

**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: NOVEMBER 17, 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. [18-27902](#)-A-13 **IN RE: PAUL FISHER**
[BLG-5](#)

MOTION TO MODIFY PLAN
9-24-2020 [[101](#)]

CHAD JOHNSON/ATTY. FOR DBT.
RESPONSIVE PLEADING

Tentative Ruling

Motion: Modify Chapter 13 Plan

Notice: LBR 3015-1(d)(2), 9014-1(f)(1); written opposition filed by the trustee

Disposition: Denied

Order: Civil minute order

The motion requests modification of the Chapter 13 plan in this case. See 11 U.S.C. §§ 1322, 1325, 1329; Fed. R. Bankr. P. 2002(b); LBR 3015-1(d)(2). The Chapter 13 trustee opposes the motion, objecting to the modification.

The trustee contends that the debtor is delinquent in the amount of \$942.00 under the proposed plan. The debtor also did not file a supplement to Schedule I or Schedule J in support of the motion. Therefore, cause exists to deny the debtor's motion to modify the plan under 11 U.S.C. § 1326(a)(1)(A) and § 1325(a)(6).

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 modify 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 modification of the chapter 13 plan.

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

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

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

No Ruling

3. [20-24902](#)-A-13 **IN RE: ISIDRO FLORES**
[PGM-1](#)

MOTION TO EXTEND AUTOMATIC STAY
11-2-2020 [[11](#)]

PETER MACALUSO/ATTY. FOR DBT.

No Ruling

4. [18-21614](#)-A-13 **IN RE: WILLIAM/SHANNON CROSSON**
[DPC-2](#)

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

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

No Ruling

5. [18-21614](#)-A-13 **IN RE: WILLIAM/SHANNON CROSSON**
[MET-2](#)

MOTION TO MODIFY PLAN
9-21-2020 [[46](#)]

MARY TERRANELLA/ATTY. FOR DBT.
RESPONSIVE PLEADING

No Ruling

6. [20-23415](#)-A-13 **IN RE: MICHAEL/CANDACE TODD**
[BLG-2](#)

MOTION FOR COMPENSATION FOR CHAD M JOHNSON, DEBTORS
ATTORNEY(S)
10-8-2020 [[25](#)]

CHAD JOHNSON/ATTY. FOR DBT.
NON-OPPOSITION

Final Ruling

Application: Allowance of Interim Compensation and Expense Reimbursement

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

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, Chad M. Johnson has applied for an allowance of interim compensation and reimbursement of expenses. The application requests that the court allow compensation in the amount of \$2,920.30 and reimbursement of expenses in the amount of \$375.30.

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

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

CIVIL MINUTE ORDER

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

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

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

IT IS ORDERED that the application is approved on an interim basis. The court allows interim compensation in the amount of \$2,920.30 and reimbursement of expenses in the amount of \$375.30. The aggregate allowed amount equals \$3,295.60. As of the date of the application, the applicant held a retainer in the amount of \$900.00. The amount of \$2,295.60 shall be allowed as an administrative expense to be paid through the plan, and the remainder of the allowed amounts, if any, shall be paid from the retainer held by the applicant. The applicant is authorized to draw on any retainer held.

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

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

7. [19-23222](#)-A-13 **IN RE: DAVID CARTER**
[DPC-1](#)

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

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

Final Ruling

Since the trustee consents to the court dropping this motion if the debtor's motion to modify plan is granted (Item 8), and since the court granted said motion to modify plan, the court will drop this matter from the calendar as moot.

8. [19-23222](#)-A-13 **IN RE: DAVID CARTER**
[MS-3](#)

MOTION TO MODIFY PLAN
8-21-2020 [[67](#)]

MARK SHMORGON/ATTY. FOR DBT.
RESPONSIVE PLEADING

Final Ruling

Motion: Modify Chapter 13 Plan

Notice: LBR 3015-1(d)(2), 9014-1(f)(1); trustee's non-opposition filed

Disposition: Granted

Order: Prepared by 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 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.

9. [19-23222](#)-A-13 **IN RE: DAVID CARTER**
[MS-4](#)

MOTION FOR COMPENSATION BY THE LAW OFFICE OF DEIGHAN LAW LLP
FOR MARK SHMORGON, DEBTORS ATTORNEY(S)
8-21-2020 [[73](#)]

MARK SHMORGON/ATTY. FOR DBT.
RESPONSIVE PLEADING

Tentative 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).

INTERIM EXPENSES

Having considered that there are still 25 months of the debtor's plan remaining, the court construes that the movant has requested interim compensation under 11. U.S.C. § 331 (interim, rather than final, compensation). The counsel shall present opposition, if any, at the hearing.

COMPENSATION AND EXPENSES

In this Chapter 13 case, Mark Shmorgon has applied for an allowance of interim compensation and reimbursement of expenses. The application requests that the court allow compensation in the amount of \$1,300.00 and reimbursement of expenses in the amount of \$0.00.

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.

Mark Shmorgon'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 \$1,300.00 and reimbursement of expenses in the amount of \$0.00. The aggregate allowed amount equals \$1,300.00.

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.

10. [20-20923](#)-A-13 **IN RE: SOPAWORN SAVEDRA**
[DPC-2](#)

MOTION TO DISMISS CASE
10-9-2020 [80]

GABRIEL LIBERMAN/ATTY. FOR DBT.

No Ruling

11. [18-22724](#)-A-13 **IN RE: ANGELO NOLASCO AND DEBRA**
RODRIQUEZ-NOLASCO
[PGM-3](#)

MOTION TO INCUR DEBT
10-21-2020 [[71](#)]

PETER MACALUSO/ATTY. FOR DBT.

Tentative Ruling

Motion: Approve New Debt [Vehicle Loan]

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

Disposition: Granted

Order: Prepared by moving party

Subject Property: 2018 Mercedes-Benz CLA 250c

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).

The debtor seeks to incur new debt to finance the purchase of a vehicle. Amended Schedules I and J have been filed indicating that the debtor can afford both the plan payment and the proposed monthly loan payment of principal and interest that would result from obtaining this financing. The court will grant the motion, and the trustee will approve the order as to form and content. The order will recite the salient terms of the loan, e.g. Motion to Incur Debt ¶ 5, ECF No. 71, or append the purchase contract, Exhibit B, ECF No. 74.

12. [20-24225](#)-A-13 **IN RE: LONNIE CURREY AND ROSELYN**
BRANT-CURREY
[NC-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
10-19-2020 [[22](#)]

PATRICIA WILSON/ATTY. FOR DBT.
MICHAEL MYERS/ATTY. FOR MV.
THE GOLDEN 1 CREDIT UNION 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: 2016 Toyota Tacoma Double Cab

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 movant is placed in Class 3 of the plan and the debtor indicated desire to surrender the vehicle to the movant, ECF 31. The debtor has defaulted on the loan as 20 prepetition payments totaling \$9,070.00 and 1 postpetition payment of \$453.50 are past due.

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.

Golden 1 Credit Union'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 2016 Toyota Tacoma Double Cab, 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.

13. [18-27327](#)-A-13 **IN RE: MEGAN ARNETT-LUCKEY**
[BLG-5](#)

MOTION TO MODIFY PLAN
9-24-2020 [[110](#)]

CHAD JOHNSON/ATTY. FOR DBT.
RESPONSIVE PLEADING

Final Ruling

Motion: Modify Chapter 13 Plan

Notice: LBR 3015-1(d)(2), 9014-1(f)(1); trustee's non-opposition filed

Disposition: Granted

Order: Prepared by movant, approved by the trustee

Subject: Fourth Amended Chapter 13 Plan, September 24, 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.

14. [18-27327](#)-A-13 **IN RE: MEGAN ARNETT-LUCKEY**
[DPC-4](#)

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

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

Final Ruling

Since the trustee consents to the court dropping this matter if the court granted the debtor’s motion to modify plan (Item 13), and since the court granted said motion to modify plan, the court will drop this matter from the calendar as moot.

15. [20-23627](#)-A-13 **IN RE: AMANDA SHRINER**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES
10-27-2020 [\[52\]](#)

RICHARD JARE/ATTY. FOR DBT.

Tentative Ruling

If the filing fee has not been paid in full by the time of the hearing, the case may be dismissed without further notice or hearing.

16. [20-23627](#)-A-13 **IN RE: AMANDA SHRINER**
[RJ-4](#)

MOTION TO VALUE COLLATERAL OF SOLANO FIRST CREDIT UNION
10-20-2020 [[43](#)]

RICHARD JARE/ATTY. FOR DBT.
RESPONSIVE PLEADING

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 2006 Honda Civic. 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 \$3,700.00.

CIVIL MINUTE ORDER

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

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

The 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 2006 Honda Civic has a value of \$3,700.00. No senior liens on the collateral have been identified. The respondent has a secured claim in the amount of \$3,700.00 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.

17. [20-23230](#)-A-13 **IN RE: WARNER/KATHERINE WINN**
[DBL-2](#)

MOTION TO CONFIRM PLAN
10-6-2020 [[30](#)]

BRUCE DWIGGINS/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, October 6, 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.

18. [20-23635](#)-A-13 **IN RE: CAROL ANDRESEN**
[VVF-2](#)

MOTION FOR EXAMINATION
10-29-2020 [[47](#)]

STEELE LANPHIER/ATTY. FOR DBT.
VINCENT FROUNJIAN/ATTY. FOR MV.

No Ruling

19. [19-23937](#)-A-13 **IN RE: DEBORAH TURNER**
[JHK-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
10-12-2020 [[37](#)]

MARK WOLFF/ATTY. FOR DBT.
JOHN KIM/ATTY. FOR MV.
HYUNDAI LEASE TITLING TRUST 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 Hyundai Azera

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

Section 362(d)(1) authorizes stay relief for cause shown. 11 U.S.C. § 362(d)(1). Here the debtor's lease with the movant expired on February 1, 2020 and the debtor surrendered the vehicle to the movant on May 11, 2020. The vehicle is being held pending stay relief. The court concludes that such property is not necessary to the debtor's financial reorganization.

Therefore, cause exists to grant relief 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.

Hyundai Lease Titling Trust'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 Hyundai Azera, 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.

20. [20-22937](#)-A-13 **IN RE: ROBERT LOYA AND JULIE MCLAIN**

CONTINUED ORDER TO SHOW CAUSE - FAILURE TO PAY FEES
10-13-2020 [[42](#)]

PETER MACALUSO/ATTY. FOR DBT.
11/4/20 FINAL INSTALLMENT PAYMENT \$77

Final Ruling

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

21. [17-27538](#)-A-13 **IN RE: RENE JARA**
[RJ-3](#)

MOTION TO MODIFY PLAN
10-13-2020 [[62](#)]

RICHARD JARE/ATTY. FOR DBT.
RESPONSIVE PLEADING

Final Ruling

Motion: Modify Chapter 13 Plan

Notice: LBR 3015-1(d)(2), 9014-1(f)(1); trustee's non-opposition filed

Disposition: Granted

Order: Prepared by movant, approved by the trustee

Subject: Second Amended Chapter 13 Plan, October 13, 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.

22. [19-24540](#)-A-13 **IN RE: SHEILA BROWN**
[DPC-1](#)

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

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

Final Ruling

Since the trustee consents to the court dropping this matter if the court granted the debtor’s motion to modify plan (Item 23), and since the court granted said motion to modify plan, the court will drop this matter from the calendar as moot.

23. [19-24540](#)-A-13 **IN RE: SHEILA BROWN**
[PSB-2](#)

MOTION TO MODIFY PLAN
9-24-2020 [[47](#)]

PAULDEEP BAINS/ATTY. FOR DBT.
RESPONSIVE PLEADING

Final Ruling

Motion: Modify Chapter 13 Plan

Notice: LBR 3015-1(d)(2), 9014-1(f)(1); trustee's non-opposition filed

Disposition: Granted

Order: Prepared by movant, approved by the trustee

Subject: First Amended Chapter 13 Plan, September 24, 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.

24. [20-24242](#)-A-13 **IN RE: ROBERT MAC BRIDE**
[DPC-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY DAVID P. CUSICK
10-21-2020 [[23](#)]

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 debtor has failed to provide the trustee with required or requested documents. See 11 U.S.C. § 521(a)(3)-(4). The debtor failed to provide the trustee with copies of payment advices or other evidence of income received within the 60 day period prior to the filing of the petition.

The debtor has failed to provide the trustee with a required tax return (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).

The plan will fund in 54 months. Since the proposed length of the plan is 36 months, the plan is overextended. See 11 U.S.C. § 1322(d).

The plan is not feasible under 11 U.S.C. § 1325(a)(6). The proposed plan payments are \$3,150.00 for 36 months. Schedule J lists the debtor's monthly net income on Line 23C as \$114.00. The debtor does not have the funds to pay the proposed plan payments, for the trustee finds the funds are insufficient even if the installment agreement expense of \$166.00 for past due taxes in the schedules is removed.

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.

25. [20-24343](#)-A-13 IN RE: JULIE/PHIL COVELL
[DPC-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY DAVID P CUSICK
10-21-2020 [[20](#)]

PETER MACALUSO/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: 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 trustee objected to confirmation of the debtor's Chapter 13 plan under 11 U.S.C. § 521(a)(3) for the debtor's failure to amend the petition to list the full case number for the debtor's previously-filed bankruptcy case. However, the debtor amended the petition so that it indicates the correct number of the previously-filed case, ECF 24. The court finds the trustee's issue regarding the debtor's petition resolved.

The trustee also stated the plan is not feasible under § 1325(a)(6) because its feasibility depends on whether the court grants the debtor's motion to value collateral of Prestige Financial (Item 26). However, since the court grants the said motion to value collateral, the court does not find cause to sustain the trustee's objection to confirmation.

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 overruled. A confirmation order shall be submitted by the debtor after approval by trustee's counsel.

26. [20-24343](#)-A-13 **IN RE: JULIE/PHIL COVELL**
[PGM-1](#)

MOTION TO VALUE COLLATERAL OF PRESTIGE FINANCIAL SERVICES
10-19-2020 [[15](#)]

PETER MACALUSO/ATTY. FOR DBT.
RESPONSIVE PLEADING

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 2014 Chrysler Town & Country. 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 \$3,800.00.

VIOLATION OF L.B.R. 9014-1(d)(3)

"The application, **motion**, contested matter, or other request for relief shall set forth the relief or order sought and **shall state with particularity** the factual and **legal grounds therefor**. Legal grounds for the relief sought means citation to the statute, rule, case, or common law doctrine that forms the basis of the moving party's request but does not include a discussion of those authorities or argument for their applicability." L.B.R. 9014-1(d)(3)(A) (emphasis added).

Here the movant did not mention in the motion, declaration or memorandum of points and authorities the legal authority for valuation of collateral consisting of a motor vehicle under 11 U.S.C. §§ 506(a), 1325(a)(5) (hanging paragraph). As a consequence, the movant has not complied with L.B.R. 9014-1(d)(3)(A). Counsel for the debtor is reminded to comply with applicable provisions of the Federal Rules of Bankruptcy Procedure and Local Bankruptcy Rules.

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 2014 Chrysler Town & Country has a value of \$3,800.00. No senior liens on the collateral have been identified. The respondent has a secured claim in the amount of \$3,800.00 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.

27. [17-23945](#)-A-13 **IN RE: DEMAR RICHARDSON**
[DPC-2](#)

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

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

Final Ruling

Since the trustee consents to the court dropping this matter if the court granted the debtor's motion to modify plan (Item 27), and since the court granted said motion to modify plan, the court will drop this matter from the calendar as moot.

28. [17-23945](#)-A-13 **IN RE: DEMAR RICHARDSON**
[PSB-4](#)

MOTION TO MODIFY PLAN
9-25-2020 [[78](#)]

PAULDEEP BAINS/ATTY. FOR DBT.
RESPONSIVE PLEADING

Final Ruling

Motion: Modify Chapter 13 Plan
Notice: LBR 3015-1(d)(2), 9014-1(f)(1); trustee's non-opposition filed
Disposition: Granted
Order: Prepared by movant, approved by the trustee
Subject: Third Amended Chapter 13 Plan, September 25, 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. The court will also issue an order that post-petition arrears claim is for the months February 2020 and June 2020.

29. [19-23949](#)-A-13 **IN RE: ERIC/REGINA FLEMING**
[UND-4](#)

MOTION TO SELL
10-14-2020 [[94](#)]

ULRIC DUVERNEY/ATTY. FOR DBT.
RESPONSIVE PLEADING

No Ruling

30. [18-27055](#)-A-13 **IN RE: JEFFREY/LISA PURCELL**
[MRL-1](#)

CONTINUED 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 TRUST
8-7-2020 [[28](#)]

MIKALAH LIVIAKIS/ATTY. FOR DBT.
STIPULATION 10/29/2020, ECF 45

No Ruling

31. [17-26656](#)-A-13 **IN RE: STACY/MICHAEL SAVOCA**
[CLH-4](#)

MOTION TO MODIFY PLAN
9-28-2020 [[70](#)]

CINDY HILL/ATTY. FOR DBT.
RESPONSIVE PLEADING

No Ruling

32. [17-26656](#)-A-13 **IN RE: STACY/MICHAEL SAVOCA**
[CLH-5](#)

OBJECTION TO NOTICE OF MORTGAGE PAYMENT CHANGE
9-28-2020 [[75](#)]

CINDY HILL/ATTY. FOR DBT.

Final Ruling

By order of this court this matter is continued to December 8, 2020,
at 9:00 a.m.

33. [17-26656](#)-A-13 **IN RE: STACY/MICHAEL SAVOCA**
[DPC-1](#)

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

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

No Ruling

34. [20-23856](#)-A-13 **IN RE: DANIEL SNOOK AND SHARON AZEVEDO**
[MRL-1](#)

MOTION TO CONFIRM PLAN
9-24-2020 [[19](#)]

MIKALAH LIVIAKIS/ATTY. FOR DBT.
RESPONSIVE PLEADING

No Ruling

35. [19-21258](#)-A-13 **IN RE: TROY EMRY**
[DPC-1](#)

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

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

No Ruling

36. [19-21258](#)-A-13 **IN RE: TROY EMRY**
[PSB-3](#)

MOTION TO MODIFY PLAN
9-25-2020 [[72](#)]

PAULDEEP BAINS/ATTY. FOR DBT.
RESPONSIVE PLEADING

Tentative Ruling

Motion: Modify Chapter 13 Plan

Notice: LBR 3015-1(d)(2), 9014-1(f)(1); written opposition filed by the trustee

Disposition: Denied

Order: Civil minute order

The motion requests modification of the Chapter 13 plan in this case. See 11 U.S.C. §§ 1322, 1325, 1329; Fed. R. Bankr. P. 2002(b); LBR 3015-1(d)(2). The Chapter 13 trustee opposes the motion, objecting to the modification.

The trustee contends that as of month 20 (October 2020), the debtor is delinquent in the amount of \$1,046.00 under the proposed plan. Payments under the proposed plan are \$523.00 per month for months 19 - 27, then \$1,898.00 per month for months 28 - 84. The debtor's last payment posted on March 2, 2020 in the amount of \$1,453.00. The trustee thus contends the plan is not feasible. The court finds cause to deny the motion to modify under § 1325(a)(6).

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. 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. Here the debtor

used the same docket control number PSB-3 for this motion and a Motion to Extend Stay, ECF 44.

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 modify 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 modification of the chapter 13 plan.

37. [20-22460](#)-A-13 **IN RE: ENER/MARIA ELENA GUECO**
[JTN-3](#)

MOTION TO CONFIRM PLAN
9-1-2020 [[67](#)]

JASMIN NGUYEN/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: Second Amended Chapter 13 Plan, September 1, 2020

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.

38. [18-24871](#)-A-13 **IN RE: ALEXANDER/GLORIA BYRNE**
[APN-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
9-23-2020 [[30](#)]

MIKALAH LIVIAKIS/ATTY. FOR DBT.
AUSTIN NAGEL/ATTY. FOR MV.
VW CREDIT LEASING, LTD. VS.

Final Ruling

Motion: Stay Relief

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

Disposition: Granted

Order: Civil Minute Order

Subject: 2016 Volkswagen E-Golf

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

Section 362(d)(1) authorizes stay relief for cause shown. 11 U.S.C. § 362(d)(1). The debtor's lease agreement with the movant expired and the debtor surrendered the vehicle to the movant on June 30, 2020. A balance of \$10,120.00 due and owing on the debtor's lease obligation has not been paid.

As the lease has expired, the debtors have no interest in the vehicle capable of assumption, and the balance of the lease agreement remains unpaid, the Court holds that cause exists to grant relief 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.

VW Credit Leasing, Ltd'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 2016 Volkswagen E-Golf, 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.

39. [19-20771](#)-A-13 **IN RE: MARTIN HERNANDEZ**
[MWB-4](#)

MOTION TO MODIFY PLAN
9-29-2020 [[89](#)]

MARK BRIDEN/ATTY. FOR DBT.

No Ruling

40. [20-21471](#)-A-13 **IN RE: JOHN STAHLECKER**
[DPC-1](#)

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

PAULDEEP BAINS/ATTY. FOR DBT.
RESPONSIVE PLEADING

No Ruling

41. [20-21471](#)-A-13 **IN RE: JOHN STAHLECKER**
[PSB-3](#)

MOTION TO MODIFY PLAN
9-24-2020 [[56](#)]

PAULDEEP BAINS/ATTY. FOR DBT.

Tentative Ruling

Motion: Modify Chapter 13 Plan

Notice: LBR 3015-1(d)(2), 9014-1(f)(1); written opposition filed by the trustee

Disposition: Denied

Order: Civil minute order

The motion requests modification of the Chapter 13 plan in this case. See 11 U.S.C. §§ 1322, 1325, 1329; Fed. R. Bankr. P. 2002(b); LBR 3015-1(d)(2). The Chapter 13 trustee opposes the motion, objecting to the modification.

The trustee contends the debtor is delinquent in the amount of \$3,328.00 under the proposed plan. There is cause to deny the motion to modify under § 1325(a)(6).

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 modify 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 modification of the chapter 13 plan.

42. [19-24273](#)-A-13 **IN RE: CHRISTINE CROWNOVER**
[CK-1](#)

MOTION TO MODIFY PLAN
10-7-2020 [[29](#)]

CATHERINE KING/ATTY. FOR DBT.
RESPONSIVE PLEADING

Tentative Ruling

Motion: Modify Chapter 13 Plan

Notice: LBR 3015-1(d)(2), 9014-1(f)(1); written opposition filed by the trustee

Disposition: Denied

Order: Civil minute order

The motion requests modification of the Chapter 13 plan in this case. See 11 U.S.C. §§ 1322, 1325, 1329; Fed. R. Bankr. P. 2002(b); LBR 3015-1(d)(2). The Chapter 13 trustee opposes the motion, objecting to the modification.

The trustee contends the debtors are delinquent \$1,525.00 under the proposed plan. The court finds cause to deny the motion to modify under 11 U.S.C. § 1325(a)(6).

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 modify 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 modification of the chapter 13 plan.

43. [20-24277](#)-A-13 **IN RE: ELIZABETH ROHDE**
[DWE-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY WILMINGTON SAVINGS FUND
SOCIETY
9-30-2020 [[16](#)]

YASHA RAHIMZADEH/ATTY. FOR DBT.
DANE EXNOWSKI/ATTY. FOR MV.

No Ruling

44. [18-23478](#)-A-13 **IN RE: TAMMY JACKSON**
[DPC-2](#)

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

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

No Ruling

45. [19-27482](#)-A-13 **IN RE: TONIA BEAIRD**
[DPC-1](#)

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

MARY TERRANELLA/ATTY. FOR DBT.
RESPONSIVE PLEADING

No Ruling

46. [19-27482](#)-A-13 **IN RE: TONIA BEAIRD**
[MET-2](#)

MOTION TO MODIFY PLAN
9-23-2020 [[43](#)]

MARY TERRANELLA/ATTY. FOR DBT.
RESPONSIVE PLEADING

No Ruling

47. [20-20091](#)-A-13 **IN RE: KENNETH FALJEAN**
[GEL-2](#)

CONTINUED MOTION TO MODIFY PLAN
8-7-2020 [[30](#)]

GABRIEL LIBERMAN/ATTY. FOR DBT.

No Ruling

48. [20-23791](#)-A-13 **IN RE: CAROLINE SALAZAR REVOCABLE TRUST**
[DPC-1](#)

MOTION TO DISMISS CASE
10-9-2020 [[24](#)]

CHINONYE UGORJI/ATTY. FOR DBT.
DEBTOR DISMISSED: 10/27/20

Final Ruling

The case having been dismissed, the matter is dropped as moot.

49. [20-23991](#)-A-13 **IN RE: VINCENT/NORMA CAMPISI**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES
10-22-2020 [[22](#)]

STEELE LANPHIER/ATTY. FOR DBT.
10/30/20 INSTALLMENT FEE PAID \$100

Final Ruling

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

50. [16-27996](#)-A-13 **IN RE: VICKI NAZAROFF**
[DPC-1](#)

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

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

No Ruling

51. [16-27996](#)-A-13 **IN RE: VICKI NAZAROFF**
[RJM-3](#)

MOTION TO MODIFY PLAN
9-25-2020 [[75](#)]

RICK MORIN/ATTY. FOR DBT.
RESPONSIVE PLEADING

Tentative Ruling

Motion: Modify Chapter 13 Plan

Notice: LBR 3015-1(d)(2), 9014-1(f)(1); written opposition filed by the trustee

Disposition: Denied

Order: Civil minute order

The motion requests modification of the Chapter 13 plan in this case. See 11 U.S.C. §§ 1322, 1325, 1329; Fed. R. Bankr. P. 2002(b); LBR 3015-1(d)(2). The Chapter 13 trustee opposes the motion, objecting to the modification.

The trustee contends the debtor is delinquent \$566.00 under the terms of the proposed modified plan. The court finds cause to deny this motion to modify under 11 U.S.C. § 1325(a)(6).

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 modify 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 modification of the chapter 13 plan.

52. [18-22996](#)-A-13 **IN RE: BARRY/TSICHLIS DUNN**
[DPC-2](#)

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

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

Final Ruling

Since the trustee consents to the court dropping this motion if the debtor's motion to modify plan is granted (Item 53), and since the court granted said motion to modify plan, the court will drop this matter from the calendar as moot.

53. [18-22996](#)-A-13 **IN RE: BARRY/TSICHLIS DUNN**
[MET-1](#)

MOTION TO MODIFY PLAN
9-21-2020 [[39](#)]

MARY TERRANELLA/ATTY. FOR DBT.
RESPONSIVE PLEADING

Final Ruling

Motion: Modify Chapter 13 Plan
Notice: LBR 3015-1(d)(2), 9014-1(f)(1); trustee's non-opposition filed
Disposition: Granted
Order: Prepared by movant, approved by the trustee
Subject: First Amended Chapter 13 Plan, September 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 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.

54. [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