

UNITED STATES BANKRUPTCY COURT
Eastern District of California
Honorable Jennifer E. Niemann
Hearing Date: Thursday, January 7, 2021
Place: Department A - 510 19th Street
Bakersfield, California

ALL APPEARANCES MUST BE TELEPHONIC
(Please see the court's website for instructions.)

Pursuant to District Court General Order 618, no persons are permitted to appear in court unless authorized by order of the court until further notice. All appearances of parties and attorneys shall be telephonic through CourtCall. The contact information for CourtCall to arrange for a phone appearance is: (866) 582-6878.

INSTRUCTIONS FOR PRE-HEARING DISPOSITIONS

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

No Ruling: All parties will need to appear at the hearing unless otherwise ordered.

Tentative Ruling: If a matter has been designated as a tentative ruling it will be called. The court may continue the hearing on the matter, set a briefing schedule or enter other orders appropriate for efficient and proper resolution of the matter. The original moving or objecting party shall give notice of the continued hearing date and the deadlines. The minutes of the hearing will be the court's findings and conclusions.

Final Ruling: Unless otherwise ordered, there will be no hearing on these matters. The final disposition of the matter is set forth in the ruling and it will appear in the minutes. The final ruling may or may not finally adjudicate the matter. If it is finally adjudicated, the minutes constitute the court's findings and conclusions.

Orders: Unless the court specifies in the tentative or final ruling that it will issue an order, the prevailing party shall lodge an order within 14 days of the final hearing on the matter.

THE COURT ENDEAVORS TO PUBLISH ITS RULINGS AS SOON AS POSSIBLE. HOWEVER, CALENDAR PREPARATION IS ONGOING AND THESE RULINGS MAY BE REVISED OR UPDATED AT ANY TIME PRIOR TO 4:00 P.M. THE DAY BEFORE THE SCHEDULED HEARINGS. PLEASE CHECK AT THAT TIME FOR POSSIBLE UPDATES.

1. [20-13104](#)-A-13 **IN RE: MARIA/RICARDO CUEVAS**
[MHM-1](#)

MOTION TO DISMISS CASE
12-3-2020 [[31](#)]

MICHAEL MEYER/MV
LEROY AUSTIN/ATTY. FOR DBT.
DISMISSED 12/22/20

FINAL RULING: There will be no hearing on this matter.

DISPOSITION: Denied as moot.

ORDER: The court will issue an order.

An order dismissing this case was already entered on December 22, 2020.
Doc. #38. The motion will be DENIED AS MOOT.

2. [15-13005](#)-A-13 **IN RE: RONALD/DENISE GRANT**
[RSW-4](#)

MOTION TO WAIVE SECTION 1328 CERTIFICATE REQUIREMENT, CONTINUE
CASE ADMINISTRATION, SUBSTITUTE PARTY, AS TO DEBTOR
12-17-2020 [[73](#)]

DENISE GRANT/MV
ROBERT WILLIAMS/ATTY. FOR DBT.

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Granted.

ORDER: The minutes of the hearing will be the court's findings
and conclusions. The Moving Party shall submit a proposed
order after the hearing.

This motion was filed and served on at least 14 days' notice prior to the
hearing date pursuant to Local Rule of Practice ("LBR") 9014-1(f)(2) and will
proceed as scheduled. Unless opposition is presented at the hearing, the court
intends to enter the respondents' defaults and grant the motion. If opposition
is presented at the hearing, the court will consider the opposition and whether
further hearing is proper pursuant to LBR 9014-1(f)(2). The court will issue an
order if a further hearing is necessary.

Denise Gail Grant ("Movant"), the Chapter 13 co-debtor and surviving spouse of
Ronald Vance Grant ("Debtor"), requests the court name Movant as successor to
Debtor and waive the § 1328 certification requirements as to Debtor. Doc. #75.

Upon the death of a debtor in Chapter 13, Federal Rule of Bankruptcy
Procedure 1016 provides that the case may be dismissed or may proceed and be
concluded in the same manner, so far as possible, as though the death had not
occurred upon a showing that further administration is possible and in the best
interest of the parties. Debtor died on June 19, 2020. Doc. #73. Movant

declares that she is Debtor's surviving spouse and co-debtor in this Chapter 13 case. Doc. #75. Movant further states that \$84,797.07 has been paid to the Chapter 13 trustee and all creditors have been paid in full, including 100% to unsecured creditors. Doc. #75. Appointing Movant to be representative to proceed with case administration is in the best interest of the parties and creditors.

With respect to a waiver of Debtor's certification requirements for entry of discharge under 11 U.S.C. § 1328, Debtor satisfied the post-petition financial education requirements before Debtor died, and Movant believes Movant and Debtor are entitled to a discharge. Doc. #75.

Accordingly, Movant's application to be appointed representative of Debtor's estate for the further administration of this bankruptcy case is GRANTED. Movant's motion to waive Debtor's § 1328 certification requirements is GRANTED.

3. [18-10305](#)-A-13 **IN RE: TIM FISHER**
[PK-3](#)

MOTION FOR COMPENSATION FOR PATRICK KAVANAGH, DEBTORS ATTORNEY(S)
12-15-2020 [[40](#)]

PATRICK KAVANAGH/ATTY. FOR DBT.

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Granted.

ORDER: The minutes of the hearing will be the court's findings and conclusions. The Moving Party shall submit a proposed order after the hearing.

This motion was filed and served on at least 14 days' notice prior to the hearing date pursuant to Local Rule of Practice ("LBR") 9014-1(f)(2) and will proceed as scheduled. Unless opposition is presented at the hearing, the court intends to enter the respondents' defaults and grant the motion. If opposition is presented at the hearing, the court will consider the opposition and whether further hearing is proper pursuant to LBR 9014-1(f)(2). The court will issue an order if a further hearing is necessary.

Patrick Kavanagh ("Movant"), counsel for the Chapter 13 debtor, requests allowance of final compensation in the amount of \$1,950.00 and no reimbursement for expenses for services rendered July 5, 2018 through case closing. Doc. #40.

Section 330(a) of the Bankruptcy Code authorizes "reasonable compensation for actual, necessary services rendered" and "reimbursement for actual, necessary expenses" to a debtor's attorney in a Chapter 13 case. 11 U.S.C. § 330(a)(1), (4)(B). In determining the amount of reasonable compensation, the court shall consider the nature, extent, and value of such services, taking into account all relevant factors. 11 U.S.C. § 330(a)(3). Here, Movant's services in the relevant period included, without limitation, preparing, filing, and securing the confirmation of the first modified plan. Doc. #40. The debtor's confirmed plan provides for \$5,000 in attorney fees to be paid through the plan, subject to prior court approval. Plan, Doc. #34. The amount requested by Movant is appropriate under the debtor's confirmed plan. The court finds that the compensation and reimbursement sought are reasonable, actual, and necessary, and the court will approve the motion on a final basis.

This motion is GRANTED. The court allows final compensation in the amount of \$1,950.00 to be paid in a manner consistent with the terms of the confirmed plan.

4. [19-14515](#)-A-13 **IN RE: SANOVIO GARCIA**
[RSW-4](#)

MOTION TO MODIFY PLAN
11-13-2020 [[72](#)]

SANOVIO GARCIA/MV
ROBERT WILLIAMS/ATTY. FOR DBT.

FINAL RULING: There will be no hearing on this matter.

DISPOSITION: Granted.

ORDER: The Moving Party shall submit a proposed order in conformance with the ruling below.

This motion was set for hearing on at least 35 days' notice as required by Local Rule of Practice ("LBR") 3015-1(d)(2). The failure of creditors, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument. Upon default, factual allegations will be taken as true (except those relating to amount of damages). Televideo Sys., Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires a moving party make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

This motion is GRANTED. The confirmation order shall include the docket control number of the motion and it shall reference the plan by the date it was filed.

5. [18-12923](#)-A-13 **IN RE: JESUS/ROCHELLE PORTILLO**
[PK-4](#)

MOTION TO MODIFY PLAN
11-9-2020 [[72](#)]

JESUS PORTILLO/MV
PATRICK KAVANAGH/ATTY. FOR DBT.

FINAL RULING: There will be no hearing on this matter.

DISPOSITION: Granted.

ORDER: The Moving Party shall submit a proposed order in conformance with the ruling below.

This motion was set for hearing on at least 35 days' notice as required by Local Rule of Practice ("LBR") 3015-1(d)(2). The failure of creditors, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument. Upon default, factual allegations will be taken as true (except those relating to amount of damages). Televideo Sys., Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires a moving party make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

This motion is GRANTED. The confirmation order shall include the docket control number of the motion and it shall reference the plan by the date it was filed.

6. [20-13524](#)-A-13 **IN RE: KYLE/NATALIE SINGLEY**
[CJK-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY BANK OF AMERICA, N.A.
12-8-2020 [\[17\]](#)

BANK OF AMERICA, N.A./MV
ROBERT WILLIAMS/ATTY. FOR DBT.
CHRISTINA KHIL/ATTY. FOR MV.
RESPONSIVE PLEADING

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Continue the hearing to permit the debtors to file evidence in support of their opposition.

ORDER: The minutes of the hearing will be the court's findings and conclusions. The Moving Party will submit a proposed order after the hearing.

This objection was filed and served pursuant to Local Rule of Practice ("LBR") 3015-1(c)(4). While not required, the debtors filed written opposition, but did not include supporting evidence. Unless additional opposition is presented at the hearing, the court intends to enter the defaults of respondents other than the default of the debtors. Because the debtors have not filed any evidence in support of their opposition, the court is inclined to continue the hearing to permit such evidence to be filed.

The debtors, Kyle William Singley and Natalie Rania Singley (together, "Debtors"), filed their Chapter 13 plan ("Plan") on November 3, 2020. Doc. #2. Bank of America, N.A. ("Creditor") objects to confirmation of the Plan on the grounds that the Plan does not provide for the pre-petition arrears due and owed to Creditor. Doc. #17.

Federal Rule of Bankruptcy Procedure 3001(f) provides that "[a] proof of claim executed and filed in accordance with these rules shall constitute prima facie evidence of the validity and amount of the claim." 11 U.S.C. § 502(a) states that a claim or interest, evidenced by a proof of claim filed under § 501, is deemed allowed unless a party in interest objects. Creditor filed its proof of

claim on December 11, 2020. Claim 7. Creditor's proof of claim included evidence supporting the claim. Claim 7.

Section 3.02 of the Plan provides that the proof of claim determines the amount and classification of a claim. Doc. #2. Debtors' Plan fails to account for or properly classify Creditor's claim. Claim 7; Doc. #2.

On December 19, 2020, Debtors filed a written response to Creditor's objection, requesting the court overrule Creditor's objection on the grounds that Creditor's records are incorrect. Doc. #20. Debtors filed no supporting evidence with their written response. To the extent Debtors intend to object to Creditor's proof of claim, Debtors have not properly noticed their objection or made the requisite showing for a contested matter. See LBR 3007-1; Lundell v. Anchor Constr. Specialists, Inc., 223 F.3d 1035, 1039 (9th Cir. 2000).

Accordingly, the court is inclined to continue the hearing to permit Debtors to provide evidence in support of their opposition.

7. [20-12439](#)-A-13 **IN RE: RAFAEL/BLANCA RIVERA**
[PK-1](#)

MOTION TO CONFIRM PLAN
11-16-2020 [\[22\]](#)

RAFAEL RIVERA/MV
PATRICK KAVANAGH/ATTY. FOR DBT.

FINAL RULING: There will be no hearing on this matter.

DISPOSITION: Granted.

ORDER: The Moving Party shall submit a proposed order in conformance with the ruling below.

This motion was set for hearing on at least 35 days' notice as required by Local Rule of Practice ("LBR") 3015-1(d)(1). The failure of creditors, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument. Upon default, factual allegations will be taken as true (except those relating to amount of damages). Televideo Sys., Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires a moving party make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

This motion is GRANTED. The confirmation order shall include the docket control number of the motion and it shall reference the plan by the date it was filed.

MOTION FOR COMPENSATION FOR PATRICK KAVANAGH, DEBTORS ATTORNEY(S)
11-20-2020 [\[84\]](#)

PATRICK KAVANAGH/ATTY. FOR DBT.

FINAL RULING: There will be no hearing on this matter.

DISPOSITION: Granted.

ORDER: The Moving Party shall submit a proposed order in conformance with the ruling below.

This motion was set for hearing on at least 28 days' notice pursuant to Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of creditors, the debtors, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument. Upon default, factual allegations will be taken as true (except those relating to amount of damages). Televideo Sys., Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires a moving party make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

Patrick Kavanaugh("Movant"), counsel for Stanley Ray Morgan and Linda Marie Morgan("Debtors"), the debtors in this chapter 13 case, requests allowance of final compensation in the amount of \$1,260.00 and no reimbursement for expenses for services rendered May 31, 2016 through case closing. Doc. #84.

Section 330(a) of the Bankruptcy Code authorizes "reasonable compensation for actual, necessary services rendered" and "reimbursement for actual, necessary expenses" to a debtor's attorney in a chapter 13 case. 11 U.S.C. § 330(a)(1), (4)(B). In determining the amount of reasonable compensation, the court shall consider the nature, extent, and value of such services, taking into account all relevant factors. 11 U.S.C. § 330(a)(3). Here, Movant demonstrates services rendered relating to: (1) claim administration and objections; (2) discharge and case closing; and (3) case administration. Doc. #84. Debtors' confirmed plan provided for \$4,500 in attorney's fees subject to prior court approval. Plan, Doc. #6. The court finds that the compensation and reimbursement sought are reasonable, actual, and necessary, and the court will approve the motion on a final basis.

This motion is GRANTED. The court allows final compensation in the amount of \$1,260.00 be paid in a manner consistent with the terms of the confirmed plan.

9. [15-13649](#)-A-13 **IN RE: TY RAWLES**
[MHM-1](#)

MOTION TO DISMISS CASE
11-16-2020 [[22](#)]

MICHAEL MEYER/MV
PATRICK KAVANAGH/ATTY. FOR DBT.
RESPONSIVE PLEADING

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Continued to February 4, 2021 at 9:00 a.m.

ORDER: The minutes of the hearing will be the court's findings and conclusions. The court will issue an order after the hearing.

On November 16, 2020, Michael Meyer, Chapter 13 trustee, moved for dismissal for: (1) material default by the debtor with respect to a confirmed plan under § 1307(c)(6); and (2) termination of a confirmed plan by reason of the occurrence of a condition specified in the plan other than completion of payments under the plan under § 1307(c)(8). Doc. #22.

On December 23, 2020, Debtor filed written response stating that plan payments were short and unexpectedly unable to be cured. Doc. #26.

On December 30, 2020, Debtor filed a motion to confirm Debtor's first modified Chapter 13 plan (PK-1) ("Confirmation Motion") under the new CARES Act provisions of § 1329, which permit a debtor experiencing material financial hardship due to COVID-19 to extend the time for payments up to 84 months. Doc. #28. That motion is set for hearing February 4, 2021 at 9:00 a.m. Doc. #29.

The court is inclined to continue the hearing on this motion to dismiss to February 4, 2021 at 9:00 a.m. to track with the hearing on the Confirmation Motion.

10. [19-14252](#)-A-13 **IN RE: MICHAEL/LUCIA LOPEZ**
[RSW-3](#)

MOTION TO MODIFY PLAN
11-12-2020 [[59](#)]

MICHAEL LOPEZ/MV
ROBERT WILLIAMS/ATTY. FOR DBT.
RESPONSIVE PLEADING

FINAL RULING: There will be no hearing on this matter.

DISPOSITION: Continued to February 4, 2021 at 9:00 a.m.

ORDER: The court will issue an order.

This motion was set for hearing on at least 35 days' notice as required by Local Rule of Practice ("LBR") 3015-1(d)(2). The Chapter 13 trustee ("Trustee")

filed an objection to the debtors' motion to modify the Chapter 13 plan. Tr.'s Opp'n, Doc. #67. Unless this case is voluntarily converted to Chapter 7, dismissed, or Trustee's opposition to confirmation is withdrawn, the debtors shall file and serve a written response no later than January 27, 2021. The response shall specifically address each issue raised in the objection to confirmation, state whether the issue is disputed or undisputed, and include admissible evidence to support the debtors' position. Trustee shall file and serve a reply, if any, by January 28, 2021.

If the debtors elect to withdraw this plan and file a modified plan in lieu of filing a response, then a confirmable modified plan shall be filed, served, and set for hearing, not later than January 28, 2021. If the debtors do not timely file a modified plan or a written response, this motion will be denied on the grounds stated in Trustee's opposition without a further hearing.

11. [20-11553](#)-A-13 **IN RE: DENNIS MARROQUIN**
[PK-2](#)

OBJECTION TO CLAIM OF NEW CENTURY BAIL BONDS, CLAIM NUMBER 3
10-30-2020 [\[26\]](#)

DENNIS MARROQUIN/MV
PATRICK KAVANAGH/ATTY. FOR DBT.

FINAL RULING: There will be no hearing on this matter.

DISPOSITION: Sustained.

ORDER: The Moving Party shall submit a proposed order in conformance with the ruling below.

This objection was set for hearing on 44 days' notice pursuant to Local Rule of Practice ("LBR") 3007-1(b)(1). The failure of creditors, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 3007-1(b)(1)(A) may be deemed a waiver of any opposition to the sustaining of the objection. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument. Upon default, factual allegations will be taken as true (except those relating to amount of damages). Televideo Sys., Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires a moving party make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

Dennis Demetrio Marroquin ("Debtor"), the Chapter 13 debtor in this bankruptcy case, objects to a portion of claim no. 3 (the "Claim") filed by New Century Bail Bonds (the "Claimant") on the grounds that \$10,562.05 of the Claim is based on unexplained miscellaneous fees not supported by any evidence and are unreasonable. Debtor's Obj., Doc. #26.

Federal Rule of Bankruptcy Procedure 3001(f) provides that "[a] proof of claim executed and filed in accordance with these rules shall constitute prima facie evidence of the validity and amount of the claim." 11 U.S.C. § 502(a) states that a claim or interest, evidenced by a proof of claim filed under § 501, is deemed allowed unless a party in interest objects. The party objecting to a presumptively valid claim has the burden of presenting evidence to overcome the

prima facie showing made by the proof of claim. In re Medina, 205 B.R. 216, 222 (B.A.P. 9th Cir. 1996). The objecting party must provide "sufficient evidence and 'show facts tending to defeat the claim by probative force equal to that of the allegations of the proofs of claim themselves.'" Lundell v. Anchor Constr. Specialists, Inc., 223 F.3d 1035, 1039 (9th Cir. 2000) (quoting In re Holm, 931 F.2d 620, 623 (9th Cir. 1991)). "If the objector produces sufficient evidence to negate one or more of the sworn facts in the proof of claim, the burden reverts to the claimant to prove the validity of the claim by a preponderance of the evidence." Id. (quoting Ashford v. Consol. Pioneer. Mortg. (In re Consol. Pioneer Mortg.), 178 B.R. 222, 226 (B.A.P. 9th Cir. 1995)).

The Claim asserts a secured claim of \$19,546.90 stemming from a trust deed and note securing bail bond. Claim 3. Debtor objects to \$10,562.05 of "miscellaneous fees," which include, among other fees, \$250 for notary fees, \$3,000 for investigation expenses, and \$4,283.55 for a collection fee. Claim 3.

Debtor contends that, based on the evidence provided, there is no contractual basis for the fees, and the fees are not supported by any other documentary evidence. Doc. #26. As an illustration, Debtor refers to the "suspect" \$250 notary fees listed in the Claim, considering a statutory limit of \$15 for a single notary fee. Additionally, Debtor points to apparent duplicate fees, such as two \$1,500 charges for "investigation expenses." Further, Debtor has produced evidence of repeated attempts to contact Claimant in an attempt to clarify and obtain documentary support for the miscellaneous fees that have gone unanswered. Doc. #29.

Having reviewed the Claim and Debtor's objection, the court finds that Debtor rebutted the *prima facie* showing made by the Claim. Claimant has not responded.

Debtor further moves the court for attorney's fees under California Code of Civil Procedure § 1717(a), which states "[i]n any action on a contract, where the contract specifically provides that attorney's fees and costs, which are incurred to enforce the contract, shall be awarded either to one of the parties or to the prevailing party, then the party who is determined to be the party prevailing on the contract, whether he or she is the party specified in the contract or not, shall be entitled to reasonable attorney's fees in addition to other costs." Attorney's fees are provided for in the contract. Trust Deed and Note Securing Bail Bond ¶ 4, Ex. A, Doc. #30. The court finds that Debtor is the prevailing party because they have successfully reduced the amount of the Claim by the full amount sought. See In re Mac-Go Corp., 541 B.R. 706, 718 (Bankr. N.D. Cal. 2015) (quoting Hsu v. Abbata, 9 Cal. 4th 863, 876 (1995)). Debtor's attorney spent in excess of twelve hours prosecuting this objection, but has limited the request for fees to \$2,000. Decl. of Patrick Kavanagh, Doc. #29. The court further finds that Debtor's requested attorney's fees are reasonable.

Accordingly, Debtor's objection is SUSTAINED, and Claimant's Claim shall be reduced by \$10,562.05 and Debtor is awarded attorney's fees in the amount of \$2,000.00.

12. [20-11354](#)-A-13 **IN RE: SERGIO ANDRADE**
[RSW-4](#)

CONTINUED MOTION TO AVOID LIEN OF FRANCISCO JAVIER AVALOS
7-17-2020 [[56](#)]

SERGIO ANDRADE/MV
ROBERT WILLIAMS/ATTY. FOR DBT.
RESPONSIVE PLEADING
CONVERTED TO CHAPTER 7 ON 1/5/21

NO RULING.

13. [20-13856](#)-A-13 **IN RE: JOSEPH CHANG**
[PK-1](#)

MOTION TO CONFIRM TERMINATION OR ABSENCE OF STAY
12-23-2020 [[11](#)]

SHIH-CHIEH HAN/MV
PHILLIP GILLET/ATTY. FOR DBT.
PATRICK KAVANAGH/ATTY. FOR MV.
DISMISSED 1/5/21

FINAL RULING: There will be no hearing on this matter.

DISPOSITION: Denied as moot.

ORDER: The court will issue an order.

An order dismissing this case was entered on January 5, 2021. Doc. #20. The motion will be DENIED AS MOOT.

14. [17-12760](#)-A-13 **IN RE: BALKAR/AMARJEET GILL**
[MHM-2](#)

MOTION TO DISMISS CASE
12-10-2020 [[34](#)]

MICHAEL MEYER/MV
ROBERT WILLIAMS/ATTY. FOR DBT.
RESPONSIVE PLEADING

NO RULING.

MOTION FOR COMPENSATION FOR PATRICK KAVANAGH, DEBTORS
ATTORNEY(S)
12-9-2020 [\[70\]](#)

PATRICK KAVANAGH/ATTY. FOR DBT.

FINAL RULING: There will be no hearing on this matter.

DISPOSITION: Granted.

ORDER: The Moving Party shall submit a proposed order in conformance
with the ruling below.

This motion was set for hearing on at least 28 days' notice pursuant to Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of creditors, the debtors, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument. Upon default, factual allegations will be taken as true (except those relating to amount of damages). Televideo Sys., Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires a moving party make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

Patrick Kavanagh ("Movant"), counsel for Justin Edward Farmer and Katharine Eileen Farmer, the debtors in this chapter 13 case, requests allowance of interim compensation in the amount of \$3,200.00, reduced from \$4,110.00, and no reimbursement for expenses for services rendered July 15, 2017 through December 6, 2020. Doc. #70.

Section 330(a) of the Bankruptcy Code authorizes "reasonable compensation for actual, necessary services rendered" and "reimbursement for actual, necessary expenses" to a debtor's attorney in a chapter 13 case. 11 U.S.C. § 330(a)(1), (4)(B). In determining the amount of reasonable compensation, the court shall consider the nature, extent, and value of such services, taking into account all relevant factors. 11 U.S.C. § 330(a)(3). Here, Movant demonstrates services rendered relating to: (1) preparing and filing the first amended modified plan (2) amendments to schedules; (3) case administration, and (4) plan modification proceedings. Doc. #70. The court finds that the compensation and reimbursement sought are reasonable, actual, and necessary, and the court will approve the motion on an interim basis.

This motion is GRANTED. The court allows interim compensation in the amount of \$3,200.00 to be paid in a manner consistent with the terms of the confirmed plan.

16. [20-12578](#)-A-13 **IN RE: MARIO/SUSANA GONZALEZ**
[PPR-1](#)

CONTINUED OBJECTION TO CONFIRMATION OF PLAN BY HOMEBRIDGE
FINANCIAL SERVICES, INC.
9-8-2020 [\[16\]](#)

HOMEBRIDGE FINANCIAL SERVICES, INC./MV
ROBERT WILLIAMS/ATTY. FOR DBT.
LEE RAPHAEL/ATTY. FOR MV.
RESPONSIVE PLEADING

NO RULING.

17. [20-12578](#)-A-13 **IN RE: MARIO/SUSANA GONZALEZ**
[RSW-1](#)

MOTION TO APPROVE LOAN MODIFICATION
12-4-2020 [\[32\]](#)

MARIO GONZALEZ/MV
ROBERT WILLIAMS/ATTY. FOR DBT.

FINAL RULING: There will be no hearing on this matter.

DISPOSITION: Granted.

ORDER: The Moving Party shall submit a proposed order in conformance
with the ruling below.

This motion was set for hearing on at least 28 days' notice pursuant to Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of creditors, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument. Upon default, factual allegations will be taken as true (except those relating to amount of damages). Televideo Sys., Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires a moving party make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

Mario Gonzalez and Susana Resendez Gonzalez (together, "Debtors"), the Chapter 13 debtors, move the court for authorization to enter into a loan modification agreement with HomeBridge Financial Services ("Creditor"). Doc. #32.

Debtors executed a deed of trust in favor of Creditor, securing an interest in a parcel of residential real property commonly known as 11904 Nebula Court, Bakersfield, California 93312 (the "Property"). Claim 13. Details about the original loan, including its original interest rate, maturity date, and repayment timeline, are unclear.

Creditor offered a loan modification that will resolve Creditor's outstanding objection to confirmation for failure to cure pre-petition default totaling \$9,622.37. Decl. of Susana Gonzalez, Doc. #34; Claim 13. The proposed loan modification agreement requires Debtors to sign a new promissory note for \$9,078.68, all due and payable on April 1, 2050. Decl., Doc. #34. Debtors are current on payments to the Chapter 13 trustee, and Debtors' proposed plan will pay 100% to unsecured creditors. Plan, Doc. #2.

Accordingly, this motion is GRANTED. Debtors are authorized, but not required, to complete the loan modification with Creditor. Debtors shall continue making payments in accordance with their proposed Chapter 13 plan. Debtors must modify the plan if the payments under the modified loan prevent them from paying under the plan.

18. [18-13385](#)-A-13 **IN RE: MARIDETTE SCHLOE**
[PLG-2](#)

MOTION TO MODIFY PLAN
12-2-2020 [[65](#)]

MARIDETTE SCHLOE/MV
STEVEN ALPERT/ATTY. FOR DBT.

FINAL RULING: There will be no hearing on this matter.

DISPOSITION: Granted.

ORDER: The Moving Party shall submit a proposed order in conformance with the ruling below.

This motion was set for hearing on at least 35 days' notice as required by Local Rule of Practice ("LBR") 3015-1(d)(2). The failure of creditors, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument. Upon default, factual allegations will be taken as true (except those relating to amount of damages). Televideo Sys., Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires a moving party make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

This motion is GRANTED. The confirmation order shall include the docket control number of the motion and it shall reference the plan by the date it was filed.

1. [20-12826](#)-A-7 **IN RE: NICOLE/BETTINA TROY**
[JHW-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
11-19-2020 [\[17\]](#)

EXETER FINANCE LLC/MV
NEIL SCHWARTZ/ATTY. FOR DBT.
JENNIFER WANG/ATTY. FOR MV.
DISCHARGED 12/29/20

FINAL RULING: There will be no hearing on this matter.

DISPOSITION: Granted in part and denied in part.

ORDER: The Moving Party shall submit a proposed order in conformance with the ruling below.

This motion was set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of creditors, the debtors, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument. Upon default, factual allegations will be taken as true (except those relating to amount of damages). Televideo Sys., Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires a movant make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

The motion will be GRANTED IN PART as to the trustee's interest and DENIED AS MOOT IN PART as to the debtors' interest pursuant to 11 U.S.C. § 362(c)(2)(C). The debtors' discharge was entered on December 29, 2020. Doc. #24. The motion will be GRANTED IN PART for cause shown as to the chapter 7 trustee.

The movant, Exeter Finance LLC f/k/a Exeter Finance Corp. ("Movant"), seeks relief from the automatic stay under 11 U.S.C. § 362(d)(1) and (d)(2) with respect to a 2012 Infiniti G37 ("Vehicle"). Doc. #17.

11 U.S.C. § 362(d)(1) allows the court to grant relief from the stay for cause, including the lack of adequate protection. "Because there is no clear definition of what constitutes 'cause,' discretionary relief from the stay must be determined on a case by case basis." In re Mac Donald, 755 F.2d 715, 717 (9th Cir. 1985).

11 U.S.C. § 362(d)(2) allows the court to grant relief from the stay if the debtors do not have any equity in such property and such property is not necessary to an effective reorganization.

After review of the included evidence, the court finds that "cause" exists to lift the stay because the debtors have failed to make at least four complete

pre- and post-petition payments. Movant has produced evidence that the debtors are delinquent by at least \$3,598.78. Doc. #19.

The court also finds that the debtors do not have any equity in the Vehicle and the Vehicle is not necessary to an effective reorganization because the debtors are in chapter 7. Id. The Vehicle is valued at \$9,725.00 and the debtors owe \$11,170.66. Doc. #19.

Accordingly, the motion will be granted pursuant to 11 U.S.C. § 362(d)(1) and (d)(2) to permit Movant to dispose of its collateral pursuant to applicable law and to use the proceeds from its disposition to satisfy its claim. No other relief is awarded.

The 14-day stay of Fed. R. Bankr. P. 4001(a)(3) will be ordered waived because the debtors have failed to make at least four pre- and post-petition payments to Movant and the Vehicle is a depreciating asset.

2. [20-13630](#)-A-7 **IN RE: PAUL MICHAEL CLAXTON**
[SW-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
12-3-2020 [[12](#)]

ALLY BANK/MV
VINCENT GORSKI/ATTY. FOR DBT.
ADAM BARASCH/ATTY. FOR MV.

FINAL RULING: There will be no hearing on this matter.

DISPOSITION: Granted.

ORDER: The Moving Party shall submit a proposed order in conformance with the ruling below.

This motion was set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of creditors, the debtor, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument. Upon default, factual allegations will be taken as true (except those relating to amount of damages). Televideo Sys., Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires a movant make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

The movant, Ally Bank ("Movant"), seeks relief from the automatic stay under 11 U.S.C. § 362(d)(1) and (d)(2) with respect to a 2018 GMC Sierra 1500 ("Vehicle"). Doc. #12.

11 U.S.C. § 362(d)(1) allows the court to grant relief from the stay for cause, including the lack of adequate protection. "Because there is no clear definition of what constitutes 'cause,' discretionary relief from the stay must

be determined on a case by case basis." In re Mac Donald, 755 F.2d 715, 717 (9th Cir. 1985).

11 U.S.C. § 362(d)(2) allows the court to grant relief from the stay if the debtor does not have any equity in such property and such property is not necessary to an effective reorganization.

After review of the included evidence, the court finds that "cause" exists to lift the stay because the debtor has failed to make at least six complete pre-petition payments. Movant has produced evidence that the debtor is delinquent by at least \$8,884.47. Doc. #14.

The court also finds that the debtor does not have any equity in the Vehicle and the Vehicle is not necessary to an effective reorganization because the debtor is in chapter 7. Id. The Vehicle is valued at \$38,800.00 and the debtor owes \$67,211.68. Doc. #12.

Accordingly, the motion will be granted pursuant to 11 U.S.C. § 362(d)(1) and (d)(2) to permit Movant to dispose of its collateral pursuant to applicable law and to use the proceeds from its disposition to satisfy its claim. No other relief is awarded.

The 14-day stay of Fed. R. Bankr. P. 4001(a)(3) will be ordered waived because the debtor has failed to make at least six pre-petition payments to Movant and the Vehicle is a depreciating asset.

3. [20-11934](#)-A-7 **IN RE: CHRISO'S TREE TRIMMING, INC.**
[JMV-3](#)

MOTION FOR ADMINISTRATIVE EXPENSES
12-9-2020 [[53](#)]

JEFFREY VETTER/MV
JAMES MILLER/ATTY. FOR DBT.

FINAL RULING: There will be no hearing on this matter.

DISPOSITION: Granted.

ORDER: The Moving Party shall submit a proposed order in conformance with the ruling below.

This motion was set for hearing on at least 28 days' notice pursuant to Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of creditors, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument. Upon default, factual allegations will be taken as true (except those relating to amount of damages). Televideo Sys., Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires a moving party make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

Jeffrey M. Vetter ("Trustee"), the Chapter 7 trustee of the bankruptcy estate of Chriso's Tree Trimming, Inc. ("Debtor"), moves the court for an order authorizing the payment of \$825.00 to the Franchise Tax Board as an administrative tax expense and for authorization to pay an additional amount up to \$1,000.00 for any unexpected tax liabilities without further court approval. Doc. #53.

11 U.S.C. § 503(b)(1)(B) states that, after notice and a hearing, administrative expenses shall be allowed for "any tax [] incurred by the estate, whether secured or unsecured, including property taxes . . . except a tax of a kind specified in section 507(a)(8) of this title[.]" "Pursuant to this subsection of § 503, a claim is entitled to allowance as an administrative expense if two requirements are satisfied: the tax must be incurred by the estate and the tax must not be a tax of a kind specified in § 507[(a)(8)]." Towers for Pacific-Atlantic Trading Co. v. United States (In re Pacific-Atlantic Trading Co.), 64 F.3d 1292, 1298 (9th Cir. 1995). Here, Trustee has shown that the tax was incurred by the estate, and the tax is not a tax of the kind specified in § 507(a)(8).

Accordingly, this motion is GRANTED. Trustee is authorized to pay an additional amount not to exceed \$1,000 for any unexpected tax liability incurred by the estate and not for a tax of a kind specified in § 507(a)(8).

4. [20-11934](#)-A-7 **IN RE: CHRISO'S TREE TRIMMING, INC.**
[RTW-2](#)

MOTION FOR COMPENSATION FOR RATZLAFF TAMBERI & WONG, ACCOUNTANT(S)
12-7-2020 [[46](#)]

RATZLAFF, TAMBERI & WONG/MV
JAMES MILLER/ATTY. FOR DBT.

FINAL RULING: There will be no hearing on this matter.

DISPOSITION: Granted.

ORDER: The Moving Party shall submit a proposed order in conformance with the ruling below.

This motion was set for hearing on at least 28 days' notice pursuant to Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of creditors, the debtors, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument. Upon default, factual allegations will be taken as true (except those relating to amount of damages). Televideo Sys., Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires a moving party make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

Ratzlaff Tamberi & Wong ("Movant"), accountants for Chapter 7 trustee Jeffrey M. Vetter ("Trustee"), requests an allowance of final compensation and reimbursement for expenses for services rendered August 14, 2020 through November 30, 2020. Doc. #46. Movant provided accounting services valued at

\$1,452.00, and requests compensation for that amount. Doc. #46. Movant requests reimbursement for expenses in the amount of \$25.50. Doc. #46.

Section 330(a)(1) of the Bankruptcy Code authorizes "reasonable compensation for actual, necessary services rendered" and "reimbursement for actual, necessary expenses" to a "professional person." 11 U.S.C. § 330(a)(1). In determining the amount of reasonable compensation to be awarded to a professional person, the court shall consider the nature, extent, and value of such services, taking into account all relevant factors. 11 U.S.C. § 330(a)(3).

Movant's services included, without limitation: (1) reviewing the debtor's bankruptcy filings for information relating to tax attributes of the corporation; (2) reviewing prior years income tax returns; (3) preparing federal and state corporation income tax returns. Ex. A, Doc. #50. The court finds the compensation and reimbursement sought are reasonable, actual, and necessary.

This motion is GRANTED on a final basis. The court allows final compensation in the amount of \$1,452.00 and reimbursement for expenses in the amount of \$25.50. Trustee is authorized to make a combined payment of \$1,477.50, representing compensation and reimbursement, to Movant. Trustee is authorized to pay the amount allowed by this order from available funds only if the estate is administratively solvent and such payment is consistent with the priorities of the Bankruptcy Code.

5. [20-13543](#)-A-7 **IN RE: EDUARDO MEJIA**
[JHW-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
12-1-2020 [[10](#)]

AMERICREDIT FINANCIAL SERVICES, INC./MV
OSCAR SWINTON/ATTY. FOR DBT.
JENNIFER WANG/ATTY. FOR MV.

FINAL RULING: There will be no hearing on this matter.

DISPOSITION: Granted.

ORDER: The Moving Party shall submit a proposed order in conformance with the ruling below.

This motion was set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of creditors, the debtor, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument. Upon default, factual allegations will be taken as true (except those relating to amount of damages). Televideo Sys., Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires a movant make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

The movant, Americredit Financial Services, Inc. DBA GM Financial ("Movant"), seeks relief from the automatic stay under 11 U.S.C. § 362(d)(1) and (d)(2) with respect to a 2019 Chevrolet Malibu ("Vehicle"). Doc. #10.

11 U.S.C. § 362(d)(1) allows the court to grant relief from the stay for cause, including the lack of adequate protection. "Because there is no clear definition of what constitutes 'cause,' discretionary relief from the stay must be determined on a case by case basis." In re Mac Donald, 755 F.2d 715, 717 (9th Cir. 1985).

11 U.S.C. § 362(d)(2) allows the court to grant relief from the stay if the debtor does not have any equity in such property and such property is not necessary to an effective reorganization.

After review of the included evidence, the court finds that "cause" exists to lift the stay because the debtor has failed to make at least eight complete pre- and post-petition payments. Movant has produced evidence that the debtor is delinquent by at least \$4,941.86. Doc. #13.

The court also finds that the debtor does not have any equity in the Vehicle and the Vehicle is not necessary to an effective reorganization because the debtor is in chapter 7. Id. The Vehicle is valued at \$20,625.00 and the debtor owes \$34,506.01. Doc. #10.

Accordingly, the motion will be granted pursuant to 11 U.S.C. § 362(d)(1) and (d)(2) to permit Movant to dispose of its collateral pursuant to applicable law and to use the proceeds from its disposition to satisfy its claim. No other relief is awarded.

The 14-day stay of Fed. R. Bankr. P. 4001(a)(3) will be ordered waived because the debtor has failed to make at least eight pre- and post-petition payments to Movant and the Vehicle is a depreciating asset.

6. [20-13548-A-7](#) **IN RE: BROOKE MASSEY**
[JHW-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
12-1-2020 [[11](#)]

ACAR LEASING LTD/MV
NEIL SCHWARTZ/ATTY. FOR DBT.
JENNIFER WANG/ATTY. FOR MV.

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Granted to the extent relief from stay is required.

ORDER: The minutes of the hearing will be the court's findings and conclusions. The Moving Party shall submit a proposed order after the hearing.

This motion was set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of creditors, the debtor, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Therefore, the defaults of the above-mentioned

parties in interest are entered and the matter will be resolved without oral argument. Upon default, factual allegations will be taken as true (except those relating to amount of damages). Televideo Sys., Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires a movant make a *prima facie* showing that they are entitled to the relief sought, which the movant has not done here.

The movant, ACAR Leasing LTD D/B/A GM Financial ("Movant"), seeks relief from the automatic stay under 11 U.S.C. § 362(d)(1) with respect to a 2019 Chevrolet Blazer ("Vehicle"). Doc. #11.

11 U.S.C. § 362(d)(1) allows the court to grant relief from the stay for cause, including the lack of adequate protection. "Because there is no clear definition of what constitutes 'cause,' discretionary relief from the stay must be determined on a case by case basis." In re Mac Donald, 755 F.2d 715, 717 (9th Cir. 1985).

The debtor's possession of the Vehicle stems from a lease agreement with Movant that matures on September 2, 2022, according to which the debtor does not own the Vehicle unless the debtor exercises the purchase option. Doc. #15. Movant obtained possession of the Vehicle pre-petition on October 28, 2020, and there is no indication that the debtor exercised the purchase option.

Because Movant already has possession of the leased Vehicle, which Movant owns, the court will call the matter to clarify what specific rights and remedies of Movant with respect to the Vehicle require relief from the automatic stay.

7. [20-13162](#)-A-7 **IN RE: KENYA CAPERS**

MOTION FOR WAIVER OF THE CHAPTER 7 FILING FEE
9-29-2020 [\[5\]](#)

KENYA CAPERS/MV

FINAL RULING: There will be no hearing on this matter.

DISPOSITION: Dropped as moot.

NO ORDER REQUIRED.

On November 10, 2020, the debtor paid the full filing fee of \$335.00. Therefore, the motion for waiver of filing fee will be dropped as moot.

MOTION TO AVOID LIEN OF BUILDERS CONCRETE, INC.
12-4-2020 [\[23\]](#)

ANTHONY ARVIZU/MV
D. GARDNER/ATTY. FOR DBT.

FINAL RULING: There will be no hearing on this matter.

DISPOSITION: Granted.

ORDER: The Moving Party shall submit a proposed order in conformance with the ruling below.

This motion was set for hearing on at least 28 days' notice pursuant to Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of creditors, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument. Upon default, factual allegations will be taken as true (except those relating to amount of damages). Televideo Sys., Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires a moving party make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

Anthony James Arvizu ("Debtor"), the debtor in this Chapter 7 case, moves pursuant to 11 U.S.C. § 522(f) and Federal Rules of Bankruptcy Procedure 4003(d) and 9014 to avoid the judicial lien of Builders Concrete, Inc. ("Creditor") on Debtor's residential real property commonly referred to as 704 Petrol Road, Bakersfield, CA 93308 (the "Property"). Doc. #23; Schedule C, Doc. #1.

In order to avoid a lien under 11 U.S.C. § 522(f)(1), the movant must establish four elements: (1) there must be an exemption to which the debtor would be entitled under § 522(b); (2) the property must be listed on the debtor's schedules as exempt; (3) the lien must impair the exemption; and (4) the lien must be either a judicial lien or a non-possessory, non-purchase money security interest in personal property listed in § 522(f)(1)(B). 11 U.S.C. § 522(f)(1); Goswami v. MTC Distrib. (In re Goswami), 304 B.R. 386, 390-91 (B.A.P. 9th Cir. 2003) (quoting In re Mohring, 142 B.R. 389, 392 (Bankr. E.D. Cal. 1992)).

A judgment was entered against Tony Arvizu in the amount of \$94,960.23 in favor of Creditor on August 18, 2008. Ex. A, Doc. #26. The abstract of judgment was recorded in Kern County on September 15, 2008. Ex. A, Doc. #26. The lien attached to Debtor's interest in the Property located in Kern County. Doc. #25. The lien was renewed on December 21, 2018, for an amount of \$189,846.39. Ex. B, Doc. #26. Accounting for interest, Debtor estimates the balance at the time of filing to be \$120,000. Doc. #25. The Property also is encumbered by a mortgage in favor of William Alexander in the amount \$81,307.07. Doc. #25. Debtor claimed an exemption of \$51,698.93 in the Property under California Code of Civil Procedure § 704.730. Schedule C, Doc. #1. Debtor asserts a market value for the Property as of the petition date at \$133,000.00. Schedule A/B, Doc. #1.

Applying the statutory formula:

Amount of Creditor's judicial lien		\$120,000.00
Total amount of all other liens on the Property (excluding junior judicial liens)	+	\$81,307.07
Amount of Debtor's claim of exemption in the Property	+	\$51,698.93
	sum	\$253,006.00
Value of Debtor's interest in the Property absent liens	-	\$133,000.00
Extent of impairment of Debtor's exemption	=	\$120,006.00

After application of the arithmetical formula required by § 522(f)(2)(A), the court finds there is insufficient equity to support Creditor's judicial lien. Therefore, the fixing of this judicial lien impairs Debtor's exemption in the Property and its fixing will be avoided.

Debtor has established the four elements necessary to avoid a lien under 11 U.S.C. § 522(f)(1). Accordingly, this motion is GRANTED.

1. [20-10010](#)-A-11 **IN RE: EDUARDO/AMALIA GARCIA**

CONTINUED STATUS CONFERENCE RE: CHAPTER 11 VOLUNTARY PETITION
1-2-2020 [[1](#)]

LEONARD WELSH/ATTY. FOR DBT.

NO RULING.

2. [20-10010](#)-A-11 **IN RE: EDUARDO/AMALIA GARCIA**
[LKW-17](#)

AMENDED CHAPTER 11 DISCLOSURE STATEMENT
12-4-2020 [[382](#)]

LEONARD WELSH/ATTY. FOR DBT.
RESPONSIVE PLEADING

NO RULING.

3. [20-10010](#)-A-11 **IN RE: EDUARDO/AMALIA GARCIA**
[LKW-18](#)

MOTION FOR COMPENSATION FOR LEONARD K. WELSH, DEBTORS ATTORNEY(S)
12-17-2020 [[408](#)]

LEONARD WELSH/ATTY. FOR DBT.

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Granted.

ORDER: The minutes of the hearing will be the court's findings and conclusions. The Moving Party shall submit a proposed order after the hearing.

This motion was filed and served on at least 14 days' notice prior to the hearing date pursuant to Local Rule of Practice ("LBR") 9014-1(f)(2) and will proceed as scheduled. Unless opposition is presented at the hearing, the court intends to enter the respondents' defaults and grant the motion. If opposition is presented at the hearing, the court will consider the opposition and whether further hearing is proper pursuant to LBR 9014-1(f)(2). The court will issue an order if a further hearing is necessary.

Law Offices of Leonard K. Welsh ("Movant"), counsel for debtors and debtors in possession Eduardo Zavala Garcia and Amalia Perez Garcia ("DIP"), requests an allowance of interim compensation and reimbursement for expenses for services rendered October 1, 2020 through November 30, 2020. Doc. #408. Movant provided legal services valued at \$6,710.00, and requests compensation for that amount. Doc. #408. Movant requests reimbursement for expenses in the amount of \$305.05. Doc. #408.

Section 330(a)(1) of the Bankruptcy Code authorizes "reasonable compensation for actual, necessary services rendered" and "reimbursement for actual, necessary expenses" to a debtor's attorney in a chapter 11 case. 11 U.S.C. § 330(a)(1). According to the order authorizing employment of general counsel, Movant may submit monthly applications for interim compensation pursuant to 11 U.S.C. § 331. Order, Doc. #33. In determining the amount of reasonable compensation to be awarded to a professional person, the court shall consider the nature, extent, and value of such services, taking into account all relevant factors. 11 U.S.C. § 330(a)(3).

Movant's services included, without limitation: (1) advising DIP on their obligations as debtors in possession; (2) opposing a motion to dismiss; (3) opposing a motion for relief from automatic stay; (4) prosecuting approval of DIP's disclosure statement; and (5) preparing DIP's monthly operating reports. Ex. B, Doc. 410. The court finds the compensation and reimbursement sought are reasonable, actual, and necessary.

This motion is GRANTED. The court allows interim compensation in the amount of \$6,710.00 and reimbursement for expenses in the amount of \$305.05. Movant is allowed interim fees and costs pursuant to 11 U.S.C. § 331, 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. DIP is authorized to pay the fees allowed by this order from available funds only if the estate is administratively solvent and such payment will be consistent with the priorities of the Bankruptcy Code.

4. [20-10010](#)-A-11 **IN RE: EDUARDO/AMALIA GARCIA**
[NB-3](#)

CONTINUED MOTION FOR RELIEF FROM AUTOMATIC STAY
7-16-2020 [[172](#)]

KEEVMO, LLC/MV
LEONARD WELSH/ATTY. FOR DBT.
RICARDO ARANDA/ATTY. FOR MV.
RESPONSIVE PLEADING

NO RULING.

5. [20-10010](#)-A-11 **IN RE: EDUARDO/AMALIA GARCIA**
[NB-4](#)

CONTINUED MOTION TO DISMISS CASE, MOTION TO APPOINT TRUSTEE,
MOTION TO CONVERT CASE FROM CHAPTER 11 TO CHAPTER 7
7-16-2020 [[181](#)]

KEEVMO, LLC/MV
LEONARD WELSH/ATTY. FOR DBT.
RICARDO ARANDA/ATTY. FOR MV.
RESPONSIVE PLEADING

NO RULING.

MOTION FOR COMPENSATION FOR LEONARD K. WELSH, DEBTORS ATTORNEY(S)
12-4-2020 [[205](#)]

LEONARD WELSH/ATTY. FOR DBT.

FINAL RULING: There will be no hearing on this matter.

DISPOSITION: Granted.

ORDER: The Moving Party shall submit a proposed order in conformance with the ruling below.

This motion was set for hearing on at least 28 days' notice pursuant to Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of creditors, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument. Upon default, factual allegations will be taken as true (except those relating to amount of damages). Televideo Sys., Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires a moving party make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

Law Offices of Leonard K. Welsh ("Movant"), counsel for debtors and debtors in possession Jared Allen Watts and Sarah Danielle Watts ("DIP"), requests an allowance of interim compensation and reimbursement for expenses for services rendered October 1, 2020 through November 20, 2020. Doc. #205. Movant provided legal services valued at \$6,602.50, and requests compensation for that amount. Doc. #205. Movant requests reimbursement for expenses in the amount of \$263.20. Doc. #205.

Section 330(a)(1) of the Bankruptcy Code authorizes "reasonable compensation for actual, necessary services rendered" and "reimbursement for actual, necessary expenses" to a debtor's attorney in a chapter 11 case. 11 U.S.C. § 330(a)(1). According to the order authorizing employment of general counsel, Movant may submit monthly applications for interim compensation pursuant to 11 U.S.C. § 331. Order, Doc. #51. In determining the amount of reasonable compensation to be awarded to a professional person, the court shall consider the nature, extent, and value of such services, taking into account all relevant factors. 11 U.S.C. § 330(a)(3).

Movant's services included, without limitation: (1) advising DIP on their obligations as debtors in possession; (2) advising DIP about a settlement agreement; (3) advising DIP about an economic disaster injury loan application submitted by DIP; (4) prosecuting approval of DIP's first modified plan; and (5) preparing fee applications. Ex. B, Doc. #207. The court finds the compensation and reimbursement sought are reasonable, actual, and necessary.

This motion is GRANTED. The court allows interim compensation in the amount of \$6,602.50 and reimbursement for expenses in the amount of \$263.20. Movant is allowed interim fees and costs pursuant to 11 U.S.C. § 331, 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. DIP is authorized to pay the fees allowed by this order from available funds only if the estate is administratively solvent and such payment will be consisted with the priorities of the Bankruptcy Code.

7. [20-11367](#)-A-11 **IN RE: TEMBLOR PETROLEUM COMPANY, LLC**

CONTINUED STATUS CONFERENCE RE: CHAPTER 11 VOLUNTARY PETITION
4-9-2020 [[1](#)]

LEONARD WELSH/ATTY. FOR DBT.

NO RULING.

8. [20-11367](#)-A-11 **IN RE: TEMBLOR PETROLEUM COMPANY, LLC**
[LKW-13](#)

CHAPTER 11 DISCLOSURE STATEMENT FILED BY DEBTOR TEMBLOR
PETROLEUM COMPANY, LLC
11-24-2020 [[221](#)]

LEONARD WELSH/ATTY. FOR DBT.
RESPONSIVE PLEADING

NO RULING.

9. [20-11367](#)-A-11 **IN RE: TEMBLOR PETROLEUM COMPANY, LLC**
[LKW-14](#)

MOTION FOR COMPENSATION FOR LEONARD K. WELSH, DEBTORS ATTORNEY(S)
12-9-2020 [[233](#)]

LEONARD WELSH/ATTY. FOR DBT.

FINAL RULING: There will be no hearing on this matter.

DISPOSITION: Granted.

ORDER: The Moving Party shall submit a proposed order in conformance with the ruling below.

This motion was set for hearing on at least 28 days' notice pursuant to Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of creditors, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument. Upon default, factual

allegations will be taken as true (except those relating to amount of damages). Televideo Sys., Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires a moving party make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

Law Offices of Leonard K. Welsh ("Movant"), counsel for debtors and debtors in possession Temblor Petroleum Company, LLC ("DIP"), requests an allowance of interim compensation and reimbursement for expenses for services rendered October 1, 2020 through November 30, 2020. Doc. #233. Movant provided legal services valued at \$10,755.00, and requests compensation for that amount. Doc. #233. Movant requests reimbursement for expenses in the amount of \$363.10. Doc. #233.

Section 330(a)(1) of the Bankruptcy Code authorizes "reasonable compensation for actual, necessary services rendered" and "reimbursement for actual, necessary expenses" to a debtor's attorney in a chapter 11 case. 11 U.S.C. § 330(a)(1). According to the order authorizing employment of general counsel, Movant may submit monthly applications for interim compensation pursuant to 11 U.S.C. § 331. Order, Doc. #21. In determining the amount of reasonable compensation to be awarded to a professional person, the court shall consider the nature, extent, and value of such services, taking into account all relevant factors. 11 U.S.C. § 330(a)(3).

Movant's services included, without limitation: (1) advising DIP on their obligations as debtors in possession; (2) advising DIP about the sale of its working interests; (3) preparing and filing an ex parte application to extend time and DIP's disclosure statement and plan of liquidation; (4) advising DIP about claims filed; (5) assisting DIP with monthly operating reports; and (6) preparing fee applications. Ex. B, Doc. #235. The court finds the compensation and reimbursement sought are reasonable, actual, and necessary.

This motion is GRANTED. The court allows interim compensation in the amount of \$10,755.00 and reimbursement for expenses in the amount of \$363.10. Movant is allowed interim fees and costs pursuant to 11 U.S.C. § 331, 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. DIP and/or DIP's members are authorized to pay the fees allowed by this order from available funds or in accordance with the Order Granting Motion for Order Authorizing Debtor's Members to Pay Fees and Costs Incurred by Debtor's Attorneys. Doc. #241.

11:00 AM

1. [18-14445](#)-A-7 **IN RE: KONARK RANCHES, LLC**
[20-1061](#)

STATUS CONFERENCE RE: COMPLAINT
10-30-2020 [[1](#)]

PARKER V. STAR NUT, CO. ET AL
LISA HOLDER/ATTY. FOR PL.
RESPONSIVE PLEADING, REISSUED SUMMONS 2/4/21

FINAL RULING: There will be no hearing on this matter.

DISPOSITION: Continued to February 4, 2021 at 11:00 a.m.

ORDER: The court will issue an order.

A reissued summons was issued by the court on December 3, 2020, with a status conference date of February 4, 2021 at 11:00 a.m. Doc. #9. Therefore, this matter will be continued to coincide with the new status conference date.