

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

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

PRE-HEARING DISPOSITIONS

DAY: WEDNESDAY
DATE: JULY 6, 2016
CALENDAR: 9:00 A.M. CHAPTERS 13 AND 12 CASES

GENERAL DESIGNATIONS

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

ORAL ARGUMENT

For matters that are called, the court may determine in its discretion whether the resolution of such matter requires oral argument. See *Morrow v. Topping*, 437 F.2d 1155, 1156-57 (9th Cir. 1971); accord LBR 9014-1(h). When the court has published a tentative ruling for a matter that is called, the court shall not accept oral argument from any attorney appearing on such matter who is unfamiliar with such tentative ruling or its grounds.

COURT'S ERRORS IN FINAL RULINGS

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

1. [15-10003](#)-A-13 ALLISON SMITH
MHM-4
MICHAEL MEYER/MV
SUSAN SALEHI/Atty. for dbt.

MOTION TO DISMISS CASE
5-10-16 [[58](#)]

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 \$2,031.65.

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.

2. [16-10203](#)-A-13 TRACY MOOD
RSW-1
TRACY MOOD/MV
ROBERT WILLIAMS/Atty. for dbt.
DISMISSED

MOTION TO CONFIRM PLAN
4-29-16 [[22](#)]

Final Ruling

The case dismissed, the motion is denied as moot.

3. [15-13704](#)-A-13 IGNACIO BENITEZ MOTION TO DISMISS CASE
MHM-1 5-11-16 [[33](#)]
MICHAEL MEYER/MV
PATRICK KAVANAGH/Atty. for dbt.
WITHDRAWN

Final Ruling

The motion withdrawn, the matter is dropped as moot.

4. [16-11916](#)-A-13 ROBYN HILL AVERY MOTION TO IMPOSE AUTOMATIC STAY
NSV-1 5-31-16 [[10](#)]
ROBYN HILL AVERY/MV
NIMA VOKSHORI/Atty. for dbt.

Tentative Ruling

Motion: Extend the Automatic Stay

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

Disposition: Denied

Order: Civil minute order

Upon request of a party in interest, the court may extend the automatic stay where the debtor has had one previous bankruptcy case that was pending within the 1-year period prior to the filing of the current bankruptcy case but was dismissed. See 11 U.S.C. § 362(c)(3)(B). Procedurally, the automatic stay may be extended only "after notice and a hearing *completed* before the expiration of the 30-day period" after the filing of the petition in the later case. 11 U.S.C. § 362(c)(3)(B) (emphasis added). Otherwise, if notice and the hearing are not completed before the end of the 30-day period, "the automatic stay terminates in its entirety 30 days after the petition date for a repeat filer." *In re Reswick*, 446 B.R. 362, 365, 371-73 (B.A.P. 9th Cir. 2011).

The debtor has had a previous case pending within the one-year period prior to the filing of this case. Although the motion to extend the stay and notice of hearing on such motion were filed and served before the expiration of the 30-day period after the petition date, the hearing on this matter has not been completed before such deadline. Accordingly, the court has no authority to grant the relief requested. The motion will be denied.

5. [11-17219](#)-A-13 PATRICIA GALLAND MOTION TO DISMISS CASE
MHM-7 5-12-16 [[105](#)]
MICHAEL MEYER/MV
ROBERT WILLIAMS/Atty. for dbt.
RESPONSIVE PLEADING
WITHDRAWN

Final Ruling

The motion withdrawn, the matter is dropped as moot.

6. [14-12223](#)-A-13 ANDRES ALVAREZ AND ELVIRA MOTION TO DISMISS CASE
MHM-2 DE CAMPOS 5-11-16 [[167](#)]
MICHAEL MEYER/MV
LEONARD WELSH/Atty. for dbt.
WITHDRAWN

Final Ruling

The motion withdrawn, the matter is dropped as moot.

7. [14-12326](#)-A-13 GARY WRIGHT AND KIM MOTION TO DISMISS CASE
MHM-4 GRIFFIN-WRIGHT 5-11-16 [[96](#)]
MICHAEL MEYER/MV
ROBERT WILLIAMS/Atty. for dbt.
RESPONSIVE PLEADING
WITHDRAWN

Final Ruling

The motion withdrawn, the matter is dropped as moot.

8. [15-14432](#)-A-13 DARLENE/BRIAN ALLEN MOTION TO DISMISS CASE
MHM-1 5-24-16 [[45](#)]
MICHAEL MEYER/MV
ROBERT WILLIAMS/Atty. for dbt.

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 trustee moves to dismiss this chapter 13 case. For the reasons stated in the motion, cause exists under § 1307(c)(1) to dismiss the case. The debtor has failed to confirm a plan within a reasonable time. The case has been pending for approximately 8 months, yet a plan has not been confirmed. This constitutes unreasonable delay by the debtor that is prejudicial to creditors. The court will dismiss the case.

CIVIL MINUTE ORDER

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

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

The trustee's motion to dismiss this chapter 13 case has been presented to the court. Having entered the default of respondent debtor for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the motion,

IT IS ORDERED that the motion is granted. The court hereby dismisses this case.

9. [15-12639](#)-A-13 DAVID/MONICA GARZA MOTION TO DISMISS CASE
MHM-5 5-12-16 [[104](#)]
MICHAEL MEYER/MV
PHILLIP GILLET/Atty. for dbt.

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 \$3,300.00.

CIVIL MINUTE ORDER

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

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

The trustee's motion to dismiss 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.

10. [16-11139](#)-A-13 RONALD/LINDA FERMAN MOTION TO DISMISS CASE
MHM-1 5-5-16 [[18](#)]
MICHAEL MEYER/MV
WILLIAM OLCOTT/Atty. for dbt.
WITHDRAWN

Final Ruling

The motion withdrawn, the matter is dropped as moot.

11. [16-10442](#)-A-13 VALARIE WAGNER-PRESTAGE OBJECTION TO DEBTOR'S CLAIM OF
MHM-3 EXEMPTIONS
MICHAEL MEYER/MV 5-26-16 [[34](#)]
SHARRON WILLIAMS GELOBTER/Atty. for dbt.

Tentative Ruling

A spousal waiver having been filed, the court intends to drop this matter as moot.

12. [16-11546](#)-A-13 CURTIS/ANDREA WHITMORE
PWG-1
CURTIS WHITMORE/MV
PHILLIP GILLET/Atty. for dbt.

MOTION TO AVOID LIEN OF UNIFUND
CCR PARTNERS
6-4-16 [[19](#)]

Final Ruling

Motion: Avoid Lien that Impairs Exemption

Disposition: Denied without prejudice

Order: Civil minute order

The court will deny the motion without prejudice on grounds of insufficient service of process on the responding party. A motion to avoid a lien is a contested matter requiring service of the motion in the manner provided by Federal Rule of Bankruptcy Procedure 7004. Fed. R. Bankr. P. 4003(d), 9014(b); *see also In re Villar*, 317 B.R. 88, 92 n.6 (B.A.P. 9th Cir. 2004). Under Rule 7004, service on corporations and other business entities must be made by mailing a copy of the motion "to the attention of an officer, a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process." Fed. R. Bankr. P. 7004(b) (3).

Service of the motion was insufficient. The motion was not mailed to *the attention of* an officer, managing or general agent, or other agent authorized to accept service.

Service does appear to have been served on the attorney whose name appears on the abstract of judgment attached to the motion. "An implied agency to receive service is not established by representing a client in an earlier action. We cannot presume from [the attorney's] handling the litigation that resulted in the judicial lien that he is also authorized to accept service for a motion to avoid the judicial lien." *Beneficial Cal., Inc. v. Villar (In re Villar)*, 317 B.R. 88, 93-94 (B.A.P. 9th Cir. 2004) (citations omitted). No evidence has been presented in the proof of service that the attorney or law firm served has been authorized to accept service of process on the responding party in this bankruptcy case.

13. [16-11546](#)-A-13 CURTIS/ANDREA WHITMORE
PWG-2
CURTIS WHITMORE/MV
PHILLIP GILLET/Atty. for dbt.

MOTION TO AVOID LIEN OF MIDLAND
FUNDING, LLC
6-4-16 [[14](#)]

Final Ruling

Motion: Avoid Lien that Impairs Exemption

Disposition: Denied without prejudice

Order: Civil minute order

The court will deny the motion without prejudice on grounds of insufficient service of process on the responding party. A motion to avoid a lien is a contested matter requiring service of the motion in the manner provided by Federal Rule of Bankruptcy Procedure 7004. Fed. R. Bankr. P. 4003(d), 9014(b); *see also In re Villar*, 317 B.R. 88, 92 n.6 (B.A.P. 9th Cir. 2004). Under Rule 7004, service on

corporations and other business entities must be made by mailing a copy of the motion "to the attention of an officer, a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process." Fed. R. Bankr. P. 7004(b) (3).

Service of the motion was insufficient. The motion was not mailed to *the attention of* an officer, managing or general agent, or other agent authorized to accept service.

Service does appear to have been served on the attorney whose name appears on the abstract of judgment attached to the motion. "An implied agency to receive service is not established by representing a client in an earlier action. We cannot presume from [the attorney's] handling the litigation that resulted in the judicial lien that he is also authorized to accept service for a motion to avoid the judicial lien." *Beneficial Cal., Inc. v. Villar (In re Villar)*, 317 B.R. 88, 93-94 (B.A.P. 9th Cir. 2004) (citations omitted). No evidence has been presented in the proof of service that the attorney or law firm served has been authorized to accept service of process on the responding party in this bankruptcy case.

14. [16-11546](#)-A-13 CURTIS/ANDREA WHITMORE MOTION TO AVOID LIEN OF MIDLAND
PWG-3 FUNDING, LLC
CURTIS WHITMORE/MV 6-4-16 [[24](#)]
PHILLIP GILLET/Atty. for dbt.

Final Ruling

Motion: Avoid Lien that Impairs Exemption

Disposition: Denied without prejudice

Order: Civil minute order

The court will deny the motion without prejudice on grounds of insufficient service of process on the responding party. A motion to avoid a lien is a contested matter requiring service of the motion in the manner provided by Federal Rule of Bankruptcy Procedure 7004. Fed. R. Bankr. P. 4003(d), 9014(b); *see also In re Villar*, 317 B.R. 88, 92 n.6 (B.A.P. 9th Cir. 2004). Under Rule 7004, service on corporations and other business entities must be made by mailing a copy of the motion "to the attention of an officer, a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process." Fed. R. Bankr. P. 7004(b) (3).

Service of the motion was insufficient. The motion was not mailed to *the attention of* an officer, managing or general agent, or other agent authorized to accept service.

Service does appear to have been served on the attorney whose name appears on the abstract of judgment attached to the motion. "An implied agency to receive service is not established by representing a client in an earlier action. We cannot presume from [the attorney's] handling the litigation that resulted in the judicial lien that he is also authorized to accept service for a motion to avoid the judicial lien." *Beneficial Cal., Inc. v. Villar (In re Villar)*, 317 B.R. 88, 93-94 (B.A.P. 9th Cir. 2004) (citations omitted). No evidence has been presented in the proof of service that the attorney or law firm

served has been authorized to accept service of process on the responding party in this bankruptcy case.

15. [16-11546](#)-A-13 CURTIS/ANDREA WHITMORE MOTION TO AVOID LIEN OF M.D.
PWG-4 PEST MANAGEMENT SPECIALIST,
CURTIS WHITMORE/MV INC.
6-4-16 [[29](#)]
PHILLIP GILLET/Atty. for dbt.

Final Ruling

Motion: Avoid Lien that Impairs Exemption

Disposition: Denied without prejudice

Order: Civil minute order

The court will deny the motion without prejudice on grounds of insufficient service of process on the responding party. A motion to avoid a lien is a contested matter requiring service of the motion in the manner provided by Federal Rule of Bankruptcy Procedure 7004. Fed. R. Bankr. P. 4003(d), 9014(b); see also *In re Villar*, 317 B.R. 88, 92 n.6 (B.A.P. 9th Cir. 2004). Under Rule 7004, service on corporations and other business entities must be made by mailing a copy of the motion "to the attention of an officer, a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process." Fed. R. Bankr. P. 7004(b)(3).

Service of the motion was insufficient. The motion was not mailed to the attention of an officer, managing or general agent, or other agent authorized to accept service.

16. [16-10847](#)-A-13 STANLEY/LINDA MORGAN MOTION FOR COMPENSATION FOR
PK-1 PATRICK KAVANAGH, DEBTORS
ATTORNEY(S)
5-31-16 [[23](#)]
PATRICK KAVANAGH/Atty. for dbt.

Final Ruling

Application: Compensation and Expenses

Disposition: Disapproved without prejudice

Order: Civil minute order

All creditors and parties in interest have not received sufficient notice. The hearing on an application for approval of compensation or reimbursement of expenses, when the application requests approval of an amount exceeding \$1000, must be noticed to all creditors and parties in interest in the debtor's bankruptcy case as required by Federal Rule of Bankruptcy Procedure 2002(a)(3).

For matters requiring notice to all creditors and parties in interest, the court prefers that a current copy of the ECF master mailing list, accessible through PACER, be attached to the certificate of service to indicate that notice has been transmitted to all creditors and parties in interest. The copy of the master mailing list should indicate a

date near in time to the date of service of the notice. In addition, governmental creditors must be noticed at the address provided on the Roster of Governmental Agencies, Form EDC 2-785, so the master address list and schedule of creditors must be completed using the correct addresses shown on such roster. See Fed. R. Bankr. P. 2002(j), 5003(e); LBR 2002-1.

17. [14-11762](#)-A-13 CUTBERTO/MERANDA MOTION TO DISMISS CASE
MHM-2 GUTIERREZ 5-11-16 [[35](#)]
MICHAEL MEYER/MV
ROBERT WILLIAMS/Atty. for dbt.

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 \$2,896.87.

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.

18. [16-10162](#)-A-13 JUAN GARCIA - LOPEZ AND MOTION TO CONFIRM PLAN
PK-4 NICOLE GARCIA 5-17-16 [[62](#)]
JUAN GARCIA - LOPEZ/MV
PATRICK KAVANAGH/Atty. for dbt.
RESPONSIVE PLEADING

Tentative Ruling

Motion: Confirm Chapter 13 Plan

Notice: LBR 3015-1(d)(1), 9014-1(f)(1); written opposition filed by the trustee

Disposition: Denied without prejudice

Order: Civil minute order

The motion requests confirmation of the Chapter 13 plan in this case. See 11 U.S.C. §§ 1322, 1323, 1325; Fed. R. Bankr. P. 2002(b); LBR 3015-1(d)(1)-(2). The Chapter 13 trustee opposes the motion, objecting to confirmation.

The plan proposes to reduce a Class 2 secured claim based on the value of the collateral. But the failure to file a motion to value such collateral that is granted before or in conjunction with the hearing on confirmation warrants denial of confirmation of the plan. LBR 3015-1(j); see also Ch. 13 Plan § 2.09(c).

CIVIL MINUTE ORDER

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

The debtors' motion to confirm a chapter 13 plan has been presented to the court. Having considered the motion together with papers filed in support and opposition to it, and having heard the arguments of counsel, if any, and good cause appearing,

IT IS ORDERED that the motion to confirm a chapter 13 plan is denied without prejudice.

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

19. [11-17264](#)-A-13 MICHAEL/CHERYL PAULEY MOTION FOR RELIEF FROM
EAT-1 AUTOMATIC STAY
NATIONSTAR MORTGAGE LLC/MV 5-25-16 [[80](#)]
D. GARDNER/Atty. for dbt.
DARLENE VIGIL/Atty. for mv.
RESPONSIVE PLEADING

No tentative ruling.

20. [16-10073](#)-A-13 DONALD WILLIFORD
RSW-2
DONALD WILLIFORD/MV
ROBERT WILLIAMS/Atty. for dbt.
RESPONSIVE PLEADING

MOTION TO CONFIRM PLAN
5-10-16 [[55](#)]

No tentative ruling.

21. [16-11576](#)-A-13 SCOTT KIRK
APN-1
WELLS FARGO BANK, N.A./MV
PATRICK KAVANAGH/Atty. for dbt.
AUSTIN NAGEL/Atty. for mv.

OBJECTION TO CONFIRMATION OF
PLAN BY WELLS FARGO BANK, N.A.
5-25-16 [[43](#)]

No tentative ruling.

22. [16-11576](#)-A-13 SCOTT KIRK
EMM-1
THE MONEY SOURCE INC./MV
PATRICK KAVANAGH/Atty. for dbt.
ERIN MCCARTNEY/Atty. for mv.
RESPONSIVE PLEADING

OBJECTION TO CONFIRMATION OF
PLAN BY THE MONEY SOURCE INC.
6-2-16 [[56](#)]

No tentative ruling.

23. [15-14691](#)-A-13 MATTHEW LATRAY
RSW-2
MATTHEW LATRAY/MV
ROBERT WILLIAMS/Atty. for dbt.
RESPONSIVE PLEADING

MOTION TO CONFIRM PLAN
5-25-16 [[54](#)]

No tentative ruling.

24. [15-14295](#)-A-13 JOHN JOHNSON
MHM-1
MICHAEL MEYER/MV
WILLIAM OLCOTT/Atty. for dbt.

MOTION TO DISMISS CASE
5-11-16 [[23](#)]

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 \$3740.

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.

25. [15-14303](#)-A-13 LORI SILVA CONTINUED OBJECTION TO CLAIM OF
RSW-2 EQUITY 1 LOANS, CLAIM NUMBER 9
LORI SILVA/MV 5-5-16 [[28](#)]
ROBERT WILLIAMS/Atty. for dbt.
RESPONSIVE PLEADING

No tentative ruling.

26. [15-15010](#)-A-13 PHILLIP BARROW AND MOTION TO DISMISS CASE
MHM-2 KATHLEEN NETZER 6-8-16 [[53](#)]
MICHAEL MEYER/MV
PHILLIP GILLET/Atty. for dbt.

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 trustee moves to dismiss this chapter 13 case. For the reasons stated in the motion, cause exists under § 1307(c)(1) to dismiss the case. The debtor has failed to confirm a plan within a reasonable time. The case has been pending for approximately 6 months, yet a plan has not been confirmed. This constitutes unreasonable delay by the debtor that is prejudicial to creditors. The court will dismiss the case.

CIVIL MINUTE ORDER

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

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

The trustee's motion to dismiss this chapter 13 case has been presented to the court. Having entered the default of respondent debtor for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the motion,

IT IS ORDERED that the motion is granted. The court hereby dismisses this case.

27. [16-11321](#)-A-13 GUADALUPE MIRANDA
MHM-1
MICHAEL MEYER/MV

MOTION TO DISMISS CASE
6-13-16 [[33](#)]

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 the trustee with required or requested documents. See 11 U.S.C. § 521(a)(3)-(4).

The debtor has failed to appear at a § 341 meeting of creditors. See 11 U.S.C. §§ 341, 343.

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.

28. [16-10343](#)-A-13 CANDACE WILKERSON
MHM-2

CONTINUED OBJECTION TO
CONFIRMATION OF PLAN BY TRUSTEE
MICHAEL H. MEYER
5-6-16 [[23](#)]

ROBERT WILLIAMS/Atty. for dbt.

Final Ruling

The case dismissed, the matter is dropped as moot.

29. [16-10357](#)-A-13 APRIL BLANDBURG

CONTINUED ORDER TO SHOW CAUSE -
FAILURE TO PAY FEES
5-16-16 [[49](#)]

PATRICK KAVANAGH/Atty. for dbt.
FEE PAID \$30.00

Final Ruling

The fee paid, the order to show cause is discharged and the case shall remain pending.

30. [14-11761](#)-A-13 FRANCISCO/DIANE LOPEZ
SW-1

CONTINUED MOTION FOR RELIEF
FROM AUTOMATIC STAY
4-18-16 [[74](#)]

ALLY FINANCIAL/MV
ROBERT WILLIAMS/Atty. for dbt.
ADAM BARASCH/Atty. for mv.

No tentative ruling.

31. [12-14478](#)-A-13 RAY/NADA KOMMEL CONTINUED MOTION FOR HARDSHIP
RSW-3 DISCHARGE
RAY KOMMEL/MV 5-3-16 [[61](#)]
ROBERT WILLIAMS/Atty. for dbt.

Final Ruling

This motion is continued to August 3, 2016, at 9:00 a.m. While the debtors have satisfied the requirement of 11 U.S.C. § 1328(b)(1)-(2), they has not yet sustained made the showing required by 11 U.S.C. § 1328(b)(3). Not later than July 20, 2016, the debtors shall file (A) amended Schedule I and J reflecting current income and expenses, and (B) further the debtors cannot modify their plan to provide for payments for the remaining 11 months of the plan. Absent a further and sufficient showing by the debtors by July 20, 2016, the court intends to deny the motion without further continuance or hearing. Not later than July 27, 2016, the Chapter 13 trustee is requested to file a reply, affirmatively supporting, opposing or taking no position on the issue. A civil minute order shall issue.

32. [16-11295](#)-A-13 MICHAEL LOPEZ OBJECTION TO CONFIRMATION OF
MHM-1 PLAN BY TRUSTEE MICHAEL H.
MEYER
6-13-16 [[20](#)]
ROBERT WILLIAMS/Atty. for dbt.

No tentative ruling.

33. [15-12277](#)-A-13 RAUL/VIVIAN RAMOS MOTION TO SELL
PK-1 6-15-16 [[33](#)]
RAUL RAMOS/MV
PATRICK KAVANAGH/Atty. for dbt.

Tentative Ruling

Motion: Sell Property [Real Property]

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

Disposition: Granted

Order: Prepared by moving party pursuant to the instructions below and approved as to form and content by the Chapter 13 trustee

Property: 4221 Adidas Avenue, Bakersfield, CA

Buyer: Emma L. Ruiz

Sale Price: \$173,000 (debtor to pay for \$550 home warranty and closing costs not to exceed 3%)

Sale Type: Private sale subject to overbid opportunity

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).

Confirmation of a Chapter 13 plan reverts property of the estate in the debtor unless the plan or order confirming the plan provides otherwise. 11 U.S.C. § 1327(b); see also *In re Tome*, 113 B.R. 626, 632 (Bankr. C.D. Cal. 1990).

Here, the subject property is property of the estate because the debtor's confirmed plan provides that property of the estate will not revert in debtors upon confirmation. Further, the court notes that the order confirming the plan provides for a 100% payment of unsecured claims to meet liquidation.

Section 363(b)(1) of Title 11 authorizes sales of property of the estate "other than in the ordinary course of business." 11 U.S.C. § 363(b)(1); see also *In re Lionel Corp.*, 722 F.2d 1063, 1071 (2d Cir. 1983) (requiring business justification). A Chapter 13 debtor has the rights and powers given to a trustee under § 363(b). 11 U.S.C. § 1303. Based on the motion and supporting papers, the court finds a proper reorganization purpose for this sale. The stay of the order provided by Federal Rule of Bankruptcy Procedure 6004(h) will be waived.

The order shall be approved by the Chapter 13 trustee as to form and content. Additionally, the order shall contain language requiring the Chapter 13 trustee to approve the escrow instructions for the sale.

34. [16-12147](#)-A-13 ANTONIO/MARIA NAVARRO MOTION TO EXTEND AUTOMATIC STAY
MGG-1 6-21-16 [8]
ANTONIO NAVARRO/MV
MATTHEW GRECH/Atty. for dbt.

Tentative Ruling

Motion: Extend the Automatic Stay

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

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

Order: Prepared by moving party pursuant to the instructions below

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

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