

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

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

**DAY: TUESDAY**  
**DATE: OCTOBER 20, 2020**  
**CALENDAR: 9:00 A.M. CHAPTER 13 CASES**

**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. [20-22603](#)-A-13    **IN RE: ALAN/SHERRY KENYON**  
[DPC-2](#)

MOTION TO DISMISS CASE  
9-11-2020    [[34](#)]

BRUCE DWIGGINS/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 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.

2. [20-23903](#)-A-13     **IN RE: JEFFREY/JUDY MECH**  
[DPC-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY DAVID P. CUSICK  
9-24-2020    [[18](#)]

MICHAEL REID/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.

Section 1307(c) requires that a chapter 13 debtor surrender to the trustee proof of social security number, Fed. R. Bankr. P. 4002(b)(1). The debtor has not provided proof of social security number at the meeting of the creditors.

**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.

3. [20-20504](#)-A-13    **IN RE: VERONICA PLEITEZ**  
[MOH-1](#)

MOTION TO AVOID LIEN OF CAVALRY SPV I, LLC  
9-22-2020    [23]

MICHAEL HAYS/ATTY. FOR DBT.  
RESPONSIVE PLEADING

**Final Ruling**

**Motion:** Avoid Lien that Impairs Exemption

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

**Disposition:** Granted

**Order:** Prepared by moving party

**Subject Property:** 23991 Blackburn Avenue, Corning, CA

**Judicial Lien:** \$4,971.71

**All Other Liens:** \$31,527.11

**Exemption:** \$75,000.00

**Value of Property:** \$100,233.00

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).

Section 522(f) of the Bankruptcy Code authorizes the court to avoid a lien "on an interest of the debtor in property to the extent that such lien impairs an exemption to which the debtor would have been entitled." 11 U.S.C. § 522(f)(1). There are four elements to avoidance of a lien that impairs an exemption: (1) there must be an exemption to which the debtor would have been entitled; (2) the property must be listed on the schedules and claimed as exempt; (3) the lien must impair the exemption claimed; and (4) the lien must be a judicial lien or nonpossessory, nonpurchase-money security interest in property described in § 522(f)(1)(B). *Goswami v. MTC Distrib. (In re Goswami)*, 304 B.R. 386, 390-91 (B.A.P. 9th Cir. 2003). Impairment is statutorily defined: a lien impairs an exemption "to the extent that the sum of - (i) the lien; (ii) all other liens on the property; and (iii) the amount of the exemption that the debtor could claim if there were no liens on the property; exceeds the value that the debtor's interest in the property would have in the absence of any liens." 11 U.S.C. § 522(f)(2)(A).

The responding party's judicial lien, all other liens, and the exemption amount together exceed the property's value by an amount greater than or equal to the judicial lien. As a result, the responding party's judicial lien will be avoided entirely.

4. [20-21907](#)-A-13    **IN RE: NED/EDNA SMITH**  
[DPC-1](#)

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

MARY TERRANELLA/ATTY. FOR DBT.  
RESPONSIVE PLEADING

**No Ruling**

5. [20-21907](#)-A-13    **IN RE: NED/EDNA SMITH**  
[MET-3](#)

MOTION TO CONFIRM PLAN  
9-2-2020    [[49](#)]

MARY TERRANELLA/ATTY. FOR DBT.  
RESPONSIVE PLEADING

**No Ruling**

6. [20-23408](#)-A-13    **IN RE: JACQUELINE PEIFER**  
[FF-2](#)

MOTION TO CONFIRM PLAN  
9-14-2020    [[35](#)]

GARY FRALEY/ATTY. FOR DBT.

**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:** Second Amended Chapter 13 Plan, September 14, 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. The court further orders that the debtor addresses its *de minimis* delinquency of \$15.00 pursuant to the confirmed plan. ECF 46.

7. [20-23909](#)-A-13     **IN RE: SHAWN CAESAR**  
[DPC-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY DAVID P. CUSICK  
9-24-2020    [[13](#)]

MOHAMMAD MOKARRAM/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.

### **SECTION 1325(a)(6)**

The plan is not feasible under § 1325(a)(6). The debtor admitted at the 341 Meeting of Creditors that he is now being garnished \$1,235.00 for child support. The trustee requested the debtor to supplement Schedules I and J. The debtor has not supported the plan by filing recently amended Schedules I and J. Without those documents, the court and the chapter 13 trustee are unable to determine whether the plan is feasible or whether the plan has been proposed in good faith. See 11 U.S.C. § 1325(a)(3), (6).

The debtor has also admitted at the meeting he is unsure if he can make the plan payments and complete the plan.

**L.B.R. 3015-1(b)(6)**

Local Rule of Bankruptcy 3015-1(b)(6) requires that the debtor provide to the trustee, not fourteen (14) days after filing of the petition, the Domestic Support Obligation Checklist or other written notice of the name and address of each person to whom the debtor owes domestic support obligation. L.B.R. 3015-1(b)(6). Here the trustee requested the debtor to provide the trustee with a domestic support obligation checklist to reflect the \$1,235.00 garnishment for child support. The debtor has not provided the checklist.

**SCHEDULE A/B**

The debtor must include in his Schedule B retirement or pension accounts as assets. Official Bankruptcy Form 6, Schedule B. The debtor did not list retirement as a Schedule B asset. The debtor has not filed an amended schedule B to include retirement.

**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.

8. [20-23811](#)-A-13    **IN RE: DENISE BATTS**  
[DPC-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY DAVID P. CUSICK  
9-24-2020    [[31](#)]

PETER MACALUSO/ATTY. FOR DBT.

**No Ruling**

9. [20-23811](#)-A-13    **IN RE: DENISE BATTS**  
[DVW-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY U.S. BANK, NATIONAL  
ASSOCIATION  
9-17-2020    [[27](#)]

PETER MACALUSO/ATTY. FOR DBT.  
DIANE WEIFENBACH/ATTY. FOR MV.

**No Ruling**

10. [19-23812](#)-A-13    **IN RE: JINA HALE**  
[MRL-1](#)

MOTION TO MODIFY PLAN  
8-14-2020    [[40](#)]

MIKALAH LIVIAKIS/ATTY. FOR DBT.  
RESPONSIVE PLEADING

**No Ruling**

11. [20-20913](#)-A-13    **IN RE: KEITH ARCHIBALD**  
[DPC-2](#)

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

GARY FRALEY/ATTY. FOR DBT.

**Final Ruling**

Since the trustee consents to the court dropping his motion to dismiss provided that the debtor's Motion to Confirm Plan (Item 12) is granted, and since the court granted said Motion to Confirm Plan, the court will drop this motion to dismiss from the calendar as moot.

12. [20-20913](#)-A-13     **IN RE: KEITH ARCHIBALD**  
[FF-03](#)

MOTION TO CONFIRM PLAN  
9-8-2020    [[47](#)]

GARY FRALEY/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:** Second Amended Chapter 13 Plan, September 8, 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.

13. [19-23016](#)-A-13     **IN RE: DENISE EDWARDS**  
[DPC-2](#)

CONTINUED MOTION TO DISMISS CASE  
7-30-2020    [[107](#)]

MARK BRIDEN/ATTY. FOR DBT.  
RESPONSIVE PLEADING

**No Ruling**

14. [19-23016](#)-A-13     **IN RE: DENISE EDWARDS**  
[MWB-4](#)

MOTION TO MODIFY PLAN  
8-27-2020    [[114](#)]

MARK BRIDEN/ATTY. FOR DBT.

**No Ruling**

15. [20-23516](#)-A-13     **IN RE: BRITTEN/ERICA SMITH**  
[DPC-1](#)

CONTINUED OBJECTION TO CONFIRMATION OF PLAN BY DAVID P.  
CUSICK  
8-26-2020    [[22](#)]

MATTHEW GILBERT/ATTY. FOR DBT.

**No Ruling**

16. [20-23516](#)-A-13     **IN RE: BRITTEN/ERICA SMITH**  
[MG-2](#)

MOTION TO VALUE COLLATERAL OF PATELCO CREDIT UNION  
9-15-2020    [[28](#)]

MATTHEW GILBERT/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). Persons wishing to serve papers by mail on an insured depository institution, with exceptions not applicable, must use "certified mail addressed to an officer of the institution. Fed. R. Bankr. P. 7004(h). See 11 U.S.C. § 101(34) (defining "insured credit union") & (35) (defining "insured depository institution" to include "insured credit union"); Fed. R. Bankr. P. 9001.

Service of the motion was insufficient. Patelco Credit Union is an "insured depository institution" within the meaning of Rule 7004(h). Service of the motion was not made by certified mail or was not addressed to an officer of Patelco 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).

17. [20-21418](#)-A-13     **IN RE: KAY MILLER**  
[DPC-2](#)

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

MARY TERRANELLA/ATTY. FOR DBT.  
RESPONSIVE PLEADING

**Final Ruling**

Since the trustee consents to the court dropping his motion to dismiss provided that the debtor's Motion to Confirm Plan (Item 18) is granted, and since the court granted the debtor's Motion to Confirm Plan, the court will drop this motion to dismiss from the calendar as moot.

18. [20-21418](#)-A-13     **IN RE: KAY MILLER**  
[MET-2](#)

MOTION TO CONFIRM PLAN  
9-3-2020   [[45](#)]

MARY TERRANELLA/ATTY. FOR DBT.

**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, September 3, 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. The debtor shall also account for the *de minimus* delinquency of \$112.00. ECF 57.

19. [18-22724](#)-A-13     **IN RE: ANGELO NOLASCO AND DEBRA RODRIQUEZ-NOLASCO**  
[PGM-2](#)

MOTION TO INCUR DEBT  
10-5-2020   [\[66\]](#)

PETER MACALUSO/ATTY. FOR DBT.

### Final Ruling

The motion is denied without prejudice. The motion was served on less than 28 days notice. That is, it was filed on October 5, 2020, for hearing on October 20, 2020. Written opposition is not required for motions served on less than 28 days notice. LBR 9014-1(f)(2). But the notice specifically requires written opposition 14 days prior to the hearing. Notice, October 5, 2020, ECF NO. 67. Insufficient notice provided to parties in interest, the motion will be denied. A civil minute order will issue.

20. [20-23627](#)-A-13     **IN RE: AMANDA SHRINER**  
[RJ-2](#)

MOTION TO CONFIRM PLAN  
8-21-2020   [\[25\]](#)

RICHARD JARE/ATTY. FOR DBT.  
RESPONSIVE PLEADING

### No Ruling

21. [20-23627](#)-A-13     **IN RE: AMANDA SHRINER**  
[RJ-3](#)

MOTION TO VALUE COLLATERAL OF SOLANO FIRST CREDIT UNION  
10-6-2020   [\[36\]](#)

RICHARD JARE/ATTY. FOR DBT.

**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). Persons wishing to serve papers by mail on an insured depository institution, with exceptions not applicable, must use "certified mail addressed to an officer of the institution. Fed. R. Bankr. P. 7004(h). See 11 U.S.C. § 101(34) (defining "insured credit union") & (35) (defining "insured depository institution" to include "insured credit union"); Fed. R. Bankr. P. 9001.

Service of the motion was insufficient. Solano First Credit Union is an "insured depository institution" within the meaning of Rule 7004(h). Service of the motion was not made by certified mail or was not addressed to an officer of Solano First 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).

22. [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**

23. [20-21832](#)-A-13     **IN RE: JUAN RODRIGUEZ**  
[JMM-1](#)

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

JEFFREY MEISNER/ATTY. FOR DBT.

**No Ruling**

24. [20-23832](#)-A-13     **IN RE: APRIL STEVENS**  
[DPC-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY DAVID P. CUSICK  
9-22-2020    [[15](#)]

PETER MACALUSO/ATTY. FOR DBT.

**No Ruling**

25. [20-23733](#)-A-13     **IN RE: RYAN MCCULLOUGH**  
[LBG-2](#)

MOTION TO CONFIRM PLAN  
8-27-2020    [[31](#)]

LUCAS GARCIA/ATTY. FOR DBT.  
RESPONSIVE PLEADING

**Final Ruling**

**Motion:** Confirmation of a Chapter 13 Plan

**Disposition:** Denied without prejudice

**Order:** Civil minute order

**MOTION TO CONFIRM**

All creditors and parties in interest have not received the notice required by Federal Rule of Bankruptcy Procedure 2002(b). The certificate of service shows that Nationstar Mortgage, LLC, Pingora Loan Servicing, LLC, and JPMorgan Chase Bank, N.A. have not received notice.

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.

## IMPROPER USE OF DOCKET CONTROL NUMBER

The docket control number given for this matter violates the court's Local Rules, LBR 9014-1(c), regarding proper use of docket control numbers. The same docket control number LBG-2 was used for a prior Motion/Application to Extend Deadlines to File Schedules, ECF 16. When using a docket control number, a party must use both letters (usually initials of the attorney for the movant) and a number. The numerical portion of the docket control number must be "the number that is one number higher than the number of motions previously filed by said attorney" in that particular case. LBR 9014-1(c)(3). Thus, a party may not use the same docket control number on separate matters filed in the same case.

26. [19-26941](#)-A-13     **IN RE: MICHAEL WYCLIFFE AND REBECCA WEAVER**  
[PGM-2](#)

MOTION TO CONFIRM PLAN  
9-10-2020    [[72](#)]

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:** Second Amended Chapter 13 Plan, September 10, 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. [20-20851](#)-A-13     **IN RE: ROBERT RISPOLI**  
[PGM-3](#)

MOTION FOR APPROVAL TO DISBURSE PROCEEDS FROM SALE OF REAL  
PROPERTY  
9-30-2020    [[50](#)]

PETER MACALUSO/ATTY. FOR DBT.

**No Ruling**

28. [20-21256](#)-A-13     **IN RE: SIDNEY/ANGELA MOORE**  
[DPC-2](#)

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

SCOTT SHUMAKER/ATTY. FOR DBT.  
RESPONSIVE PLEADING

**No Ruling**

29. [20-21256](#)-A-13     **IN RE: SIDNEY/ANGELA MOORE**  
[SS-3](#)

MOTION TO CONFIRM PLAN  
9-15-2020    [[63](#)]

SCOTT SHUMAKER/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 is delinquent in payments under the proposed chapter 13 plan. § 1307(c)(1). Payments under the proposed plan are

delinquent in the amount of \$150.00. Also, another payment of \$3,460.00 will be due by October 25, 2020.

The trustee cannot assess feasibility of the plan under § 1325(a)(6) because the schedules lacks sufficient detail to show feasibility. Schedule I estimates \$3,000.00 of net income "From LLC." The debtor otherwise only has social security income. Also, the debtor's Statement of Financial Affairs states the debtor was a director/officer of Moore Park Enterprises. The statement is vague in describing the nature of the business. The Statement states the debtor was a director/officer of Workflow Lounge and Beyond the Village. The statement is silent on the nature of the businesses. Schedule B lists nothing pertaining to LLCs or businesses. ECF 20.

11 U.S.C. 1307(c) requires that the debtor provide the trustee a copy of the debtor's past two years of tax returns (or a transcript thereof), 11 U.S.C. § 521(e)(2)(A); Fed. R. Bankr. P. 4002(b)(3); proof of social security number, Fed. R. Bankr. P. 4002(b)(1); the trustee's requested business exam checklists, and profit-and-loss statements from the six months prior to filing, 11 U.S.C. § 521(a)(3). The debtor has not provided the trustee with any of these documents.

#### **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.

30. [20-23859](#)-A-13     **IN RE: KYLIE AGOSTA**  
[DPC-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY DAVID P. CUSICK  
9-24-2020    [[35](#)]

STEELE LANPHIER/ATTY. FOR DBT.

**No Ruling**

31. [20-23859](#)-A-13     **IN RE: KYLIE AGOSTA**  
[SLE-3](#)

MOTION TO VALUE COLLATERAL OF HERITAGE COMMUNITY CREDIT  
UNION  
9-30-2020    [[40](#)]

STEELE LANPHIER/ATTY. FOR DBT.

**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). Persons wishing to serve papers by mail on an insured depository institution, with exceptions not applicable, must use "certified mail addressed to an officer of the institution. Fed. R. Bankr. P. 7004(h). See 11 U.S.C. § 101(34) (defining "insured credit union") & (35) (defining "insured depository institution" to include "insured credit union"); Fed. R. Bankr. P. 9001.

Service of the motion was insufficient. Heritage Community Credit Union is an "insured depository institution" within the meaning of Rule 7004(h). Service of the motion was not made by certified mail or was not addressed to an officer 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).

32. [20-23859](#)-A-13     **IN RE: KYLIE AGOSTA**  
[SLE-4](#)

MOTION TO VALUE COLLATERAL OF TRAVIS CREDIT UNION  
9-30-2020    [[50](#)]

STEELE LANPHIER/ATTY. FOR DBT.

**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). Persons wishing to serve papers by mail on an insured depository institution, with

exceptions not applicable, must use "certified mail addressed to an officer of the institution. Fed. R. Bankr. P. 7004(h). See 11 U.S.C. § 101(34) (defining "insured credit union") & (35) (defining "insured depository institution" to include "insured credit union"); Fed. R. Bankr. P. 9001.

Service of the motion was insufficient. Travis Credit Union is an "insured depository institution" within the meaning of Rule 7004(h). Service of the motion was not made by certified mail or was not addressed to an officer 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).

33. [20-22267](#)-A-13     **IN RE: KEVIN NORMAN**  
[DPC-2](#)

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

MARY TERRANELLA/ATTY. FOR DBT.  
RESPONSIVE PLEADING

**No Ruling**

34. [20-22267](#)-A-13     **IN RE: KEVIN NORMAN**  
[MET-1](#)

MOTION TO CONFIRM PLAN  
9-7-2020   [[42](#)]

MARY TERRANELLA/ATTY. FOR DBT.  
RESPONSIVE PLEADING

**No Ruling**

35. [20-23870](#)-A-13     **IN RE: DARRELL/ELIZABETH KEITH**  
[DPC-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY DAVID P. CUSICK  
9-23-2020    [[14](#)]

BRUCE DWIGGINS/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 plan is not feasible under § 1325(a)(6). Schedule I shows the debtor has an income of \$1,400.00. At the meeting of creditors, the debtor admitted he is no longer receiving unemployment income of \$1,400.00. The debtors have not amended Schedule I pursuant to the trustee's request to remove the income the debtor is no longer receiving.

**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.

36. [20-20786](#)-A-13     **IN RE: RONNIE/THERESA BROWN**  
[EJS-4](#)

MOTION TO AVOID LIEN OF ZWICKER & ASSOCIATES, PC  
9-18-2020   [\[63\]](#)

ERIC SCHWAB/ATTY. FOR DBT.  
NON-OPPOSITION

### **Final Ruling**

**Motion:** Avoid Lien that Impairs Exemption

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

**Disposition:** Granted

**Order:** Prepared by moving party

**Subject Property:** 1851 Markston Road, Sacramento, CA 95825

**Judicial Lien Avoided:** \$16,266.99

**All Other Liens:** \$218,126.00

**Exemption:** \$175,000.00

**Value of Property:** \$332,000.00

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).

Section 522(f) of the Bankruptcy Code authorizes the court to avoid a lien "on an interest of the debtor in property to the extent that such lien impairs an exemption to which the debtor would have been entitled." 11 U.S.C. § 522(f)(1). There are four elements to avoidance of a lien that impairs an exemption: (1) there must be an exemption to which the debtor would have been entitled; (2) the property must be listed on the schedules and claimed as exempt; (3) the lien must impair the exemption claimed; and (4) the lien must be a judicial lien or nonpossessory, nonpurchase-money security interest in property described in § 522(f)(1)(B). *Goswami v. MTC Distrib. (In re Goswami)*, 304 B.R. 386, 390-91 (B.A.P. 9th Cir. 2003). Impairment is statutorily defined: a lien impairs an exemption "to the extent that the sum of - (i) the lien; (ii) all other liens on the property; and (iii) the amount of the exemption that the debtor could claim if there were no liens on the property; exceeds the value that the debtor's interest in the property would have in the absence of any liens." 11 U.S.C. § 522(f)(2)(A).

The responding party's judicial lien, all other liens, and the exemption amount together exceed the property's value by an amount greater than or equal to the judicial lien. As a result, the responding party's judicial lien will be avoided entirely.

37. [20-24586](#)-A-13     **IN RE: LAKESHA WYRICK**  
[KH-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY  
10-2-2020    [[10](#)]

KEVIN HARRIS/ATTY. FOR MV.  
OPEN PATH INVESTMENTS, LLC VS.

**No Ruling**

38. [20-21689](#)-A-13     **IN RE: ROSEMARIE HIGGS-SILER**  
[DPC-2](#)

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

PETER MACALUSO/ATTY. FOR DBT.  
RESPONSIVE PLEADING

**Final Ruling**

Since the trustee consents to the court dropping his motion to dismiss provided that the debtor's Motion to Confirm Plan (Item 39) is granted, and since the court granted the debtor's Motion to Confirm Plan, the court will drop this motion to dismiss from the calendar as moot.

39. [20-21689](#)-A-13     **IN RE: ROSEMARIE HIGGS-SILER**  
[PGM-3](#)

MOTION TO CONFIRM PLAN  
9-10-2020    [[88](#)]

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, September 10, 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.

40. [20-23791](#)-A-13     **IN RE: CAROLINE SALAZAR REVOCABLE TRUST**  
[NUU-1](#)

MOTION TO DISMISS CASE  
10-1-2020   [[20](#)]

CHINONYE UGORJI/ATTY. FOR DBT.

#### Tentative Ruling

**Motion:** Dismiss Chapter 13 Case

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

**Disposition:** Granted

**Order:** Prepared by the movant

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).

Section 1307(b) of the Bankruptcy Code provides that "[o]n request of the debtor at any time, if the case has not been converted under section 706, 1112, or 1208 of this title, the court shall dismiss a case under this chapter. Any waiver of the right to dismiss under this subsection is unenforceable." 11 U.S.C. § 1307(b). For the reasons stated in the motion, the court will dismiss this case.

41. [20-23991](#)-A-13     **IN RE: VINCENT/NORMA CAMPISI**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES  
9-22-2020    [[15](#)]

STEELE LANPHIER/ATTY. FOR DBT.

**Final Ruling**

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

42. [20-23692](#)-A-13     **IN RE: KELLY GONZALVES**  
[FF-1](#)

MOTION TO CONFIRM PLAN  
9-11-2020    [[18](#)]

GARY FRALEY/ATTY. FOR DBT.  
RESPONSIVE PLEADING

**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, July 29, 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. The debtor shall also account for her *de minimis* delinquency of \$0.02.

43. [20-23795](#)-A-13     **IN RE: WILLE/PAMELA GIVENS**  
[DPC-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY DAVID P. CUSICK  
9-24-2020    [[23](#)]

MICHAEL BENAVIDES/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.

§ 1307 requires that a chapter 13 debtor surrender to the trustee a completed domestic support obligation checklist. 11 U.S.C. § 521(a)(3). The debtor has not provided such a checklist. The debtor also has not amended schedules by listing the joint debtor's full middle name pursuant to the trustee's request at the meeting of the creditors.

The plan funds in 74 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 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.

44. [20-23795](#)-A-13     **IN RE: WILLE/PAMELA GIVENS**  
[RAS-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY HOME POINT FINANCIAL  
CORPORATION  
9-4-2020    [[20](#)]

MICHAEL BENAVIDES/ATTY. FOR DBT.  
SEAN FERRY/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 motion; opposition may be presented at the hearing. LBR 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.

Section 3.02 of the plan provides that the proof of claim, not the plan, controls the amount and classification of the creditor's claim unless the claim amount or classification is otherwise altered by the court after ruling on one of the three types of matters listed in the section. This means that the plan's understatement of the pre-petition arrears on a Class 1 claim does not reduce the amount of the arrears reflected in a filed proof of claim.

The objection will be overruled because any understatement of the prepetition arrears in the plan does not alter or affect the creditor's rights.

**CIVIL MINUTE ORDER**

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

Having considered the present objection to confirmation 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 objection is overruled.

45. [19-23696](#)-A-13     **IN RE: MICHAEL WILTON AND DAWN DUNN**  
[DPC-1](#)

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

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

**No Ruling**

46. [19-23696](#)-A-13     **IN RE: MICHAEL WILTON AND DAWN DUNN**  
[RAH-2](#)

MOTION TO MODIFY PLAN  
9-15-2020    [[51](#)]

RICHARD HALL/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 chapter 13 trustee objects to confirmation of the plan for a delinquency in payments under the debtor's proposed chapter 13 plan. § 1307(c)(1). Payments under the proposed plan are delinquent in the amount of \$157.66. Also, another payment of \$3,661.06 will be due by October 25, 2020.

The trustee cannot assess feasibility of the plan under § 1325(a)(6) because the debtor has failed to file Supplemental Schedules I-J detailing the debtor's income and expenses.

The trustee cannot comply with § 3.07(b) of the plan because the modified plan failed to specify a cure for the post-petition arrearage in the amount of \$8,764.84 owed to Class 1 creditor Quicken Home Loans for months April through July 2020.

**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.