

**UNITED STATES BANKRUPTCY COURT  
Eastern District of California**

Honorable Christopher D. Jaime  
Robert T. Matsui U.S. Courthouse  
501 I Street, Sixth Floor  
Sacramento, California

**PRE-HEARING DISPOSITIONS COVER SHEET**

**DAY: TUESDAY**

**DATE: January 12, 2021**

**CALENDAR: 1:00 P.M. CHAPTER 13**

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 and no appearance is necessary. 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 seven (7) days of the final hearing on the matter.

**UNITED STATES BANKRUPTCY COURT**

Eastern District of California

Honorable Christopher D. Jaime  
Bankruptcy Judge  
Sacramento, California

**January 12, 2021 at 1:00 p.m.**

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1. [18-21606](#)-B-13 PHILLIP/KIMBERLY ORTIZ MOTION TO MODIFY PLAN  
[JCK](#)-3 Kathleen H. Crist 12-2-20 [[61](#)]

**Final Ruling**

The motion has been set for hearing on the 35-days' notice required by Local Bankruptcy Rule 3015-1(d)(2), 9014-1(f)(1), and Federal Rule of Bankruptcy Procedure 3015(g). The failure of the respondent and other parties in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(B) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). No opposition was filed. The matter will be resolved without oral argument. No appearance at the hearing is required.

The court's decision is to permit the requested modification and confirm the modified plan.

11 U.S.C. § 1329 permits a debtor to modify a plan after confirmation. The Debtors have filed evidence in support of confirmation. No opposition to the motion was filed by the Chapter 13 Trustee or creditors. The modified plan complies with 11 U.S.C. §§ 1322, 1325(a), and 1329, and is confirmed.

The motion is ORDERED GRANTED for reasons stated in the minutes. Counsel for the Debtors shall prepare an appropriate order confirming the Chapter 13 Plan, transmit the proposed order to the Chapter 13 Trustee for approval as to form, and if so approved, the Chapter 13 Trustee will submit the proposed order to the court.

The court will issue an order.

**January 12, 2021 at 1:00 p.m.**

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2. [19-21327](#)-B-13 JAVIER/JAMIE SILVA  
[JCK](#)-5 Kathleen H. Crist

MOTION TO MODIFY PLAN  
11-25-20 [[82](#)]

**Final Ruling**

The Chapter 13 Trustee having filed a notice of dismissal of its objection, the objection is dismissed without prejudice pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(I) 41(a)(2) and Federal Rules of Bankruptcy Procedure 9014 and 7041. The matter is removed from the calendar.

There being no other objection to confirmation, the plan filed November 25, 2020, will be confirmed.

The motion is ORDERED GRANTED for reasons stated in the minutes. Counsel for the Debtors shall prepare an appropriate order confirming the Chapter 13 Plan, transmit the proposed order to the Chapter 13 Trustee for approval as to form, and if so approved, the Chapter 13 Trustee will submit the proposed order to the court.

The court will issue an order.

3. [20-25032](#)-B-13 VICENTE NARANJO  
[RDG](#)-1 Robert W. Fong

OBJECTION TO CONFIRMATION OF  
PLAN BY TRUSTEE RUSSELL D.  
GREER  
12-17-20 [[32](#)]

**Final Ruling**

The Chapter 13 Trustee having filed a notice of dismissal of its objection, the objection is dismissed without prejudice pursuant to Federal Rule of Civil Procedure 41(a)(2) and Federal Rules of Bankruptcy Procedure 9014 and 7041. The matter is removed from the calendar.

There being no other objection to confirmation, the plan filed October 30, 2020, will be confirmed.

The objection is ORDERED DISMISSED WITHOUT PREJUDICE for reasons stated in the minutes.

IT IS FURTHER ORDERED that the plan is CONFIRMED and counsel for the Debtor shall prepare an appropriate order confirming the Chapter 13 Plan, transmit the proposed order to the Chapter 13 Trustee for approval as to form, and if so approved, the Chapter 13 Trustee will submit the proposed order to the court.

The court will issue an order.

4. [17-23238](#)-B-13 LAURIE CROSBY-WILSON  
[JCK](#)-11 Kathleen H. Crist

MOTION TO MODIFY PLAN  
11-30-20 [[128](#)]

**Final Ruling**

The motion has been set for hearing on the 35-days' notice required by Local Bankruptcy Rule 3015-1(d)(2), 9014-1(f)(1), and Federal Rule of Bankruptcy Procedure 3015(g). The failure of the respondent and other parties in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(B) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). No opposition was filed. The matter will be resolved without oral argument. No appearance at the hearing is required.

The court's decision is to permit the requested modification and confirm the modified plan.

11 U.S.C. § 1329 permits a debtor to modify a plan after confirmation. The Debtor has filed evidence in support of confirmation. No opposition to the motion was filed by the Chapter 13 Trustee or creditors. The modified plan complies with 11 U.S.C. §§ 1322, 1325(a), and 1329, and is confirmed.

The motion is ORDERED GRANTED for reasons stated in the minutes. Counsel for the Debtor shall prepare an appropriate order confirming the Chapter 13 Plan, transmit the proposed order to the Chapter 13 Trustee for approval as to form, and if so approved, the Chapter 13 Trustee will submit the proposed order to the court.

The court will issue an order.

**Final Ruling**

The motion been set for hearing on the 35-days' notice required by Local Bankruptcy Rules 3015-1(d)(2), 9014-1(f)(1), and Federal Rule of Bankruptcy Procedure 3015(g). The failure of the respondent and other parties in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(B) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Opposition and a response were filed.

The court has determined this matter may be decided on the papers. See General Order No. 618 at p.3, ¶ 3 (E.D. Cal. May 13, 2020) (ordering courthouse closure "until further notice" due to the COVID-19 pandemic and further ordering that all civil matters are to be decided on the papers unless the presiding judge determines a hearing is necessary). The court has also determined that oral argument will not assist in the decision-making process or resolution of the motion. See Local Bankr. R. 9014-1(h), 1001-1(f).

The Chapter 13 Trustee objects to confirmation on grounds that the Debtor is delinquent \$2,583.00 under the proposed plan. The Debtor filed a response stating that he will have paid \$2,583.00 for both November 25, 2020, and December 25, 2020, by the date of the hearing on this matter.

Provided that the delinquency is cured, the modified plan will be deemed to comply with 11 U.S.C. §§ 1322 and 1325(a) and will be confirmed.

The motion is ORDERED DENIED if, by 1:00 p.m. on January 12, 2021, the Trustee has not received payment curing the delinquency in plan payments. If so, the Trustee shall submit an appropriate order.

IT IS ALTERNATIVELY ORDERED that if, by 1:00 p.m. on January 12, 2021, the Trustee has received payment curing the delinquency in plan payments, the motion will be GRANTED. If so, Counsel for the Debtor shall prepare an appropriate order confirming the Chapter 13 Plan, transmit the proposed order to the Chapter 13 Trustee for approval as to form, and if so approved, the Chapter 13 Trustee will submit the proposed order to the court.

6. [20-25153](#)-B-13 MICHAEL/JOLENE YATES OBJECTION TO CONFIRMATION OF  
[HCS](#)-1 Charles L. Hastings PLAN BY GARY R. FARRAR  
Thru #7 12-23-20 [[28](#)]

**Final Ruling**

The objection was properly filed at least 14 days prior to the hearing on the motion to confirm a plan. See Local Bankruptcy Rules 3015-1(c)(4) & (d)(1) and 9014-1(f)(2). Nonetheless, the court determines that the resolution of this matter does not require oral argument. See Local Bankr. R. 9014-1(h).

The court's decision is to overrule the objection as moot.

Debtors state that they will file an amended plan. The earlier plan filed November 10, 2020, is not confirmed.

The objection is ORDERED OVERRULED AS MOOT for reasons stated in the minutes.

The court will issue an order.

7. [20-25153](#)-B-13 MICHAEL/JOLENE YATES OBJECTION TO CONFIRMATION OF  
[RDG](#)-1 Charles L. Hastings PLAN BY RUSSELL D. GREER  
12-21-20 [[20](#)]

**Final Ruling**

The objection was properly filed at least 14 days prior to the hearing on the motion to confirm a plan. See Local Bankruptcy Rules 3015-1(c)(4) & (d)(1) and 9014-1(f)(2). Nonetheless, the court determines that the resolution of this matter does not require oral argument. See Local Bankr. R. 9014-1(h).

The court's decision is to overrule the objection as moot.

Debtors state that they will file an amended plan. The earlier plan filed November 10, 2020, is not confirmed.

The objection is ORDERED OVERRULED AS MOOT for reasons stated in the minutes.

The court will issue an order.

8. [20-24859](#)-B-13 RAMZI/GHADA ZUMOUT MOTION TO APPROVE LOAN  
[ASW](#)-1 Colby D. LaVelle MODIFICATION  
Thru #9 12-10-20 [[24](#)]

**Final Ruling**

The motion has been set for hearing on 28-days notice. Local Bankruptcy Rule 9014-1(f)(1). The failure of the respondent and other parties in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(B) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Opposition was filed. The court will address the merits of the motion at the hearing.

The court's decision is to deny the motion without prejudice.

Creditor Federal Home Loan Mortgage Corporation ("Creditor") brings a motion to authorize permanent loan modification that reduces the monthly installments paid by Ramzi Zumout and Ghada Zumout ("Debtors") to Class 4 creditor Select Portfolio Services. Although titled as a request for authorize permanent loan modification, the body of the motion at page 2, lines 4 through 10, states:

"The purpose of Movant's Motion is to obtain a "comfort order" so that the Court may find that negotiating and entering into a loan modification agreement does not violate the automatic stay provision of 11 U.S.C. § 362 or any other provision of the Bankruptcy Code or law. Movant is not requesting that the Court approve nor disapprove any specific terms of the loan modification agreement or any incorporated documents".

Due to the contradictory language between the title and body of the motion, the court cannot determine what relief the Creditor seeks. Moreover, this court does not hand out so-called "comfort orders" as a matter of course. *See In re NIR West Coast dba Northern California Roofing*, 2020 WL 27407 (Bankr. E.D. Cal. Jan. 4, 2021). The motion ~~it~~ will therefore be denied without prejudice.

The motion is ORDERED DENIED WITHOUT PREJUDICE for reasons stated in the minutes.

The court will issue an order.

9. [20-24859](#)-B-13 RAMZI/GHADA ZUMOUT OBJECTION TO DEBTOR'S CLAIM OF  
[RDG](#)-2 Colby D. LaVelle EXEMPTIONS  
12-7-20 [[20](#)]

**Final Ruling**

The objection has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1) and Federal Rule of Bankruptcy Procedure 4003(b). The failure of the respondent and other parties in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(B) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). No opposition was filed. The matter will be resolved without oral argument. No appearance at the hearing is required.

The court's decision is to overrule the objection as moot.

The Trustee objects to the Debtors' use of the homestead exemption without providing a dollar amount. Debtors' Schedule C states provides instead for "100% fair market value, up to any applicable statutory limit." Without an exact dollar amount, it is not possible to determine whether the exemption claimed falls within the non-extraordinary value dollar limitations specified under California Code of Civil Procedure § 704.730.



The court's review of the docket shows that the Debtors filed amended Schedule C on December 23, 2020. The Trustee's objection is overruled as moot.

The objection is ORDERED OVERRULED AS MOOT for reasons stated in the minutes.

The court will issue an order.

10. [16-28163](#)-B-13 KAREN KHAN  
[JCK](#)-7 Kathleen H. Crist

MOTION TO MODIFY PLAN  
11-25-20 [[114](#)]

### **Final Ruling**

The motion has been set for hearing on the 35-days' notice required by Local Bankruptcy Rule 3015-1(d)(2), 9014-1(f)(1), and Federal Rule of Bankruptcy Procedure 3015(g). The failure of the respondent and other parties in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(B) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). No opposition was filed. The matter will be resolved without oral argument. No appearance at the hearing is required.

The court's decision is to permit the requested modification and confirm the modified plan.

11 U.S.C. § 1329 permits a debtor to modify a plan after confirmation. The Debtor has filed evidence in support of confirmation. No opposition to the motion was filed by the Chapter 13 Trustee or creditors. The modified plan complies with 11 U.S.C. §§ 1322, 1325(a), and 1329, and is confirmed.

The motion is ORDERED GRANTED for reasons stated in the minutes. Counsel for the Debtor shall prepare an appropriate order confirming the Chapter 13 Plan, transmit the proposed order to the Chapter 13 Trustee for approval as to form, and if so approved, the Chapter 13 Trustee will submit the proposed order to the court.

The court will issue an order.

**Final Ruling**

The motion has been set for hearing on the 35-days' notice required by Local Bankruptcy Rule 3015-1(d)(2), 9014-1(f)(1), and Federal Rule of Bankruptcy Procedure 3015(g). The failure of the respondent and other parties in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(B) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). No opposition was filed. The matter will be resolved without oral argument. No appearance at the hearing is required.

The court's decision is to permit the requested modification and confirm the modified plan.

11 U.S.C. § 1329 permits a debtor to modify a plan after confirmation. The Debtors have filed evidence in support of confirmation. No opposition to the motion was filed by the Chapter 13 Trustee or creditors. The modified plan complies with 11 U.S.C. §§ 1322, 1325(a), and 1329, and is confirmed.

The motion is ORDERED GRANTED for reasons stated in the minutes. Counsel for the Debtors shall prepare an appropriate order confirming the Chapter 13 Plan, transmit the proposed order to the Chapter 13 Trustee for approval as to form, and if so approved, the Chapter 13 Trustee will submit the proposed order to the court.

The court will issue an order.

### **Final Ruling**

The motion has been set for hearing on 28-days notice. Local Bankruptcy Rule 9014-1(f)(1). The failure of the respondent and other parties in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(B) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). No opposition was filed. The matter will be resolved without oral argument. No appearance at the hearing is required.

The court's decision is to grant the motion for compensation.

### **Request for Additional Fees and Costs**

As part of confirmation of the Debtors' Chapter 13 plan, Peter Macaluso ("Applicant") consented to compensation in accordance with the Guidelines for Payment of Attorney's Fees in Chapter 13 Cases (the "Guidelines"). The court authorized payment of fees and costs totaling \$4,000.00. Dkt. 55. Applicant now seeks additional compensation in the amount of \$907.50 in fees and \$0.00 in costs.

Applicant provides a task billing analysis and supporting evidence of the services provided. Dkt. 85.

To obtain approval of additional compensation in a case where a "no-look" fee has been approved in connection with confirmation of the Chapter 13 plan, the applicant must show that the services for which the applicant seeks compensation are sufficiently greater than a "typical" Chapter 13 case so as to justify additional compensation under the Guidelines. *In re Pedersen*, 229 B.R. 445 (Bankr. E.D. Cal. 1999) (J. McManus). The Guidelines state that "counsel should not view the fee permitted by these Guidelines as a retainer that, once exhausted, automatically justifies a fee motion. . . . Only in instances where substantial and unanticipated post-confirmation work is necessary should counsel request additional compensation." Guidelines; Local Rule 2016-1(c)(3).

Applicant asserts that it provided services greater than a typical Chapter 13 case because it was unanticipated that the Debtors would require the filing of a modified plan that would extend the term length to 84 months. Applicant states that he nor the Debtors could have anticipated the global pandemic of COVID-19 and its impact on the economy and Debtors' bankruptcy. Applicant effectively used appropriate rates for the services provided. The court finds that the services provided by Applicant were substantial and unanticipated, and in the best interest of the Debtors, estate, and creditors.

That said, Counsel's billing records include two entries billed in quarter-hour increments. The first is on June 5, 2020, with a corresponding task description of "[r]eceived and reviewed Notice of Default and Application to Dismiss." Dkt. 85 at 2:23-25. The second is August 10, 2020, with a corresponding task description of "[r]eviewed rulings for Motion to Modify, PGM-4, granted, no appearance required." *Id.* at 3: 1-2.

Although not unreasonable per se, billing in quarter-hour increments tends to suggest a practice over billing. *See Alvarado v. FedEx Corp.*, 2011 WL 4708133 at \*17 (N.D. Cal. Sept. 30, 2011). Such is the case here.

The court seriously doubts that it took Counsel 15 minutes to review a notice of default and another 15 minutes to review civil minutes and/or minute order. Therefore, the court will reduce the attorney's fees for the time entries of June 5, 2020, and August 10, 2020, to .10 each. *See Denny Mfg. Co., Inc. v. Drops & Props, Inc. Eyeglasses*, 2011 WL 2180358 at \*6 (S.D. Ala. June 1, 2011) (finding that billing

in .25 hour increments not reasonable and reducing time entries by .25 to account for tasks taking less than fifteen minutes). That amounts to a \$90.00 reduction to the \$907.50 requested, or an allowed total of \$817.50.

Applicant is allowed, and the Trustee is authorized to pay, the following amounts as compensation to this professional in this case:

Additional Fees	\$817.50
Additional Costs and Expenses	\$ 0.00

The motion is ORDERED GRANTED for additional fees of \$817.50 and additional costs and expenses of \$0.00.

The court will enter an order.

13. [19-22783](#)-B-13 JAEMIN SMITH  
[JCK](#)-2 Kathleen H. Crist

MOTION TO MODIFY PLAN  
11-24-20 [[47](#)]

**Final Ruling**

The Chapter 13 Trustee having filed a notice of dismissal of its objection, the objection is dismissed without prejudice pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(I) 41(a)(2) and Federal Rules of Bankruptcy Procedure 9014 and 7041. The matter is removed from the calendar.

There being no other objection to confirmation, the plan filed November 24, 2020, will be confirmed.

The motion is ORDERED GRANTED for reasons stated in the minutes. Counsel for the Debtor shall prepare an appropriate order confirming the Chapter 13 Plan, transmit the proposed order to the Chapter 13 Trustee for approval as to form, and if so approved, the Chapter 13 Trustee will submit the proposed order to the court. The court will issue an order.

**Final Ruling**

The motion has been set for hearing on the 35-days notice required by Local Bankruptcy Rules 3015-1(d)(1), 9014-1(f)(1), and Federal Rule of Bankruptcy Procedure 2002(b). The failure of the respondent and other parties in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(B) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Opposition was filed.

The court has determined this matter may be decided on the papers. See General Order No. 618 at p.3, ¶ 3 (E.D. Cal. May 13, 2020) (ordering courthouse closure "until further notice" due to the COVID-19 pandemic and further ordering that all civil matters are to be decided on the papers unless the presiding judge determines a hearing is necessary). The court has also determined that oral argument will not assist in the decision-making process or resolution of the motion. See Local Bankr. R. 9014-1(h), 1001-1(f).

The court's decision is to deny the motion to confirm plan.

The Chapter 13 Trustee ("Trustee") objects to confirmation of the fourth amended chapter 13 plan filed by Debtors Mark and Tracy Webster ("Debtors") on grounds that the Debtors are delinquent \$7,625.00 under the proposed fourth amended plan. The Trustee also states that, should the fourth amended plan be confirmed, that language be included in the order confirming stating "[a]ll previously disbursed amounts made to secured creditors are allowed in the amount already paid by the Trustee." 11 U.S.C. § 1325(a)(6).

Debtors filed a response stating that they are not delinquent in plan payments and are agreeable to including the Trustee's requested language in an order confirming. Although the latter appears to satisfy one of the issues, the Debtors provide no evidence that they are current with plan payments and the unintelligible statement by the Debtors' attorney in the reply suggesting that the Debtors are somehow current is not evidence. *Singh v. INS*, 213 F.3d 1050, 1054 n. 8 (9th Cir. 2000) (holding counsel's statements in briefs could not be considered as evidence).

The motion is ORDERED DENIED and the fourth amended plan is not confirmed.

The court will enter an order.

15. [18-25696](#)-B-13 GARY/LAURIE DIMARE  
[JCK](#)-3 Kathleen H. Crist

MOTION TO INCUR DEBT  
12-2-20 [[35](#)]

**Final Ruling**

The motion has been set for hearing on 28-days notice. Local Bankruptcy Rule 9014-1(f)(1). The failure of the respondent and other parties in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(B) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). No opposition was filed. The matter will be resolved without oral argument. No appearance at the hearing is required.

The court's decision is to grant the motion to incur debt.

Debtors seek court approval to incur post-petition credit. Homebridge Financial Services ("Creditor"), whose claim the plan provides for in Class 4, has agreed to a loan modification that will reduce Debtor's mortgage payment from the current \$2,183.95 a month to \$1,860.84 a month. The modification will reduce Debtors interest rate to 2.385% and is a fixed 30-year loan.

The motion is supported by the Declaration of Gary Dimare and Laurie Dimare. The Declaration affirms the Debtors' desire to obtain the post-petition financing. Although the Declaration does not state the Debtors' ability to pay this claim on the modified terms, the court finds that the Debtors will be able to pay this claim since it is a reduction from the Debtors' current monthly mortgage payments.

This post-petition financing is consistent with the Chapter 13 plan in this case and Debtor's ability to fund that plan. There being no objection from the Trustee or other parties in interest, and the motion complying with the provisions of 11 U.S.C. § 364(d), the motion is granted.

The motion is ORDERED GRANTED for reasons stated in the minutes.

The court will issue an order.