

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

Honorable Fredrick E. Clement
Fresno Federal Courthouse
2500 Tulare Street, 5th Floor
Courtroom 11, Department A
Fresno, California

PRE-HEARING DISPOSITIONS

DAY: THURSDAY
DATE: OCTOBER 27, 2016
CALENDAR: 9:00 A.M. CHAPTERS 13 AND 12 CASES

GENERAL DESIGNATIONS

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

ORAL ARGUMENT

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

COURT'S ERRORS IN FINAL RULINGS

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

1. [16-13101](#)-A-13 NANCY MCFADIN

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
9-30-16 [[19](#)]

SCOTT LYONS/Atty. for dbt.
\$79.00 INSTALLMENT FEE PAID

Tentative Ruling

The installment of \$79 due September 26, 2016, has been paid. A subsequent installment of \$77 is due on October 25, 2016. If that installment has not been paid by the time of the hearing, the case may be dismissed without further notice or hearing.

2. [16-13501](#)-A-13 GARY LOY

MOTION TO EXTEND AUTOMATIC STAY
10-4-16 [[12](#)]

SL-1
GARY LOY/MV
SCOTT LYONS/Atty. for dbt.

Tentative Ruling

Motion: Extend the Automatic Stay

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

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

Order: Prepared by moving party pursuant to the instructions below

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

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

For the reasons stated in the motion and supporting papers, the court finds that the filing of the current case is in good faith as to the creditors to be stayed. The motion will be granted except as to any creditor without proper notice of this motion.

3. [13-17007](#)-A-13 DANNY/LORI CARRELL CONTINUED MOTION TO DISMISS
MHM-5 CASE
MICHAEL MEYER/MV 6-16-16 [[120](#)]
GEOFFREY ADALIAN/Atty. for dbt.
RESPONSIVE PLEADING
WITHDRAWN

Final Ruling

The motion withdrawn, the matter is dropped as moot.

4. [16-11309](#)-A-13 CARMEN HARGETT CONTINUED MOTION TO DISMISS
MHM-4 CASE
MICHAEL MEYER/MV 7-14-16 [[46](#)]
TIMOTHY SPRINGER/Atty. for dbt.
WITHDRAWN

Final Ruling

The motion withdrawn, the matter is dropped as moot.

5. [16-12409](#)-A-13 LISA BRADBURY CONTINUED OBJECTION TO
APN-1 CONFIRMATION OF PLAN BY WELLS
WELLS FARGO BANK, N.A./MV FARGO BANK, N.A.
7-27-16 [[25](#)]
STEPHEN LABIAK/Atty. for dbt.
AUSTIN NAGEL/Atty. for mv.

Final Ruling

The objection to confirmation is overruled as moot given the modified plan filed on October 6, 2016.

6. [16-12409](#)-A-13 LISA BRADBURY PRETRIAL CONFERENCE RE: MOTION
SL-1 TO VALUE COLLATERAL OF WELLS
LISA BRADBURY/MV FARGO DEALER SERVICES, INC.
7-5-16 [[10](#)]
STEPHEN LABIAK/Atty. for dbt.
ORDER #39 DROPPING FROM
CALENDAR

Final Ruling

Pursuant to Order, ECF #39, the matter is dropped from calendar.

7. [16-13609](#)-A-13 LESLIE NELSON
GHW-1
FEDERAL NATIONAL MORTGAGE
ASSOCIATION/MV
GLENN WECHSLER/Atty. for mv.

MOTION FOR RELIEF FROM
AUTOMATIC STAY
10-7-16 [[10](#)]

Tentative Ruling

Motion: Stay Relief

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

Disposition: Granted

Order: Civil minute order

Subject: 5034 W. Rialto Court, Visalia, CA

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

Section 362(d) (1) authorizes stay relief for cause shown. Cause includes the debtor's pre-petition loss of real property by way of foreclosure. In this case, the debtor's interest in the property was extinguished prior to the petition date by a foreclosure sale. The motion will be granted. The movant may take such actions as are authorized by applicable non-bankruptcy law, including continuing to prosecute an unlawful detainer action (except for monetary damages) and continuing to take lawful action obtain possession of the subject property. 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.

Federal National Mortgage 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 5034 W. Rialto Court, Visalia, CA, 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 take such actions as are authorized by applicable non-bankruptcy law, including continuing to prosecute an unlawful detainer action (except for monetary damages) and continuing to take lawful action to obtain possession of the subject property.

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.

8. [15-14711](#)-A-13 ANDREA SOUSA MOTION FOR RELIEF FROM
AP-1 AUTOMATIC STAY
WELLS FARGO BANK, N.A./MV 9-26-16 [[86](#)]
DAVID JENKINS/Atty. for dbt.
JONATHAN CAHILL/Atty. for mv.
RESPONSIVE PLEADING

No tentative ruling.

9. [16-12713](#)-A-13 JASON ATHERTON AND MOTION TO DISMISS CASE
MHM-1 GENZZIA DOVIGI-ATHERTON 9-22-16 [[22](#)]
MICHAEL MEYER/MV
TIMOTHY SPRINGER/Atty. for dbt.
WITHDRAWN

Final Ruling

The motion withdrawn, the matter is dropped as moot.

10. [16-13015](#)-A-13 BARBARA LOPEZ POSADA MOTION TO DISMISS CASE
MHM-1 9-29-16 [[19](#)]
MICHAEL MEYER/MV
SCOTT LYONS/Atty. for dbt.
WITHDRAWN

Final Ruling

The motion withdrawn, the matter is dropped as moot.

11. [16-12317](#)-A-13 JOSE GONZALEZ MOTION TO CONFIRM PLAN
ALG-1 9-9-16 [[28](#)]
JOSE GONZALEZ/MV
JANINE ESQUIVEL/Atty. for dbt.
RESPONSIVE PLEADING

No tentative ruling.

12. [16-10621](#)-A-13 DAMON/REGINA GUNDERMAN MOTION TO CONFIRM PLAN
DRJ-3 9-2-16 [[33](#)]
DAMON GUNDERMAN/MV
DAVID JENKINS/Atty. for dbt.

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 trustee, approved by debtor's counsel

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 3015-1(d)(1), 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 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 bears the burden of proof as to each element. *In re Barnes*, 32 F.3d 405, 407 (9th Cir. 1994). The court finds that the debtor has sustained that burden, and the court will approve confirmation of the plan.

13. [16-10621](#)-A-13 DAMON/REGINA GUNDERMAN MOTION TO VALUE COLLATERAL OF
DRJ-4 AMERICREDIT FINANCIAL SERVICES
DAMON GUNDERMAN/MV 9-7-16 [[39](#)]
DAVID JENKINS/Atty. for dbt.

Final Ruling

Motion: Value Collateral [Personal Property; Motor Vehicle]

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

Disposition: Granted

Order: Civil minute order

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

VALUATION OF COLLATERAL

Chapter 13 debtors may value collateral by noticed motion. Fed. R. Bankr. P. 3012. Section 506(a) of the Bankruptcy Code provides, "An allowed claim of a creditor secured by a lien on property in which the estate has an interest . . . is a secured claim to the extent of the value of such creditor's interest in the estate's interest in such

property" and is unsecured as to the remainder. 11 U.S.C. § 506(a). For personal property, value is defined as "replacement value" on the date of the petition. *Id.* § 506(a)(2). For "property acquired for personal, family, or household purposes, replacement value shall mean the price a retail merchant would charge for property of that kind considering the age and condition of the property at the time value is determined." *Id.* The costs of sale or marketing may not be deducted. *Id.*

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 2007 Chevy Silverado. The debt secured by the vehicle was not incurred within the 910-day period preceding the date of the petition. The court values the vehicle at \$14,025.

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 2007 Chevy Silverado has a value of \$14,025. No senior liens on the collateral have been identified. The respondent has a secured claim in the amount of \$14,025 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.

14. [16-10621](#)-A-13 DAMON/REGINA GUNDERMAN
DRJ-5
DAMON GUNDERMAN/MV
DAVID JENKINS/Atty. for dbt.

MOTION TO VALUE COLLATERAL OF
FAST AUTO LOANS, INC.
9-7-16 [[43](#)]

Final Ruling

Motion: Value Collateral [Personal Property; Motor Vehicle]

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

Disposition: Granted

Order: Civil minute order

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

VALUATION OF COLLATERAL

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

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 1999 Toyota Camry. 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 \$2537.

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 1999 Toyota Camry has a value of \$2537. No senior liens on the collateral have been identified. The respondent has a secured claim in the amount of \$2537 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.

15. [14-12624](#)-A-13 KURT/GAIL KLOTZ
FW-1

MOTION FOR COMPENSATION BY THE
LAW OFFICE OF FEAR WADDELL,
P.C. FOR GABRIEL J. WADDELL,
DEBTORS ATTORNEY(S)
9-21-16 [[31](#)]

PETER FEAR/Atty. for dbt.

Final Ruling

Application: Allowance of Interim Compensation and Expense
Reimbursement

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

Disposition: Approved

Order: Civil minute order

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

COMPENSATION AND EXPENSES

In this Chapter 13 case, Fear Waddell, P.C. has applied for an allowance of interim compensation and reimbursement of expenses. The application requests that the court allow compensation in the amount of \$2083.50 and reimbursement of expenses in the amount of \$331.42.

Section 330(a) of the Bankruptcy Code authorizes "reasonable compensation for actual, necessary services" rendered by a debtor's attorney in a Chapter 13 case and "reimbursement for actual, necessary expenses." 11 U.S.C. § 330(a)(1), (4)(B). Reasonable compensation is determined by considering all relevant factors. See *id.* § 330(a)(3).

The court finds that the compensation and expenses sought are reasonable, and the court will approve the application on an interim basis. Such amounts shall be perfected, and may be adjusted, by a final application for compensation and expenses, which shall be filed prior to case closure.

CIVIL MINUTE ORDER

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

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

Fear Waddell, P.C.'s application for allowance of interim compensation and reimbursement of expenses has been presented to the court. Having entered the default of respondent for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the application,

IT IS ORDERED that the application is approved on an interim basis. The court allows interim compensation in the amount of \$2083.50 and reimbursement of expenses in the amount of \$331.42. The aggregate allowed amount equals \$2414.92. As of the date of the application, the applicant held a retainer in the amount of \$0.00. The amount of \$2414.92 shall be allowed as an administrative expense to be paid through the plan.

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

IT IS FURTHER ORDERED that the trustee is authorized to pay the fees allowed by this order from the available funds of the plan in a manner consistent with the terms of the confirmed plan.

16. [16-12326](#)-A-13 JOSE MARTINEZ AND MARIA MOTION TO CONFIRM PLAN
TOG-1 SARAVIA 9-9-16 [[29](#)]
JOSE MARTINEZ/MV
THOMAS GILLIS/Atty. for dbt.
RESPONSIVE PLEADING

No tentative ruling.

17. [16-12828](#)-A-13 MARVITA SEAWELL
MHM-1
MICHAEL MEYER/MV
PATRICK GREENWELL/Atty. for dbt.

MOTION TO DISMISS CASE
9-22-16 [[22](#)]

Final Ruling

Motion: Dismiss Case

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

Disposition: Granted

Order: Civil minute order

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

CASE DISMISSAL

The debtor has failed to provide the trustee with required or requested documents. See 11 U.S.C. § 521(a)(3)-(4).

The debtor has failed to provide the trustee with required tax returns (for the most recent tax year ending immediately before the commencement of the case and for which a Federal income tax return was filed) no later than 7 days before the date first set for the first meeting of creditors. 11 U.S.C. § 521(e)(2)(A)-(B).

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

CIVIL MINUTE ORDER

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

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

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

IT IS ORDERED that the motion is granted for unreasonable delay by the debtor that is prejudicial to creditors. The court hereby dismisses this case.

18. [16-12129](#)-A-13 ROBERTO MERAS
MHM-1

OBJECTION TO CONFIRMATION OF
PLAN BY TRUSTEE MICHAEL H.
MEYER
9-29-16 [[46](#)]

JAMIL WHITE/Atty. for dbt.
RESPONSIVE PLEADING
WITHDRAWN

Final Ruling

The objection withdrawn, the matter is dropped as moot.

19. [16-12129](#)-A-13 ROBERTO MERAS
MHM-2
MICHAEL MEYER/MV
JAMIL WHITE/Atty. for dbt.

OBJECTION TO DEBTOR'S CLAIM OF
EXEMPTIONS
9-29-16 [[50](#)]

Final Ruling

The objection will be overruled as moot given the filing of an amended
Schedule C on 10/13/16 after the filing of the objection in this
matter.

20. [16-12930](#)-A-13 MOISES/SARA DUENAS
MHM-1
MICHAEL MEYER/MV
THOMAS GILLIS/Atty. for dbt.

MOTION TO DISMISS CASE
9-29-16 [[29](#)]

No tentative ruling.

21. [14-11233](#)-A-13 ALAN PATTERSON
VVF-1
AMERICAN HONDA FINANCE
CORPORATION/MV

MOTION TO CONFIRM TERMINATION
OR ABSENCE OF STAY ,
MOTION/APPLICATION FOR RELIEF
FROM CO-DEBTOR STAY
9-23-16 [[57](#)]

MARK ZIMMERMAN/Atty. for dbt.
VINCENT FROUNJIAN/Atty. for mv.

Final Ruling

Motion: Relief from Stay

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

Disposition: Granted in part, denied as moot in part

Order: Civil minute order

SUBJECT: 2010 Lund Boat, 2 2010 Honda Outboard Motors, 2011 Boat
Trailer

SERVICE ISSUE

As a contested matter, a motion for relief from stay is governed by Federal Rule of Bankruptcy Procedure 9014. Fed. R. Bankr. P. 4001(a)(1), 9014(a). In contested matters generally, "reasonable notice and opportunity for hearing shall be afforded the party against whom relief is sought." Fed. R. Bankr. P. 9014(a). A motion initiating a contested matter must be served pursuant to Rule 7004. Fed. R. Bankr. P. 9014(b).

The motion must be served on the party against whom relief is sought. See Fed. R. Bankr. P. 9014(a)-(b). Here the parties against whom relief is sought include the debtor, the co-debtor, and the trustee.

In this case, the service of the motion was insufficient and did not comply with Rules 7004 and 9014. The co-debtor was not served at the address for the co-debtor's dwelling house or usual place of abode, which is located at 20602 North 4th Avenue, Phoenix, AZ, 85027. Fed. R. Bankr. P. 7004(b)(1). The request for special notice filed by Michelle Perdue (Patterson) is at docket no. 16.

However, the relief sought as to the co-debtor cannot be granted as discussed below. So the court will waive the service issue as harmless.

MOOTNESS AS TO CO-DEBTOR RELIEF

Federal courts have no authority to decide moot questions. *Arizonans for Official English v. Arizona*, 520 U.S. 43, 67-68, 72 (1997). "Mootness has been described as the doctrine of standing set in a time frame: The requisite personal interest that must exist at the commencement of the litigation (standing) must continue throughout its existence (mootness)." *Id.* at 68 n.22 (quoting *U.S. Parole Comm'n v. Geraghty*, 445 U.S. 388, 397 (1980)) (internal quotation marks omitted).

"[A] case is moot when the issues presented are no longer live or the parties lack a legally cognizable interest in the outcome." *City of Erie v. Pap's A.M.*, 529 U.S. 277, 287 (2000) (alteration in original) (quoting *County of Los Angeles v. Davis*, 440 U.S. 625, 631 (1979)) (internal quotation marks omitted). "The basic question in determining mootness is whether there is a present controversy as to which effective relief can be granted." *Nw. Env'tl. Def. Ctr. v. Gordon*, 849 F.2d 1241, 1244-45 (9th Cir. 1988) (citing *United States v. Geophysical Corp.*, 732 F.2d 693, 698 (9th Cir.1984)).

The motion seeks relief from the co-debtor stay of § 1301(a) as to Michelle A. Patterson. But Class 4 of the plan provides: "Upon confirmation of the plan, all bankruptcy stays are modified to allow the holder of a Class 4 secured claim to exercise its rights against its collateral and any nondebtor in the event of a default under applicable law or contract." Chapter 13 Plan §2.11 (emphases added). As a result, the stay has terminated as to Michelle A. Patterson.

RELIEF AS TO DEBTOR

The motion requests confirmation that the stay has terminated as to the debtor. The court will grant this relief and confirm that the stay has terminated as to the debtor. Class 4 of the plan provides:

"Upon confirmation of the plan, all bankruptcy stays are modified to allow the holder of a Class 4 secured claim to exercise its rights against its collateral and any nondebtor in the event of a default under applicable law or contract." Chapter 13 Plan §2.11.

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.

American Honda Finance Corp.'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 court hereby confirms that the automatic stay of § 362(a) is vacated with respect to the property described in the motion, commonly known as 2010 Lund Boat, 2 2010 Honda Outboard Motors, 2011 Boat Trailer, as to the debtor and the estate. Any party with standing may pursue its rights against the property pursuant to applicable non-bankruptcy law.

IT IS FURTHER ORDERED that the motion for relief from the co-debtor stay is denied as moot, given that the co-debtor stay has been modified under the terms of the confirmed plan to allow the movant to exercise its rights and remedies against any nondebtor.

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.

22. [16-13035](#)-A-13 SHAIDA ALI MOTION TO DISMISS CASE
MHM-1 9-29-16 [[20](#)]
MICHAEL MEYER/MV
TIMOTHY SPRINGER/Atty. for dbt.
WITHDRAWN

Final Ruling

The motion withdrawn, the matter is dropped as moot.

23. [16-12437](#)-A-13 GURMIT SANDHU AND KARMIT MOTION TO VALUE COLLATERAL OF
GEG-2 BRAR TRANSPORT FUNDING LLC
GURMIT SANDHU/MV 9-22-16 [[31](#)]
GLEN GATES/Atty. for dbt.
CASE DISMISSED

Final Ruling

The case dismissed, the matter is dropped as moot.

24. [11-61439](#)-A-13 CANDELARIA SANCHEZ
WFM-1
CITIMORTGAGE/MV
CORT WIEGAND/Atty. for dbt.
WILLIAM MCDONALD/Atty. for mv.

MOTION FOR RELIEF FROM
AUTOMATIC STAY
9-15-16 [[37](#)]

Final Ruling

Motion: Stay Relief

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

Disposition: Granted

Order: Civil minute order

Subject: 16570 Palmento Court, Delhi, CA

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

STAY RELIEF

"[U]nder section 362(d)(1), the stay must be terminated for 'cause.' Lack of adequate protection is but one example of "cause" for relief from stay." *In re Ellis*, 60 B.R. 432, 435 (B.A.P. 9th Cir. 1985). The panel in the *Ellis* case rejected the argument that under § 362(d)(1) "the stay can only be terminated if [the movant-creditors] show a lack of adequate protection." *Id.*

The claim of the movant, CitiMortgage Inc., has not been provided for in the plan. Failure to provide for a claim may be cause to terminate the automatic stay. And six post-petition payments have been missed.

The court does not address grounds for relief under § 362(d)(2) as relief is warranted under § 362(d)(1). The motion will be granted, and the 14-day stay of Federal Rule of Bankruptcy Procedure 4001(a)(3) will be waived. No other relief will be awarded.

CIVIL MINUTE ORDER

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

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

CitiMortgage, Inc.'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 16570 Palmento Court, Delhi, CA, 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.

25. [16-11842](#)-A-13 FRANK/STEPHANIE HERNANDEZ OBJECTION TO DEBTOR'S CLAIM OF
MHM-2 EXEMPTIONS
MICHAEL MEYER/MV 9-21-16 [[34](#)]
SCOTT LYONS/Atty. for dbt.

Final Ruling

The objection is overruled as moot. After the objection to exemptions was filed, an amended schedule C was filed October 17, 2016.

26. [10-18346](#)-A-12 RICKY BEALS MOTION FOR COMPENSATION BY THE
FW-26 LAW OFFICE OF FEAR WADDELL,
P.C. FOR PETER L. FEAR, DEBTORS
ATTORNEY(S)
9-22-16 [[432](#)]
- PETER FEAR/Atty. for dbt.

Final Ruling

Application: Allowance of Final Compensation and Expense Reimbursement
Notice: LBR 9014-1(f)(1); written opposition required
Disposition: Approved
Order: Civil minute order

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

COMPENSATION AND EXPENSES

In this Chapter 12 case, Fear Waddell, P.C. has applied for an allowance of final compensation and reimbursement of expenses. The applicant requests that the court allow compensation in the amount of \$11,978.00 and reimbursement of expenses in the amount of \$368.11. The applicant also asks that the court allow on a final basis all prior applications for fees and costs that the court has previously allowed on an interim basis.

Section 330(a) of the Bankruptcy Code authorizes "reasonable compensation for actual, necessary services" rendered by a debtor's attorney in a Chapter 12 case and "reimbursement for actual, necessary

expenses." 11 U.S.C. § 330(a)(1), (4)(B). Reasonable compensation is determined by considering all relevant factors. See *id.* § 330(a)(3).

The court finds that the compensation and expenses sought are reasonable, and the court will approve the application on a final basis. The court also approves on a final basis all prior applications for interim fees and costs that the court has allowed under § 331 on an interim basis.

CIVIL MINUTE ORDER

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

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

Fear Waddell, P.C.'s application for allowance of final compensation and reimbursement of expenses has been presented to the court. Having entered the default of respondent for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the application,

IT IS ORDERED that the application is approved on a final basis. The court allows final compensation in the amount of \$11,978.00 and reimbursement of expenses in the amount of \$368.11. The aggregate allowed amount equals \$12,364.11. As of the date of the application, the applicant held a retainer in the amount of \$0.00. The amount of \$12,364.11 shall be allowed as an administrative expense to be paid through the plan. The court also approves on a final basis all prior applications for interim fees and costs that the court has allowed under § 331 on an interim basis.

IT IS FURTHER ORDERED that the trustee is authorized to pay the fees allowed by this order from the available funds of the plan in a manner consistent with the terms of the confirmed plan.

27. [16-12852](#)-A-13 ELEANOR AIKINS
MHM-1
MICHAEL MEYER/MV
JEFFREY ROWE/Atty. for dbt.
WITHDRAWN

MOTION TO DISMISS CASE
9-22-16 [[17](#)]

Final Ruling

The motion withdrawn, the matter is dropped as moot.

28. [16-10253](#)-A-13 JOE PEREZ RESCHEDULED PRETRIAL CONFERENCE
KDG-1 RE: MOTION TO DISMISS CASE
MONICA TRIANO/MV 3-16-16 [[38](#)]
PATRICK KAVANAGH/Atty. for dbt.
JACOB EATON/Atty. for mv.
ORDER #145, DISMISSED

Final Ruling

The case dismissed, the matter is dropped as moot.

29. [16-11953](#)-A-13 LISA MERCADO AMENDED ORDER TO SHOW CAUSE -
FAILURE TO PAY FEES
10-4-16 [[24](#)]
SCOTT LYONS/Atty. for dbt.
FINAL INSTALLMENT PAYMENT OF
\$77.00 PAID ON 10/6/16

Final Ruling

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

30. [11-62054](#)-A-13 ANTHONY/CHERI CHAVEZ MOTION TO MODIFY PLAN
DMG-8 9-21-16 [[170](#)]
ANTHONY CHAVEZ/MV
D. GARDNER/Atty. for dbt.

Final Ruling

Motion: Modify Chapter 13 Plan

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

Disposition: Granted

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

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

Chapter 13 plan confirmation 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. The debtor bears the burden of proof as to each element. *In re Barnes*, 32 F.3d 405, 407 (9th Cir. 1994). The court finds that the debtor has sustained that burden. The court will grant the motion and approve the modification of the plan.

31. [16-11256](#)-A-13 SAMUEL/DIANE DOMINGUEZ CONTINUED PRE-TRIAL CONFERENCE
JLW-4 RE: OBJECTION TO CONFIRMATION
ROBERT LAIRD/MV OF PLAN BY ROBERT STEVEN LAIRD
AND MIRJAM RIJFKOGEL-LAIRD
5-31-16 [[44](#)]

PETER FEAR/Atty. for dbt.
JODY WINTER/Atty. for mv.

Final Ruling

At the suggestion of the parties, the pretrial conference is continued to November 17, 2016, at 9:00 a.m.

32. [11-60757](#)-A-13 BARRY GORMAN MOTION TO AVOID LIEN OF
GH-3 SECURITY CREDIT SERVICES LLC
BARRY GORMAN/MV 9-19-16 [[52](#)]
GARY HUSS/Atty. for dbt.
WITHDRAWN

Final Ruling

The motion withdrawn, the matter is dropped as moot.

33. [11-60757](#)-A-13 BARRY GORMAN MOTION TO AVOID LIEN OF CAVALRY
GH-4 PORTFOLIO SERVICES, LLC
BARRY GORMAN/MV 9-19-16 [[56](#)]
GARY HUSS/Atty. for dbt.
WITHDRAWN

Final Ruling

The motion withdrawn, the matter is dropped as moot.

34. [11-60757](#)-A-13 BARRY GORMAN MOTION TO DISMISS CASE
MHM-1 10-3-16 [[67](#)]
MICHAEL MEYER/MV
GARY HUSS/Atty. for dbt.

No tentative ruling.

35. [11-60757](#)-A-13 BARRY GORMAN MOTION TO VACATE DISCHARGE OF
MHM-2 DEBTOR(S)
MICHAEL MEYER/MV 10-3-16 [[74](#)]
GARY HUSS/Atty. for dbt.

No tentative ruling.

36. [15-13184](#)-A-13 DEBBY RENNA
MHM-2
MICHAEL MEYER/MV
JERRY LOWE/Atty. for dbt.
OPPOSITION

MOTION TO DISMISS CASE
9-12-16 [[92](#)]

No tentative ruling.

37. [16-12587](#)-A-13 CRETIA GUZMAN
MHM-2

OBJECTION TO CONFIRMATION OF
PLAN BY TRUSTEE MICHAEL H.
MEYER
9-29-16 [[32](#)]

STEPHEN LABIAK/Atty. for dbt.

No tentative ruling.

38. [15-12498](#)-A-13 JULIE ROSALES
GGL-1
JULIE ROSALES/MV
GEORGE LOGAN/Atty. for dbt.
RESPONSIVE PLEADING
MOTION WITHDRAWN

MOTION TO MODIFY PLAN
9-13-16 [[30](#)]

Final Ruling

The motion withdrawn, the matter is dropped as moot.