 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.

16. [19-11351](#)-A-13      **IN RE: NORMA YANEZ**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES  
5-7-2019    [\[37\]](#)

\$79.00 INSTALLMENT PAYMENT ON 5/7/19

#### **Final Ruling**

The installment having been paid, the order to show cause is discharged. The case will remain pending.

17. [18-14254](#)-A-13      **IN RE: JOSEPH CLEVINGER**  
[MHM-3](#)

CONTINUED MOTION TO DISMISS CASE  
3-8-2019    [\[38\]](#)

MICHAEL MEYER/MV  
ROBERT WILLIAMS  
RESPONSIVE PLEADING

#### **Final Ruling**

The hearing on this motion was continued from May 23, but the trustee has filed a notice of withdrawal. The court deems the motion voluntarily dismissed.

18. [18-14254](#)-A-13     **IN RE: JOSEPH CLEVINGER**  
[RSW-2](#)

MOTION TO MODIFY PLAN  
4-24-2019    [\[44\]](#)

JOSEPH CLEVINGER/MV  
ROBERT WILLIAMS  
RESPONSIVE PLEADING

**No ruling**

19. [19-10854](#)-A-13     **IN RE: VIOLA REYNOLDS**  
[RSW-1](#)

MOTION TO VALUE COLLATERAL OF IQ CREDIT UNION  
5-21-2019    [\[14\]](#)

VIOLA REYNOLDS/MV  
ROBERT WILLIAMS

**Tentative Ruling**

**Motion:** Value Collateral [Personal Property; Motor Vehicle; 2013 Chevrolet Silverado 1500 vehicle]

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

**Disposition:** Granted

**Order:** Civil minute order

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

**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 Silverado 1500 vehicle. 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 \$22,125.

#### **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 Silverado 1500 vehicle has a value of \$22,125. No senior liens on the collateral have been identified. The respondent has a secured claim in the amount of \$22,125 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.

20. [19-10569](#)-A-13     **IN RE: TOMMY FIELDS**  
[MHM-2](#)

CONTINUED MOTION TO DISMISS CASE  
4-10-2019    [\[20\]](#)

MICHAEL MEYER/MV  
ROBERT WILLIAMS  
WITHDRAWN

#### **Final Ruling**

The motion was withdrawn, the matter is dropped as moot.

21. [19-10570](#)-A-13     **IN RE: RICKEY/GALE AJOOTIAN**  
[MHM-1](#)

MOTION TO DISMISS CASE  
4-12-2019    [\[34\]](#)

MICHAEL MEYER/MV  
PATRICK KAVANAGH  
RESPONSIVE PLEADING

#### **No Ruling**

22. [19-10570](#)-A-13     **IN RE: RICKEY/GALE AJOOTIAN**  
[PK-3](#)

MOTION TO VALUE COLLATERAL OF BMW FINANCIAL SERVICES  
5-8-2019    [\[39\]](#)

RICKEY AJOOTIAN/MV  
PATRICK KAVANAGH

#### **Final Ruling**

**Motion:** Value Collateral [Personal Property; Motor Vehicle; 2013 BMW 328i vehicle]

**Disposition:** Denied without prejudice

**Order:** Civil minute order

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

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

In this case, the debtor seeks to value collateral consisting of a motor vehicle. The court cannot determine whether the hanging

paragraph of 11 U.S.C. § 1325(a) applies to the respondent creditor's claim in this case. Thus, the motion does not sufficiently demonstrate an entitlement to the relief requested. See LBR 9014-1(d)(7). Factual information relevant to the hanging paragraph of § 1325(a) is also an essential aspect of the grounds for the relief sought that should be contained in the motion itself and stated with particularity. See Fed. R. Bankr. P. 9013.

#### **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 considered the well-pleaded facts of the motion,

IT IS ORDERED that the motion is denied without prejudice.

23. [15-11373](#)-A-13     **IN RE: FREDRICK HALL**  
[PK-3](#)

CONTINUED MOTION TO INCUR DEBT  
4-25-2019    [\[56\]](#)

FREDRICK HALL/MV  
PATRICK KAVANAGH  
OPPOSITION WITHDRAWN

#### **Tentative Ruling**

**Motion:** Approve New Debt [Vehicle Loan]

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

**Disposition:** Granted

**Order:** Prepared by moving party

The hearing on this motion was continued from May 23 because the trustee had filed opposition to this motion. The trustee has now withdrawn his opposition to the motion. The court will grant the motion.

The debtor seeks to incur new debt to finance the purchase of a vehicle. Amended Schedules I and J have been filed indicating that the debtor can afford both the plan payment and 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.

24. [19-10681](#)-A-13     **IN RE: MARIA NINO**  
[MHM-2](#)

MOTION TO DISMISS CASE  
4-12-2019    [\[22\]](#)

MICHAEL MEYER/MV

**No Ruling**

25. [17-14784](#)-A-13     **IN RE: RICHARD/GINA ESPITIA**  
[LKW-5](#)

MOTION FOR COMPENSATION FOR LEONARD K. WELSH, DEBTORS  
ATTORNEY(S)  
5-15-2019    [\[90\]](#)

LEONARD WELSH

**Tentative Ruling**

**Application:** Allowance of Second Interim Compensation and Expense  
Reimbursement

**Notice:** LBR 9014-1(f)(2); no 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). 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, Law Offices of Leonard Welsh has applied for an allowance of a first interim compensation and reimbursement of expenses. The application requests that the court allow compensation in the amount of \$2,580 and reimbursement of expenses in the amount of \$31.30.

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.

Law Offices of Leonard Welsh's application for allowance of 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 \$2,580 and reimbursement of expenses in the amount of \$31.30. The aggregate allowed amount equals \$2,611.30. As of the date of the application, the applicant held a retainer in the amount of \$80.02. The amount of \$2,611.30 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.

26. [19-10385](#)-A-13     **IN RE: DEBRA FAWVER**  
[CJO-1](#)

CONTINUED OBJECTION TO CONFIRMATION OF PLAN BY CENLAR FSB  
3-26-2019    [\[26\]](#)

CENLAR FSB/MV  
PATRICK KAVANAGH  
CHRISTINA O/ATTY. FOR MV.  
RESPONSIVE PLEADING

## **Final Ruling**

The hearing on this objection was continued from May 8, in order for the creditor to decide whether to go forward with the objection. See ECF Nos. 40 & 42. The creditor has decided to withdraw the objection. The court deems the objection voluntarily dismissed.

27. [19-10385](#)-A-13     **IN RE: DEBRA FAWVER**  
[MHM-1](#)

CONTINUED MOTION TO DISMISS CASE  
3-25-2019    [\[22\]](#)

MICHAEL MEYER/MV  
PATRICK KAVANAGH  
RESPONSIVE PLEADING

**No Ruling**

28. [19-10386](#)-A-13     **IN RE: JOSE RAMIREZ**

AMENDED/MODIFIED PLAN  
4-15-2019    [\[30\]](#)

MICHAEL AVANESIAN

**Final Ruling**

The hearing on this motion has been continued by the movant to July 3, 2019 at 9:00 a.m.    ECF Nos. 49 & 53.

29. [19-10386](#)-A-13     **IN RE: JOSE RAMIREZ**  
[MHM-3](#)

MOTION TO DISMISS CASE  
5-3-2019    [\[39\]](#)

MICHAEL MEYER/MV  
MICHAEL AVANESIAN

**No Ruling**

30. [18-13295](#)-A-13     **IN RE: PATRICK/MARIBETH TABAJUNDA**  
[RSW-3](#)

CONTINUED MOTION TO MODIFY PLAN  
3-14-2019    [\[61\]](#)

PATRICK TABAJUNDA/MV  
ROBERT WILLIAMS  
RESPONSIVE PLEADING

**No Ruling**

31. [19-11295](#)-A-13      **IN RE: ROGELIO/MYRA RIOS**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES  
5-6-2019    [\[21\]](#)

PHILLIP GILLET  
\$310.00 FINAL INSTALLMENT PAYMENT ON 5/22/19

**Final Ruling**

The installment fees having been paid, the order to show cause is discharged. The case will remain pending.

32. [17-12799](#)-A-13      **IN RE: ANGELA ADAMS**  
[RSW-3](#)

MOTION TO MODIFY PLAN  
4-10-2019    [\[55\]](#)

ANGELA ADAMS/MV  
ROBERT WILLIAMS

**Final Ruling**

**Motion:** Modify Chapter 13 Plan

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

**Disposition:** Granted

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

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 3015-1(d)(2), 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

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

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

405, 407 (9th Cir. 1994); *In re Andrews*, 49 F.3d 1404, 1408 (9th Cir. 1995).

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

33. [16-13279](#)-A-13     **IN RE: CHAD/CANDACE WESTFALL**  
[PWG-1](#)

MOTION TO SELL AND/OR MOTION TO PAY  
5-25-2019    [\[29\]](#)

CHAD WESTFALL/MV  
PHILLIP GILLET  
OST REJECTED

### **Final Ruling**

An amended notice of hearing has been filed for this motion, setting a new hearing for June 26, 2019 at 9:00 a.m. ECF No. 36. No responses to the motion have been filed. Accordingly, the court will continue the hearing on the motion to June 26, 2019 at 9:00 a.m.