

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

Honorable Fredrick E. Clement
Sacramento Federal Courthouse
501 I Street, 7th Floor
Courtroom 28, Department A
Sacramento, California

DAY: TUESDAY
DATE: SEPTEMBER 29, 2020
CALENDAR: 9:00 A.M. CHAPTER 13 CASES
55.

RULINGS

Each matter on this calendar will have one of three possible designations: No Ruling, Tentative Ruling, or Final Ruling.

"No Ruling" means the likely disposition of the matter will not be disclosed in advance of the hearing. The matter will be called; parties wishing to be heard should rise and be heard.

"Tentative Ruling" means the likely disposition, and the reasons therefor, are set forth herein. The matter will be called. Aggrieved parties or parties for whom written opposition was not required should rise and be heard. Parties favored by the tentative ruling need not appear. Non-appearing parties are advised that the court may adopt a ruling other than that set forth herein without further hearing or notice.

"Final Ruling" means that the matter will be resolved in the manner, and for the reasons, indicated below. The matter will not be called; parties and/or counsel need not appear and will not be heard on the matter.

CHANGES TO PREVIOUSLY PUBLISHED RULINGS

On occasion, the court will change its intended ruling on some of the matters to be called and will republish its rulings. The parties and counsel are advised to recheck the posted rulings after 3:00 p.m. on the next business day prior to the hearing. Any such changed ruling will be preceded by the following bold face text: **"[Since posting its original rulings, the court has changed its intended ruling on this matter]"**.

ERRORS IN RULINGS

Clerical errors of an insignificant nature, e.g. nomenclature ("2017 Honda Accord," rather than "2016 Honda Accord"), amounts, ("\$880," not "\$808"), may be corrected in (1) tentative rulings by appearance at the hearing; or (2) final rulings by appropriate ex parte application. Fed. R. Civ. P. 60(a) *incorporated by* Fed. R. Bankr. P. 9024. All other errors, including those occasioned by mistake, inadvertence, surprise or excusable neglect, must be corrected by noticed motion. Fed. R. Bankr. P. 60(b), *incorporated by* Fed. R. Bankr. P. 9023.

1. [19-23101](#)-A-13 **IN RE: VIRGINIA GARLINGHOUSE**
[DPC-1](#)

MOTION TO DISMISS CASE
8-21-2020 [[41](#)]

RICHARD JARE/ATTY. FOR DBT.
DAVID CUSICK/ATTY. FOR MV.

No Ruling

2. [16-24602](#)-A-13 **IN RE: ROSEANNA RODRIGUEZ**
[DPC-2](#)

MOTION TO DISMISS CASE
8-21-2020 [[60](#)]

SETH HANSON/ATTY. FOR DBT.
RESPONSIVE PLEADING

No Ruling

3. [18-27902](#)-A-13 **IN RE: PAUL FISHER**
[DPC-2](#)

MOTION TO DISMISS CASE
8-21-2020 [[95](#)]

CHAD JOHNSON/ATTY. FOR DBT.
DAVID CUSICK/ATTY. FOR MV.
RESPONSIVE PLEADING

No Ruling

4. [20-23104](#)-A-13 **IN RE: JOSE/MARGARITA VALADEZ**
[PGM-1](#)

MOTION TO VALUE COLLATERAL OF ALLY BANK
8-24-2020 [[35](#)]

PETER MACALUSO/ATTY. FOR DBT.
RESPONSIVE PLEADING

No Ruling

5. [18-22405](#)-A-13 **IN RE: GEORGE/TRISHA VAUGHN**
[DPC-2](#)

MOTION TO DISMISS CASE
8-25-2020 [[96](#)]

RICHARD JARE/ATTY. FOR DBT.
DAVID CUSICK/ATTY. FOR MV.

No Ruling

6. [16-22206](#)-A-13 **IN RE: JACQUELINE/ROBERT COONEY**
[DPC-2](#)

MOTION TO DISMISS CASE
8-21-2020 [[89](#)]

HARRY ROTH/ATTY. FOR DBT.
DAVID CUSICK/ATTY. FOR MV.

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 \$6,600.00. Two payments of \$1,200.00 will also be due before the hearing.

The plan will fund in 66 months. The court cannot confirm a plan with a period longer than 60 months. See 11 U.S.C. § 1322(d). This issue may have been waived by confirmation of the Debtor's 3rd Amended Plan, ECF 70, as no significant excess claims exist, and while the trustee compensation has increased and the debtor has incurred more interest expense due to delinquency, the trustee is not certain that would account for the entire excess six months.

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.

7. [17-20407](#)-A-13 **IN RE: FORREST GARDENS**
[DPC-1](#)

MOTION TO DISMISS CASE
8-21-2020 [[75](#)]

MIKALAH LIVIAKIS/ATTY. FOR DBT.
DAVID CUSICK/ATTY. FOR MV.

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 \$6,393.00. Also, two more payments of \$1,600.00 will be due before the hearing.

The plan will fund in 85 months, considering amounts of all claims filed. The court cannot confirm a plan with a period longer than 60 months. See 11 U.S.C. § 1322(d).

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.

8. [19-20007](#)-A-13 **IN RE: NICHOLAS BONANNO**
[MEV-0](#)

MOTION TO MODIFY PLAN
8-12-2020 [[121](#)]

MARC VOISENAT/ATTY. FOR DBT.
RESPONSIVE PLEADING

No Ruling

9. [20-21907](#)-A-13 **IN RE: NED/EDNA SMITH**
[DPC-1](#)

MOTION TO DISMISS CASE
8-24-2020 [[45](#)]

MARY TERRANELLA/ATTY. FOR DBT.
RESPONSIVE PLEADING

No Ruling

10. [20-22808](#)-A-13 **IN RE: TRISHA/DANNY HUFF**
[ALG-1](#)

CONTINUED OBJECTION TO CONFIRMATION OF PLAN BY PINGORA LOAN
SERVICING, LLC
7-6-2020 [[17](#)]

STEPHAN BROWN/ATTY. FOR DBT.
ARNOLD GRAFF/ATTY. FOR MV.
RESPONSIVE PLEADING

No Ruling

11. [20-22808](#)-A-13 **IN RE: TRISHA/DANNY HUFF**
[DPC-1](#)

CONTINUED OBJECTION TO CONFIRMATION OF PLAN BY DAVID CUSICK
7-16-2020 [[21](#)]

STEPHAN BROWN/ATTY. FOR DBT.
RESPONSIVE PLEADING

Final Ruling.

The trustee having withdrawn his objection, ECF No. 48, the court will drop this matter from the calendar as moot.

12. [20-23811](#)-A-13 **IN RE: DENISE BATTS**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES
9-8-2020 [[24](#)]

PETER MACALUSO/ATTY. FOR DBT.
9/3/20 INSTALLMENT PAID \$80

Final Ruling

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

13. [19-23812](#)-A-13 **IN RE: JINA HALE**
[JHK-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
8-27-2020 [[46](#)]

MIKALAH LIVIAKIS/ATTY. FOR DBT.
JOHN KIM/ATTY. FOR MV.
TD AUTO FINANCE LLC VS.; NON-OPPOSITION

Final Ruling

Motion: Stay Relief

Notice: LBR 9014-1(f)(1); trustee's non-opposition filed

Disposition: Granted

Order: Civil minute order

Subject: 2015 Nissan Armada

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).

RELIEF FROM STAY

Section 362(d)(1) authorizes stay relief for cause shown. 11 U.S.C. § 362(d)(1). The debtor is obligated to make debt payments to the moving party pursuant to a loan contract that is secured by a security interest in the debtor's vehicle described above. The debtor has defaulted on the loan as 4.9 postpetition payments are past due. The total postpetition delinquency is approximately \$3,577.48. The debtor's plan provides for surrender of the vehicle. ECF 43.

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.

TD Auto 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 2015 Nissan Armada, 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.

14. [20-23012](#)-A-13 **IN RE: BRETT YODER AND DANIEL BRUSSATOI**
[DPC-1](#)

CONTINUED OBJECTION TO CONFIRMATION OF PLAN BY DAVID P.
CUSICK
7-30-2020 [[18](#)]

NIKKI FARRIS/ATTY. FOR DBT.
RESPONSIVE PLEADING

Final Ruling

The trustee having withdrawn his objection to confirmation, ECF No. 30, the court will dismiss this matter from the calendar as moot.

15. [09-42713](#)-A-13 **IN RE: DAVID/KELLY SCOTT**
[JBA-2](#)

CONTINUED MOTION FOR CONTEMPT
5-12-2020 [[84](#)]

JOHN TOSNEY/ATTY. FOR DBT.
DEBTORS DISCHARGED: 3/13/15; RESPONSIVE PLEADING

No Ruling

16. [18-26913](#)-A-13 **IN RE: ROBERT SIMMONS**
[DPC-4](#)

MOTION TO DISMISS CASE
8-25-2020 [[88](#)]

MICHAEL HAYS/ATTY. FOR DBT.
DAVID CUSICK/ATTY. FOR MV.
RESPONSIVE PLEADING

No Ruling

17. [19-26213](#)-A-13 **IN RE: RODERICK SINGLETON**
[DPC-1](#)

MOTION TO DISMISS CASE
8-25-2020 [[21](#)]

MIKALAH LIVIAKIS/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 \$18,241.28. Also, before the hearing, another payment of \$3,648.92 will be due. The debtor has to pay \$21,890.20 by the hearing date to be current.

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. [20-20913](#)-A-13 **IN RE: KEITH ARCHIBALD**
[DPC-2](#)

MOTION TO DISMISS CASE
8-31-2020 [[43](#)]

GARY FRALEY/ATTY. FOR DBT.

No Ruling

19. [18-21614](#)-A-13 **IN RE: WILLIAM/SHANNON CROSSON**
[DPC-2](#)

MOTION TO DISMISS CASE
8-25-2020 [[40](#)]

MARY TERRANELLA/ATTY. FOR DBT.
DAVID CUSICK/ATTY. FOR MV.
RESPONSIVE PLEADING

No Ruling

20. [18-23816](#)-A-13 **IN RE: LISA SLEDGE**
[MET-3](#)

MOTION TO MODIFY PLAN
8-18-2020 [[125](#)]

MARY TERRANELLA/ATTY. FOR DBT.
NON-OPPOSITION

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 movant, approved by the trustee

Subject: Second modified plan, August 18, 2020

DEFAULT OF RESPONDENT

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).

CHAPTER 13 PLAN MODIFICATION

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.

21. [18-23816](#)-A-13 **IN RE: LISA SLEDGE**
[MET-4](#)

MOTION TO APPROVE TRIAL PAYMENT PLAN AGREEMENT
8-23-2020 [[133](#)]

MARY TERRANELLA/ATTY. FOR DBT.
NON-OPPOSITION

No Ruling

22. [20-21418](#)-A-13 **IN RE: KAY MILLER**
[DPC-2](#)

MOTION TO DISMISS CASE
8-20-2020 [[41](#)]

MARY TERRANELLA/ATTY. FOR DBT.
RESPONSIVE PLEADING

No Ruling

23. [16-20020](#)-A-13 **IN RE: OMAR KIRBY**
[DPC-1](#)

MOTION TO DISMISS CASE
8-21-2020 [[45](#)]

SUSAN TERRADO/ATTY. FOR DBT.
DAVID CUSICK/ATTY. FOR MV.
RESPONSIVE PLEADING

No Ruling

24. [19-23222](#)-A-13 **IN RE: DAVID CARTER**
[DPC-1](#)

MOTION TO DISMISS CASE
8-21-2020 [[60](#)]

MARK SHMORGON/ATTY. FOR DBT.
DAVID CUSICK/ATTY. FOR MV.
RESPONSIVE PLEADING

No Ruling

25. [20-20722](#)-A-13 **IN RE: ANTHONY/KAYLA YAZZIE**
[DPC-3](#)

CONTINUED MOTION TO DISMISS CASE
7-21-2020 [[79](#)]

PETER MACALUSO/ATTY. FOR DBT.
RESPONSIVE PLEADING

Final Ruling

Since the trustee stated he will withdraw his motion to dismiss if the court grants the Motion to Confirm Plan (Item 26), and since the court granted said motion, the court will drop this matter from the calendar as moot. A civil minute order will issue.

26. [20-20722](#)-A-13 **IN RE: ANTHONY/KAYLA YAZZIE**
[PGM-4](#)

MOTION TO CONFIRM PLAN
8-17-2020 [\[85\]](#)

PETER MACALUSO/ATTY. FOR DBT.
NON-OPPOSITION

Final Ruling

Motion: Confirm Chapter 13 Plan

Notice: LBR 3015-1(d)(1), 9014-1(f)(1); trustee's non-opposition filed

Disposition: Granted

Order: Prepared by the movant, approved by the trustee

Subject: First Amended Chapter 13 Plan, August 17, 2020

DEFAULT OF RESPONDENT

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).

CHAPTER 13 PLAN CONFIRMATION

Chapter 13 plan confirmation is governed by 11 U.S.C. §§ 1322, 1325 and by Federal Rule of Bankruptcy Procedure 2002(b) and Local Bankruptcy Rule 3015-1. The debtor has the burden of proving that the plan complies with all statutory requirements of confirmation. *In re Andrews*, 49 F.3d 1404, 1407-08 (9th Cir. 1995); *In re Barnes*, 32 F.3d 405, 407-08 (9th Cir. 1994).

The court finds that the debtor has sustained that burden, and the court will approve confirmation of the plan.

27. [20-20923](#)-A-13 **IN RE: SOPAWORN SAVEDRA**
[RAS-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
8-18-2020 [[67](#)]

GABRIEL LIBERMAN/ATTY. FOR DBT.
SEAN FERRY/ATTY. FOR MV.
U.S. BANK NATIONAL ASSOCIATION VS.; RESPONSIVE PLEADING

Final Ruling

Motion: Stay Relief
Notice: LBR 9014-1(f)(1); trustee's non-opposition filed
Disposition: Granted
Order: Civil minute order

Subject: 2019 Chevrolet Corvette

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).

RELIEF FROM STAY

Section 362(d)(1) authorizes stay relief for cause shown. 11 U.S.C. § 362(d)(1). The debtor is obligated to make debt payments to the moving party pursuant to a loan contract that is secured by a security interest in the debtor's vehicle described above. The debtor has defaulted on the loan as 3 postpetition payments are past due. The total postpetition delinquency is approximately \$6,862.79.

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.

U.S. Bank National Association'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 2019 Chevrolet Corvette, 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.

28. [20-20124](#)-A-13 **IN RE: MARZETT STAKLEY**
[DPC-1](#)

MOTION TO DISMISS CASE
8-25-2020 [[28](#)]

MIKALAH LIVIAKIS/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 \$15,711.31. The debtor also owes two payments of \$4,850.06 before the hearing. The debtor needs to pay \$20,561.37 to be current under the plan.

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.

29. [19-26925](#)-A-13 **IN RE: DELILIA KIRTH**
[DPC-2](#)

MOTION TO DISMISS CASE
8-25-2020 [[43](#)]

MATTHEW GILBERT/ATTY. FOR DBT.

No Ruling

30. [20-22825](#)-A-13 **IN RE: LEAH ELEMEN**
[PGM-3](#)

MOTION TO CONFIRM PLAN
8-21-2020 [[46](#)]

PETER MACALUSO/ATTY. FOR DBT.
NON-OPPOSITION

Final Ruling

Motion: Confirm Chapter 13 Plan

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

Disposition: Granted

Order: Prepared by the movant, approved by the trustee

Subject: First Amended Chapter 13 Plan, August 21, 2020

DEFAULT OF RESPONDENT

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).

CHAPTER 13 PLAN CONFIRMATION

Chapter 13 plan confirmation is governed by 11 U.S.C. §§ 1322, 1325 and by Federal Rule of Bankruptcy Procedure 2002(b) and Local Bankruptcy Rule 3015-1. The debtor has the burden of proving that

the plan complies with all statutory requirements of confirmation. *In re Andrews*, 49 F.3d 1404, 1407-08 (9th Cir. 1995); *In re Barnes*, 32 F.3d 405, 407-08 (9th Cir. 1994).

The court finds that the debtor has sustained that burden, and the court will approve confirmation of the plan.

31. [18-20627](#)-A-13 **IN RE: ANNE HARPER**
[DPC-2](#)

MOTION TO DISMISS CASE
8-25-2020 [[49](#)]

JOSEPH CANNING/ATTY. FOR DBT.
DAVID CUSICK/ATTY. FOR MV.
RESPONSIVE PLEADING

No Ruling

32. [18-27327](#)-A-13 **IN RE: MEGAN ARNETT-LUCKEY**
[DPC-4](#)

MOTION TO DISMISS CASE
8-25-2020 [[104](#)]

CHAD JOHNSON/ATTY. FOR DBT.
DAVID CUSICK/ATTY. FOR MV.
RESPONSIVE PLEADING

No Ruling

33. [20-23127](#)-A-13 **IN RE: KEVIN GRIMES AND MICHAEL RULLI**
[DPC-2](#)

OBJECTION TO DEBTOR'S CLAIM OF EXEMPTIONS
8-31-2020 [[17](#)]

LUCAS GARCIA/ATTY. FOR DBT.
RESPONSIVE PLEADING

No Ruling

34. [20-23627](#)-A-13 **IN RE: AMANDA SHRINER**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES
8-28-2020 [[29](#)]

RICHARD JARE/ATTY. FOR DBT.
8/28/20 INSTALLMENT PAID \$79

Final Ruling

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

35. [20-20329](#)-A-13 **IN RE: ARAM PASKEVICHYAN**
[DPC-3](#)

MOTION TO DISMISS CASE
8-24-2020 [[80](#)]

PETER CIANCHETTA/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 8.5 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.

36. [20-20731](#)-A-13 **IN RE: WILLIAM GUNN**
[DPC-1](#)

MOTION TO DISMISS CASE
8-25-2020 [[16](#)]

ROBERT HUCKABY/ATTY. FOR DBT.
RESPONSIVE PLEADING

No Ruling

37. [20-22331](#)-A-13 **IN RE: BRANDON/JOVINA LIMOSNERO**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES
9-3-2020 [[51](#)]

PAULDEEP BAINS/ATTY. FOR DBT.
9/4/20 FINAL INSTALLMENT PAID \$77

Final Ruling

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

38. [17-23932](#)-A-13 **IN RE: DON MARTINEZ**
[DPC-2](#)

MOTION TO DISMISS CASE
8-21-2020 [[40](#)]

RICK MORIN/ATTY. FOR DBT.
DAVID CUSICK/ATTY. FOR MV.
NON-OPPOSITION

Final Ruling

Motion: Dismiss Case

Notice: LBR 9014-1(f)(1); debtor's non-opposition filed

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 \$1,875.00. Two additional payments of \$625.00 will also be due before the hearing.

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.

39. [20-21832](#)-A-13 **IN RE: JUAN RODRIGUEZ**
[DPC-2](#)

CONTINUED MOTION TO DISMISS CASE
7-22-2020 [[46](#)]

JEFFREY MEISNER/ATTY. FOR DBT.
RESPONSIVE PLEADING

No Ruling

40. [20-21832](#)-A-13 **IN RE: JUAN RODRIGUEZ**
[JMM-1](#)

AMENDED MOTION TO CONFIRM PLAN
8-18-2020 [[56](#)]

JEFFREY MEISNER/ATTY. FOR DBT.

No Ruling

41. [17-21533](#)-A-13 **IN RE: PRANEE AREND**
[DPC-2](#)

MOTION TO DISMISS CASE
8-21-2020 [[148](#)]

MARK WOLFF/ATTY. FOR DBT.
DAVID CUSICK/ATTY. FOR MV.
RESPONSIVE PLEADING

Final Ruling

Motion: Dismiss Case

Notice: LBR 9014-1(f)(1); debtor's non-opposition filed.

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 \$4,267.80. Two additional payments of \$1,898.00 will be due before the hearing.

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.

42. [18-22533](#)-A-13 **IN RE: SANDY DENIO**
[DPC-1](#)

MOTION TO DISMISS CASE
8-25-2020 [[24](#)]

MIKALAH LIVIAKIS/ATTY. FOR DBT.
DAVID CUSICK/ATTY. FOR MV.

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 \$1,319.73. Two additional payments of \$330.00 will also be due before the hearing.

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.

43. [17-24834](#)-A-13 **IN RE: PATRICIA LEMKE**
[DPC-1](#)

MOTION TO DISMISS CASE
8-21-2020 [[102](#)]

PETER MACALUSO/ATTY. FOR DBT.
DAVID CUSICK/ATTY. FOR MV.
RESPONSIVE PLEADING

No Ruling

44. [19-24734](#)-A-13 **IN RE: WENDY SILVA**
[DPC-1](#)

MOTION TO DISMISS CASE
8-21-2020 [[60](#)]

RONALD HOLLAND/ATTY. FOR DBT.
DAVID CUSICK/ATTY. FOR MV.
RESPONSIVE PLEADING

No Ruling

45. [20-23635](#)-A-13 **IN RE: CAROL ANDRESEN**
[SLE-1](#)

MOTION TO VALUE COLLATERAL OF MECHANIC'S BANK
8-19-2020 [[14](#)]

STEELE LANPHIER/ATTY. FOR DBT.
RESPONSIVE PLEADING

No Ruling

46. [20-21539](#)-A-13 **IN RE: CATHERINE TEEL**
[DPC-1](#)

MOTION TO DISMISS CASE
8-25-2020 [[20](#)]

CANDACE BROOKS/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 \$7,371.00. Another payment of \$2,623,31 will be due before the hearing.

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.

47. [19-24540](#)-A-13 IN RE: SHEILA BROWN
[DPC-1](#)

MOTION TO DISMISS CASE
8-21-2020 [[41](#)]

PAULDEEP BAINS/ATTY. FOR DBT.
DAVID CUSICK/ATTY. FOR MV.
RESPONSIVE PLEADING

No Ruling

48. [19-23343](#)-A-13 IN RE: CHERYL SPRAGUE
[DPC-2](#)

MOTION TO DISMISS CASE
8-21-2020 [[58](#)]

MIKALAH LIVIAKIS/ATTY. FOR DBT.
DAVID CUSICK/ATTY. FOR MV.

No Ruling

49. [17-23245](#)-A-13 IN RE: CHRISTOPHER GREENLEE
[DPC-1](#)

MOTION TO DISMISS CASE
8-21-2020 [[36](#)]

NIMA VOKSHORI/ATTY. FOR DBT.
DAVID CUSICK/ATTY. FOR MV.
RESPONSIVE PLEADING

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 \$4,260.00. Also, two plan payments of \$2,130.00 will be due before the hearing.

The plan funds in 68 months. The court cannot confirm a plan with a period longer than 60 months. See 11 U.S.C. § 1322(d).

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.

50. [17-23945](#)-A-13 **IN RE: DEMAR RICHARDSON**
[DPC-2](#)

MOTION TO DISMISS CASE
8-21-2020 [[72](#)]

PAULDEEP BAINS/ATTY. FOR DBT.
DAVID CUSICK/ATTY. FOR MV.
RESPONSIVE PLEADING

No Ruling

51. [18-24445](#)-A-13 **IN RE: JASON DAGGETT**
[DPC-1](#)

MOTION TO DISMISS CASE
8-25-2020 [[31](#)]

CHAD JOHNSON/ATTY. FOR DBT.
DAVID CUSICK/ATTY. FOR MV.
RESPONSIVE PLEADING

No Ruling

52. [20-22445](#)-A-13 **IN RE: GREG/TERESA REYNOLDS**
[DPC-1](#)

CONTINUED OBJECTION TO CONFIRMATION OF PLAN BY DAVID P.
CUSICK
6-24-2020 [[18](#)]

STEPHEN REYNOLDS/ATTY. FOR DBT.

Final Ruling

The debtor having withdrawn motion to confirm plan, ECF No. 37, the court will drop this matter from the calendar as moot.

53. [18-27246](#)-A-13 **IN RE: WANDA MOORE**
[DPC-3](#)

MOTION TO DISMISS CASE
8-25-2020 [[103](#)]

PETER MACALUSO/ATTY. FOR DBT.
DAVID CUSICK/ATTY. FOR MV.
RESPONSIVE PLEADING

No Ruling

54. [20-21346](#)-A-13 **IN RE: BENJAMIN/MELISSA RINGER**
[RLC-1](#)

MOTION TO CONFIRM PLAN
8-5-2020 [[46](#)]

STEPHEN REYNOLDS/ATTY. FOR DBT.
RESPONSIVE PLEADING

No Ruling

55. [20-23446](#)-A-13 **IN RE: THOMAS WALTON**
[DPC-1](#)

OBJECTION TO DEBTOR'S CLAIM OF EXEMPTIONS
8-25-2020 [[20](#)]

PETER MACALUSO/ATTY. FOR DBT.
RESPONSIVE PLEADING

No Ruling

56. [20-23446](#)-A-13 **IN RE: THOMAS WALTON**
[DPC-2](#)

CONTINUED OBJECTION TO CONFIRMATION OF PLAN BY DAVID P.
CUSICK
8-25-2020 [[16](#)]

PETER MACALUSO/ATTY. FOR DBT.

No Ruling

57. [20-21047](#)-A-13 **IN RE: PAUL DENNO AND SANDRA MURRAY**
[MWB-3](#)

MOTION TO EMPLOY STEVE HIXENBOUGH AS REALTOR(S)
8-6-2020 [[64](#)]

MARK BRIDEN/ATTY. FOR DBT.

Final Ruling

Application: Approval of Employment

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

Disposition: Approved

Order: Prepared by applicant pursuant to the instructions below

Unopposed applications 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).

The court may approve employment of professional persons who "do not hold or represent an interest adverse to the estate, and that are disinterested persons." 11 U.S.C. § 327(a); *see also id.* § 101(14) (defining "disinterested person"). From the factual information

provided in the motion and supporting papers, the court will approve the employment.

The order shall contain the following provision: "Nothing contained herein shall be construed to approve any provision of any agreement between Steve Hixenbough and the estate for indemnification, arbitration, choice of venue, jurisdiction, jury waiver, limitation of damages, or similar provision." The order shall also state its effective date, which date shall be 30 days before the date the employment application was filed except that the effective date shall not precede the petition date. The debtor also shall not request or accept compensation for services rendered or reimbursement for costs incurred, except by application pursuant to 11 U.S.C. §§ 330 and 331 and order thereon.

58. [19-23148](#)-A-13 **IN RE: MAYRA CERVANTES**
[DPC-1](#)

MOTION TO DISMISS CASE
8-21-2020 [[38](#)]

GABRIEL LIBERMAN/ATTY. FOR DBT.
DAVID CUSICK/ATTY. FOR MV.
RESPONSIVE PLEADING

No Ruling

59. [19-24749](#)-A-13 **IN RE: KAREN LANDWEHR**
[DPC-1](#)

OBJECTION TO CLAIM OF INTERNAL REVENUE SERVICE, CLAIM NUMBER
21
7-30-2020 [[33](#)]

PAULDEEP BAINS/ATTY. FOR DBT.
DAVID CUSICK/ATTY. FOR MV.

Tentative Ruling

Objection: Objection to Claim

Notice: LBR 3007-1(b)(2); no written opposition required

Disposition: Sustained

Order: Prepared by objecting party

Unopposed objections are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c); LBR 9001-1(d), (n) (contested matters include objections). The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

SECTION 1305(a)

As a rule, Chapter 13 debtors can file a Proof of Claim on behalf of a creditor. 11 U.S.C. 501(c); Fed. R. Bankr. P. 3004. Exceptions to that rule exist. For example, 11 U.S.C. § 1305(a) provides: "A proof of claim for taxes that "become payable to a governmental unit while the case is pending" may be filed by any **entity** that holds a claim against the debtor. 11 U.S.C. 1305(a)(1). Case law supports a literal reading of § 1305(a). "There is no provision in § 1305(a) for the debtor to force a postpetition creditor to file a proof of claim or for the debtor to file a proof of claim on behalf of a postpetition creditor." *In re Goodman*, 136 B.R. 167, 170 (Bankr. WD Tenn. 1992).

The debtor's attorney filed a claim for the Internal Revenue Service for \$3,652.80 with no attachments but which states the basis of the claim is, "2019 tax obligation." Claim 21-1. This case was filed July 29, 2019, so the debtor's attorney is attempting to file a claim for taxes that fell due post-petition. The debtor has no right to file such claim under 11 U.S.C. § 1305(a)(1).

For the reasons stated in the objection and supporting papers, the court will sustain the objection.

60. [19-24749](#)-A-13 **IN RE: KAREN LANDWEHR**
[DPC-2](#)

OBJECTION TO CLAIM OF FRANCHISE TAX BOARD, CLAIM NUMBER 13
7-30-2020 [\[38\]](#)

PAULDEEP BAINS/ATTY. FOR DBT.
DAVID CUSICK/ATTY. FOR MV.

Tentative Ruling

Objection: Objection to Claim

Notice: LBR 3007-1(b)(2); no written opposition required

Disposition: Sustained

Order: Prepared by objecting party

Unopposed objections are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c); LBR 9001-1(d), (n) (contested matters include objections). The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

SECTION 1305(a)

As a rule, Chapter 13 debtors can file a Proof of Claim on behalf of a creditor. 11 U.S.C. 501(c); Fed. R. Bankr. P. 3004. Exceptions to that rule exist. For example, 11 U.S.C. § 1305(a) provides: "A proof of claim for taxes that "become payable to a governmental unit while the case is pending" may be filed by any **entity** that holds a

claim against the debtor. 11 U.S.C. 1305(a)(1). Case law supports a literal reading of § 1305(a). "There is no provision in § 1305(a) for the debtor to force a postpetition creditor to file a proof of claim or for the debtor to file a proof of claim on behalf of a postpetition creditor." *In re Goodman*, 136 B.R. 167, 170 (Bankr. WD Tenn. 1992).

The debtor's attorney filed a claim for the Franchise Tax Board for \$4,909.32 with no attachments but which states the basis of the claim is, "2019 tax obligation." Claim 13-1. This case was filed July 29, 2019, so the debtor's attorney is attempting to file a claim for taxes that fell due post-petition. The debtor has no right to file such claim under 11 U.S.C. § 1305(a)(1).

For the reasons stated in the objection and supporting papers, the court will sustain the objection.

61. [17-26052](#)-A-13 **IN RE: TANISHA MAVY**
[DPC-2](#)

MOTION TO DISMISS CASE
8-21-2020 [[201](#)]

DAVID CUSICK/ATTY. FOR MV.

Final Ruling

The trustee having withdrawn his motion to dismiss case, ECF No. 219, the court will drop this matter from the calendar as moot.

62. [20-23552](#)-A-13 **IN RE: REGINALD/RAMONA BURTON**
[DPC-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY DAVID P. CUSICK
9-10-2020 [[20](#)]

THOMAS MOORE/ATTY. FOR DBT.

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

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

The trustee objects to confirmation under § 1307(c)(1) because the debtors failed to attend a scheduled § 341 meeting of creditors that was held on September 3, 2020. At the continued hearing on September 17, 2020, the debtors appeared but the debtor's counsel failed to appear. The continued meeting will be on October 8, 2020.

The list of documents that a chapter 13 debtor must surrender to the trustee includes the debtor's full name. Fed R. Bankr. P. 4002. The debtors have not included their middle names.

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 chapter 13 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.

63. [18-27055](#)-A-13 **IN RE: JEFFREY/LISA PURCELL**
[MRL-1](#)

STATUS CONFERENCE RE: MOTION TO COMPROMISE
CONTROVERSY/APPROVE SETTLEMENT AGREEMENT WITH REX GREILICH;
TERESA GREILICH; VILLEGAS 2001 FAMILY TRUST; TERRY VILLEGAS;
AURELO VILLEGAS, ARROW V. INVESTMENT, L.P; DALE S. VAIRA;
JAMES E. VAIRA; GALLANT-VAIRA FAMILY TRUS
8-7-2020 [[28](#)]

MIKALAH LIVIAKIS/ATTY. FOR DBT.
RESPONSIVE PLEADING

No Ruling

64. [17-26656](#)-A-13 **IN RE: STACY/MICHAEL SAVOCA**
[DPC-1](#)

MOTION TO DISMISS CASE
8-21-2020 [[61](#)]

CINDY HILL/ATTY. FOR DBT.
DAVID CUSICK/ATTY. FOR MV.
RESPONSIVE PLEADING

No Ruling

65. [20-20756](#)-A-13 **IN RE: TIMOTHY BROWN**
[DPC-2](#)

CONTINUED MOTION TO DISMISS CASE
7-22-2020 [[66](#)]

CHINONYE UGORJI/ATTY. FOR DBT.
RESPONSIVE PLEADING

No Ruling

66. [20-20756](#)-A-13 **IN RE: TIMOTHY BROWN**
[NUU-3](#)

MOTION TO CONFIRM PLAN
8-18-2020 [[70](#)]

CHINONYE UGORJI/ATTY. FOR DBT.
RESPONSIVE PLEADING

No Ruling

67. [20-20756](#)-A-13 **IN RE: TIMOTHY BROWN**
[NUU-4](#)

MOTION TO VALUE COLLATERAL OF WELLS FARGO DEALER SERVICES
8-27-2020 [\[76\]](#)

CHINONYE UGORJI/ATTY. FOR DBT.
9/9/20 STIPULATION

Final Ruling

Motion: Value Collateral [Personal Property; Motor Vehicle]

Notice: LBR 9014-1(f)(1); trustee's non-opposition filed

Disposition: Granted

Order: Civil minute order

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

VALUATION OF COLLATERAL

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

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

In this case, the debtor seeks to value collateral consisting of a motor vehicle described as a 2016 Dodge Challenger. The debt owed to the respondent is not secured by a purchase money security interest. See 11 U.S.C. § 1325(a) (hanging paragraph). The court values the vehicle at \$17,465.19. The court further holds that the

creditor will be provided for in the Chapter 13 plan as Class 2 at an APR of 5% with a monthly dividend for 60 months.

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 2016 Dodge Challenger has a value of \$17,465.19. No senior liens on the collateral have been identified. The respondent has a secured claim in the amount of \$17,465.19 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. The court values the vehicle at \$17,465.19. The court further holds that the creditor will be provided for in the Chapter 13 plan as Class 2 at an APR of 5% with a monthly dividend for 60 months.

68. [20-21256](#)-A-13 **IN RE: SIDNEY/ANGELA MOORE**
[DPC-2](#)

MOTION TO DISMISS CASE
8-20-2020 [[59](#)]

SCOTT SHUMAKER/ATTY. FOR DBT.
RESPONSIVE PLEADING

No Ruling

69. [16-23357](#)-A-13 **IN RE: SELMA WATERS**
[DPC-1](#)

MOTION TO DISMISS CASE
8-21-2020 [[32](#)]

MOHAMMAD MOKARRAM/ATTY. FOR DBT.
DAVID CUSICK/ATTY. FOR MV.

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 \$910.00. Two additional payments of \$300.00 will be due before the hearing.

The plan will fund in 68 months. The court cannot confirm a plan with a period longer than 60 months. See 11 U.S.C. § 1322(d).

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.

70. [19-21258](#)-A-13 **IN RE: TROY EMYR**
[DPC-1](#)

MOTION TO DISMISS CASE
8-21-2020 [[65](#)]

PAULDEEP BAINS/ATTY. FOR DBT.
DAVID CUSICK/ATTY. FOR MV.
RESPONSIVE PLEADING

No Ruling

71. [20-23859](#)-A-13 **IN RE: KYLIE AGOSTA**
[SLE-1](#)

MOTION TO VALUE COLLATERAL OF HERITAGE COMMUNITY CREDIT
UNION
8-19-2020 [[15](#)]

STEELE LANPHIER/ATTY. FOR DBT.
RESPONSIVE PLEADING

Final Ruling

Motion: Value Collateral

Disposition: Denied without prejudice

Order: Civil minute order

As a contested matter, a motion to value collateral is governed by Federal Rule of Bankruptcy Procedure 9014. Fed. R. Bankr. P. 9014(a). Rule 9014 requires Rule 7004 service of motions in contested matters. Fed. R. Bankr. P. 9014(b). Under Rule 7004, service on FDIC-insured institutions must "be made by certified mail addressed to an officer of the institution" unless one of the exceptions applies. Fed. R. Bankr. P. 7004(h).

Service of the motion was insufficient. The proof of service does not indicate that the motion was mailed to the attention of an officer or agent authorized to accept service on behalf of Heritage Community Credit Union. No showing has been made that the exceptions in Rule 7004(h) are applicable. See Fed. R. Bankr. P. 7004(h)(1)-(3).

72. [20-23859](#)-A-13 **IN RE: KYLIE AGOSTA**
[SLE-2](#)

MOTION TO VALUE COLLATERAL OF TRAVIS CREDIT UNION
8-19-2020 [[20](#)]

STEELE LANPHIER/ATTY. FOR DBT.
NON-OPPOSITION

Final Ruling

Motion: Motion to Value Collateral
Disposition: Denied without prejudice
Order: Civil minute order

As a contested matter, a motion to value collateral is governed by Federal Rule of Bankruptcy Procedure 9014. Fed. R. Bankr. P. 9014(a). Rule 9014 requires Rule 7004 service of motions in contested matters. Fed. R. Bankr. P. 9014(b). Under Rule 7004, service on FDIC-insured institutions must "be made by certified mail addressed to an officer of the institution" unless one of the exceptions applies. Fed. R. Bankr. P. 7004(h).

Service of the motion was insufficient. The proof of service does not indicate that the motion was mailed to the attention of an officer or agent authorized to accept service on behalf of Travis Credit Union. No showing has been made that the exceptions in Rule 7004(h) are applicable. See Fed. R. Bankr. P. 7004(h)(1)-(3).

73. [19-27461](#)-A-13 **IN RE: RICHARD ACOSTA**
[MOH-4](#)

MOTION TO CONFIRM PLAN
6-30-2020 [[68](#)]

MICHAEL HAYS/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
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 debtor's third amended plan at issue here does not comply with 11 U.S.C. §§ 1322, 1323, 1325(a), as the current plan has the same inadequacies as previously filed amended plans, and fails to resolve

issues raised in previous oppositions to motions to confirm, MOH-2 and MOH-3.

The plan does not satisfy the good faith requirements of § 1325(a)(3), (7). The plan does not address issues raised by trustee and creditor Deutsche Bank, DPC-1 and APN-1. These issues include an objection regarding the debtor's real property interest and transfers of 3235 and 3237 Dry Creek Road, speculative income of \$2,820.00 from Sched I/J, and class treatment of Deutsche Bank.

The plan may not be feasible under § 1325(a)(6). The plan still lists creditor Specialized Servicing in Class 4. The trustee is unclear which address is the debtor's residence, and which addresses are rental property, and which were destroyed in the Camp Fire. The debtor's prior declaration stated 3237 Dry Creek was a rental. Petition says 3237 is his principal residence. Now debtor says in current declaration 3235 is current residence.

Unclear as to mortgage expenses identified in schedules; Debtor did not amend Sched I/J, so no accurate reflection of monthly income/expenses.

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 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, presented at the hearing,

IT IS ORDERED that the motion is denied. The court denies confirmation of the chapter 13 plan.

74. [20-23262](#)-A-13 **IN RE: HOMER DOTSON**
[CRG-2](#)

MOTION TO VALUE COLLATERAL OF ALLY FINANCIAL, INC.
8-17-2020 [\[18\]](#)

CARL GUSTAFSON/ATTY. FOR DBT.
RESPONSIVE PLEADING

Final Ruling

Since the court issued an order approving stipulation as to the value, the court will drop this matter from the calendar as moot.

75. [19-21763](#)-A-13 **IN RE: ROBERT VASQUEZ**
[DPC-1](#)

MOTION TO DISMISS CASE
8-21-2020 [[27](#)]

RICK MORIN/ATTY. FOR DBT.
DAVID CUSICK/ATTY. FOR MV.
RESPONSIVE PLEADING

***Since posting its original rulings, the court has changed its intended ruling on this matter**

Final Ruling

This case having converted to a Chapter 7 case, ECF No. 33, the court will drop this matter from the calendar as moot.

76. [19-27463](#)-A-13 **IN RE: JOAN PHILLIPS**
[RJ-4](#)

CONTINUED MOTION TO CONFIRM PLAN
6-16-2020 [[68](#)]

RICHARD JARE/ATTY. FOR DBT.
RESPONSIVE PLEADING

Final Ruling

Motion: Dismiss Case

Notice: LBR 9014-1(f)(1); written opposition and status report filed

Disposition: Granted

Order: Civil minute order

CASE DISMISSAL

The chapter 13 trustee moves to dismiss this chapter 13 case for a delinquency in payments under the debtor's proposed chapter 13 plan. For the reasons stated in the motion, cause exists under § 1307(c)(1), (c)(4) and § 1326(a)(1)(A) to dismiss the case. Payments under the proposed plan are delinquent in the amount of \$1,824.76.

CIVIL MINUTE ORDER

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

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

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

the matter, and having considered the well-pleaded facts of the motion,

IT IS ORDERED that the motion is granted because of the delinquency under the proposed chapter 13 plan in this case. The court hereby dismisses this case.

77. [18-25264](#)-A-13 **IN RE: JAMES/LORI PERRY**
[DPC-3](#)

MOTION TO DISMISS CASE
8-25-2020 [[103](#)]

PETER MACALUSO/ATTY. FOR DBT.
DAVID CUSICK/ATTY. FOR MV.
RESPONSIVE PLEADING

No Ruling

78. [18-25264](#)-A-13 **IN RE: JAMES/LORI PERRY**
[PGM-5](#)

MOTION TO MODIFY PLAN
8-18-2020 [[96](#)]

PETER MACALUSO/ATTY. FOR DBT.
RESPONSIVE PLEADING

No Ruling

79. [18-25565](#)-A-13 **IN RE: KACEE PEREZ**
[DPC-2](#)

MOTION TO DISMISS CASE
8-25-2020 [[43](#)]

RICHARD STURDEVANT/ATTY. FOR DBT.
DAVID CUSICK/ATTY. FOR MV.

***Since posting its original rulings, the court has changed its intended ruling on this matter:**

No Ruling

80. [20-20167](#)-A-13 **IN RE: WILLIAM/JEAN BROWN**
[DPC-1](#)

MOTION TO DISMISS CASE
8-25-2020 [[24](#)]

GARY FRALEY/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 \$11,218.94. Another payment of \$2,726.49 is due before the hearing.

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.

81. [20-22267](#)-A-13 **IN RE: KEVIN NORMAN**
[DPC-2](#)

MOTION TO DISMISS CASE
8-24-2020 [[38](#)]

MARY TERRANELLA/ATTY. FOR DBT.
RESPONSIVE PLEADING

No Ruling

82. [20-23568](#)-A-13 **IN RE: SUSAN USHAKOFF**
[RPZ-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY U.S. BANK NATIONAL
ASSOCIATION
8-20-2020 [[13](#)]

NIKKI FARRIS/ATTY. FOR DBT.
ROBERT ZAHRADKA/ATTY. FOR MV.

Tentative Ruling

Objection: Creditor's Objection to Confirmation of Plan

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

Disposition: Overruled

Order: Civil minute order

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

The objection will be overruled because plan's failure to provide
for a secured creditor's claim (or arrearage claim) in the plan does
not alter the creditor's rights. The creditor's proof of claim,
Claim 6-1, not the plan, controls the amount of a claim. Ch. 13
Plan § 2.04. Under § 1325(a)(5), moreover, the plan does not have
to provide for a secured claim, although if the plan does provide
for a secured claim, the plan's treatment of the secured claim must
meet the requirements of § 1325(a)(5). See 11 U.S.C. § 1325(a)(5).

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.

U.S. Bank National Association'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 overruled. A confirmation order shall be submitted by the trustee after approval by debtor's counsel.

83. [16-27270](#)-A-13 **IN RE: MYKOLA/ANNA YESHENKO**
[DPC-2](#)

MOTION TO DISMISS CASE
8-21-2020 [[59](#)]

MARK SHMORGON/ATTY. FOR DBT.
DAVID CUSICK/ATTY. FOR MV.
RESPONSIVE PLEADING

No Ruling

84. [18-26071](#)-A-13 **IN RE: RODERIC CANNON AND CYNTHIA**
DAVIS-CANNON
[MMM-2](#)

MOTION TO SELL
9-8-2020 [[46](#)]

MOHAMMAD MOKARRAM/ATTY. FOR DBT.
CONDITIONAL NON-OPPOSITION

Tentative Ruling

Motion: Sell Property [Real Property]

Notice: LBR 9014-1(f)(2); creditor's non-opposition filed

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: 137 Mainsail Court Vallejo, CA 94591

Buyer: Kingsley Kwong

Sale Price: \$581,000.00

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 revests 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 not property of the estate because the debtor's confirmed plan provides that property of the estate reverts in debtor upon confirmation of the plan. However, the confirmed plan obligates the debtor to obtain court authorization prior to transferring property, so the plan provides the basis for the court's authority to decide whether to approve the sale.

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, and that language requiring the debtor's counsel to avoid any ambiguities that notes the creditor Bosco Credit, LLC will be paid in full pursuant to a payoff quote.

85. [20-21471](#)-A-13 **IN RE: JOHN STAHLECKER**
[DPC-1](#)

MOTION TO DISMISS CASE
8-25-2020 [[49](#)]

PAULDEEP BAINS/ATTY. FOR DBT.
RESPONSIVE PLEADING

No Ruling

86. [19-23772](#)-A-13 **IN RE: ROBERT/AMBER SYKOSKY**
[DPC-1](#)

MOTION TO DISMISS CASE
8-21-2020 [[36](#)]

ERIC SCHWAB/ATTY. FOR DBT.
DAVID CUSICK/ATTY. FOR MV.
RESPONSIVE PLEADING

Final Ruling

Motion: Dismiss Case

Notice: LBR 9014-1(f)(1); debtor's non-opposition filed.

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 \$13,749.43. Two scheduled payments of \$2,789.43 are due before the hearing.

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.

87. [19-21674](#)-A-13 **IN RE: MIKE NOUBANI**
[DPC-1](#)

MOTION TO DISMISS CASE
8-21-2020 [[24](#)]

MOHAMMAD MOKARRAM/ATTY. FOR DBT.
DAVID CUSICK/ATTY. FOR MV.

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 \$13,250.00. Two payments of \$2,650.00 is due before the hearing.

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.

88. [19-21375](#)-A-13 **IN RE: CYNTHIA ARIETA**
[DPC-2](#)

MOTION TO DISMISS CASE
8-21-2020 [\[75\]](#)

THOMAS AMBERG/ATTY. FOR DBT.
DAVID CUSICK/ATTY. FOR MV.
RESPONSIVE PLEADING

Final Ruling

Motion: Dismiss Case
Notice: LBR 9014-1(f)(1); debtor's non-opposition filed.
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 \$5,328.00. Two scheduled payments of \$2,661.81 are due before the hearing.

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.

89. [20-20675](#)-A-13 **IN RE: CHESTER KATZ**
[DPC-2](#)

MOTION TO DISMISS CASE
8-24-2020 [[52](#)]

BRUCE DWIGGINS/ATTY. FOR DBT.
DAVID CUSICK/ATTY. FOR MV.

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.

90. [17-27276](#)-A-13 **IN RE: RONALD/SANDRA MASSIO**
[DPC-2](#)

MOTION TO DISMISS CASE
8-25-2020 [[26](#)]

EDWARD SMITH/ATTY. FOR DBT.
DAVID CUSICK/ATTY. FOR MV.

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 \$11,500.00. Two additional payments of \$2,300.00 each are due before the hearing.

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.

91. [18-27776](#)-A-13 **IN RE: KAREN HALL**
[DPC-1](#)

MOTION TO DISMISS CASE
8-21-2020 [[45](#)]

JEANNE SERRANO/ATTY. FOR DBT.
DAVID CUSICK/ATTY. FOR MV.
RESPONSIVE PLEADING

No Ruling

92. [17-26678](#)-A-13 **IN RE: JOHN SHAFER**
[DPC-2](#)

MOTION TO DISMISS CASE
8-21-2020 [[55](#)]

MARY TERRANELLA/ATTY. FOR DBT.
DAVID CUSICK/ATTY. FOR MV.
RESPONSIVE PLEADING

No Ruling

93. [18-23478](#)-A-13 **IN RE: TAMMY JACKSON**
[DPC-2](#)

MOTION TO DISMISS CASE
8-25-2020 [[62](#)]

PETER MACALUSO/ATTY. FOR DBT.
DAVID CUSICK/ATTY. FOR MV.
RESPONSIVE PLEADING

No Ruling

94. [19-26879](#)-A-13 **IN RE: GHASSAN KAMAL**
[DPC-2](#)

CONTINUED MOTION TO DISMISS CASE
7-21-2020 [[65](#)]

PETER MACALUSO/ATTY. FOR DBT.
WITHDRAWN BY M.P.

Final Ruling

The trustee having withdrawn his motion, ECF No. 84, the court will drop this matter from the calendar as moot.

95. [19-26879](#)-A-13 **IN RE: GHASSAN KAMAL**
[PGM-2](#)

MOTION TO CONFIRM PLAN
8-14-2020 [[71](#)]

PETER MACALUSO/ATTY. FOR DBT.
RESPONSIVE PLEADING

No Ruling

96. [19-27080](#)-A-13 **IN RE: DYLAN HAZELTINE**
[DPC-1](#)

MOTION TO DISMISS CASE
8-25-2020 [[30](#)]

LUCAS GARCIA/ATTY. FOR DBT.

Final Ruling

This case already having been dismissed, the court will drop this matter from the calendar as moot.

97. [19-27482](#)-A-13 **IN RE: TONIA BEAIRD**
[DPC-1](#)

MOTION TO DISMISS CASE
8-25-2020 [[35](#)]

MARY TERRANELLA/ATTY. FOR DBT.
RESPONSIVE PLEADING

No Ruling

98. [20-22982](#)-A-13 **IN RE: EDWARD MEDINA**
[DPC-1](#)

CONTINUED OBJECTION TO CONFIRMATION OF PLAN BY DAVID P.
CUSICK
7-29-2020 [[26](#)]

HARRY ROTH/ATTY. FOR DBT.
RESPONSIVE PLEADING

No Ruling

99. [20-22982](#)-A-13 **IN RE: EDWARD MEDINA**
[DVW-1](#)

CONTINUED OBJECTION TO CONFIRMATION OF PLAN BY U.S. BANK, NA
7-24-2020 [[18](#)]

HARRY ROTH/ATTY. FOR DBT.
DIANE WEIFENBACH/ATTY. FOR MV.
RESPONSIVE PLEADING

No Ruling

100. [20-22982](#)-A-13 **IN RE: EDWARD MEDINA**
[HDR-1](#)

OBJECTION TO CLAIM OF U.S. BANK, NATIONAL ASSOCIATION, CLAIM
NUMBER 4-1
7-29-2020 [[21](#)]

HARRY ROTH/ATTY. FOR DBT.
RESPONSIVE PLEADING

No Ruling

101. [18-25184](#)-A-13 **IN RE: MICHELE DAVENPORT**
[DPC-2](#)

MOTION TO DISMISS CASE
8-25-2020 [[62](#)]

CHAD JOHNSON/ATTY. FOR DBT.
DAVID CUSICK/ATTY. FOR MV.
RESPONSIVE PLEADING

No Ruling

102. [20-21689](#)-A-13 **IN RE: ROSEMARIE HIGGS-SILER**
[CCR-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
9-15-2020 [\[95\]](#)

PETER MACALUSO/ATTY. FOR DBT.
CHERYL ROUSE/ATTY. FOR MV.
MAIN STREET LAUNCH VS.

Tentative Ruling

Motion: Stay Relief

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

Disposition: Granted

Order: Civil minute order

Subject: 1255 Foushee, Ramseur, North Carolina 27316

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).

STAY RELIEF

The debtor is obligated to make loan payments to the moving party pursuant to a promissory note secured by a deed of trust on the real property described above. The debtor has defaulted on the loan as 8 prepetition payments totaling \$13,086.36 are past due. Section 362(d)(1) authorizes stay relief for cause shown. 11 U.S.C. § 362(d)(1). Cause exists to grant relief under § 362(d)(1).

Alternatively, because the plan which has not been confirmed provides for the surrender of the subject property that secures the moving party's claim, the court concludes that such property is not necessary to the debtor's financial reorganization. And the moving party has shown that there is no equity in the property. The value of the subject property is \$107,000.00. ECF 1. The two deeds of trust encumbering the subject property aggregate to \$180,125.61. Therefore, relief from the automatic stay under § 362(d)(2) is warranted as well.

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.

Main Street Launch'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 1255 Foushee, Ramseur, North Carolina 27316, 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.

103. [20-21689](#)-A-13 **IN RE: ROSEMARIE HIGGS-SILER**
[DPC-2](#)

MOTION TO DISMISS CASE
8-24-2020 [[78](#)]

PETER MACALUSO/ATTY. FOR DBT.
RESPONSIVE PLEADING

No Ruling

104. [19-27493](#)-A-13 **IN RE: ROGELIO VILLAR**
[DPC-1](#)

CONTINUED MOTION TO DISMISS CASE
7-20-2020 [[35](#)]

PETER MACALUSO/ATTY. FOR DBT.
RESPONSIVE PLEADING

No Ruling

105. [19-27493](#)-A-13 **IN RE: ROGELIO VILLAR**
[PGM-1](#)

MOTION TO CONFIRM PLAN
8-14-2020 [[43](#)]

PETER MACALUSO/ATTY. FOR DBT.
RESPONSIVE PLEADING

No Ruling

106. [18-25494](#)-A-13 **IN RE: NICHOLAS/REBECCA HENDRICKS**
[DPC-2](#)

MOTION TO DISMISS CASE
8-25-2020 [[51](#)]

PAULDEEP BAINS/ATTY. FOR DBT.
DAVID CUSICK/ATTY. FOR MV.
RESPONSIVE PLEADING

No Ruling

107. [17-25195](#)-A-13 **IN RE: JUSTINO SANCHEZ**
[RJ-7](#)

CONTINUED MOTION TO MODIFY PLAN
6-16-2020 [[112](#)]

RICHARD JARE/ATTY. FOR DBT.
RESPONSIVE PLEADING

No Ruling

108. [16-27996](#)-A-13 **IN RE: VICKI NAZAROFF**
[DPC-1](#)

MOTION TO DISMISS CASE
8-21-2020 [[67](#)]

RICK MORIN/ATTY. FOR DBT.
DAVID CUSICK/ATTY. FOR MV.
RESPONSIVE PLEADING

No Ruling

109. [18-22996](#)-A-13 **IN RE: BARRY/TSICHLIS DUNN**
[DPC-2](#)

MOTION TO DISMISS CASE
8-25-2020 [[31](#)]

MARY TERRANELLA/ATTY. FOR DBT.
DAVID CUSICK/ATTY. FOR MV.
RESPONSIVE PLEADING

No Ruling

110. [19-23696](#)-A-13 **IN RE: MICHAEL WILTON AND DAWN DUNN**
[DPC-1](#)

MOTION TO DISMISS CASE
8-21-2020 [[45](#)]

RICHARD HALL/ATTY. FOR DBT.
DAVID CUSICK/ATTY. FOR MV.
RESPONSIVE PLEADING

No Ruling

111. [19-22097](#)-A-13 **IN RE: GUILLERMO/SANTA DEL VALLE**
[DPC-1](#)

MOTION TO DISMISS CASE
8-21-2020 [[40](#)]

STEELE LANPHIER/ATTY. FOR DBT.
DAVID CUSICK/ATTY. FOR MV.

Final Ruling

Objection: Motion to Dismiss
Disposition: Denied without Prejudice
Order: Civil minute order

A motion to dismiss a chapter 13 case initiates a contested matter, so Rule 9014 applies to it. Fed. R. Bankr. P. 9014(a)-(b). This means the objection must be served as required by Rule 7004. Fed. R. Bankr. P. 7004(a)-(b). Rule 7004 further requires that the debtor's attorney be served whenever the debtor is represented and service is made upon the debtor. Fed. R. Bankr. P. 7004(g). "The notice of hearing shall advise potential respondents...the names and addresses of the persons who must be served with any opposition." LBR 9014-1(d)(3)(B).

Here, the debtor's attorney was not served at the correct address. The debtor's attorney's address is 1860 Howe Ave., Suite 330, Sacramento, CA 95825. The certificate of service incorrectly states Suite 300 for the debtor's attorney's address. For incorrect service, the court will deny this matter without prejudice.

112. [20-20797](#)-A-13 **IN RE: NIDA LACAP**
[DPC-3](#)

MOTION TO DISMISS CASE
8-25-2020 [\[59\]](#)

PETER MACALUSO/ATTY. FOR DBT.
RESPONSIVE PLEADING

No Ruling

113. [19-21999](#)-A-13 **IN RE: CRAIG MACEY**
[DPC-2](#)

MOTION TO DISMISS CASE
8-21-2020 [\[126\]](#)

MATTHEW DECAMINADA/ATTY. FOR DBT.
DAVID CUSICK/ATTY. FOR MV.

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 \$3,600.00. Two more payments of \$600.00 are due before the hearing.

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.