

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Fredrick E. Clement
Bankruptcy Judge

2500 Tulare Street, Fifth Floor
Department A, Courtroom 11
Fresno, California

THURSDAY

JANUARY 30, 2014

PRE-HEARING DISPOSITIONS

GENERAL DESIGNATIONS

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

MATTERS RESOLVED BEFORE HEARING

If the court has issued a final ruling on a matter and the parties directly affected by a matter have resolved the matter by stipulation or withdrawal of the motion before the hearing, then the moving party shall, not later than 4:00 p.m. (PST) on the day before the hearing, inform the following persons by telephone that they wish the matter to be dropped from calendar notwithstanding the court's ruling: (1) all other parties directly affected by the motion; and (2) Kathy Torres, Judicial Assistant to the Honorable Fredrick E. Clement, at (559) 499-5860.

ERRORS IN FINAL RULINGS

If a party believes that a final ruling contains an error that would, if reflected in the order or judgment, warrant a motion under Federal Rule of Civil Procedure 52(b), 59(e) or 60, as incorporated by Federal Rules of Bankruptcy Procedure, 7052, 9023 and 9024, then the party affected by such error shall, not later than 4:00 p.m. (PST) on the day before the hearing, inform the following persons by telephone that they wish the matter either to be called or dropped from calendar, as appropriate, notwithstanding the court's ruling: (1) all other parties directly affected by the motion; and (2) Kathy Torres, Judicial Assistant to the Honorable Fredrick E. Clement, at (559) 499-5860. Absent such a timely request, a matter designated "Final Ruling" will not be called.

9:00 a.m.

1. [13-16900](#)-A-13 RAUL MARTINEZ
THA-1
JOHN MORRISON/MV
JEFFREY ROWE/Atty. for dbt.
THOMAS ARMSTRONG/Atty. for mv.

MOTION FOR RELIEF FROM
AUTOMATIC STAY
1-15-14 [[30](#)]

[The hearing on this matter will be at 9:15 a.m. and shall follow the hearing on the trustee's motions to dismiss in this case having docket control nos. MHM-1 and MHM-2.]

Tentative Ruling

Motion: Stay Relief

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

Disposition: Granted

Order: Prepared by moving party

Subject: 703 Kirkwood Court, Los Banos, CA

If no party in interest opposes the motion, the following paragraph will be included in the ruling: Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, incorporated by Fed. R. Bankr. P. 7055, 9014(c). The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

The debtor filed this bankruptcy case on October 23, 2013. The debtor has filed a proposed plan that has not been confirmed. The moving party's claim has been placed in Class 1 of this plan.

Section 362(d)(1) authorizes stay relief for cause shown. 11 U.S.C. § 362(d)(1). The moving party requests stay relief because the debtor has defaulted on his secured loan with the moving party, and 4 prepetition and 3 postpetition payments are past due. Since the petition was filed, the debtor has not made any payments as required under the loan documents with the moving party.

The moving party also asserts that the debtor has made no payment under his proposed Chapter 13 plan. In addition, from the trustee's motion to dismiss, it appears that the debtor is delinquent in the amount of \$3,358.00 under the proposed plan. Because the case was filed October 23, 2013, the amount of this delinquency confirms that the debtor has not made any plan payments to the trustee as of the date of the trustee's motion.

The moving party has also argued that the property may not be insured. The moving party is in the process of obtaining forced place insurance for the subject property. (If the property is insured, the debtor's attorney should inform the court that the property is currently insured and that a policy of insurance on the property is currently in effect. Specifically, the debtor's attorney should inform the court whether a premium has been paid for the current period and whether a policy has in fact been issued rather than a policy declaration that offers to insure the property in exchange for a premium.)

Cause exists to grant relief under § 362(d)(1). The motion will be granted, and the 14-day stay of Federal Rule of Bankruptcy Procedure 4001(a)(3) will be waived. No other relief will be awarded.

2. [11-62704](#)-A-13 NORMAN PIMENTEL MOTION TO MODIFY PLAN
MNE-4 12-5-13 [[78](#)]
NORMAN PIMENTEL/MV
M. ENMARK/Atty. for dbt.
RESPONSIVE PLEADING

Tentative Ruling

Matter: Objection to Chapter 13 Plan
Notice: LBR 3015-1(c)(4); no written opposition required
Disposition: Denied as moot
Order: Civil minute order

Creditors and the trustee may file an objection to confirmation of the Chapter 13 plan within 7 days after the first date set for the creditors' meeting held under § 341 of the Bankruptcy Code. LBR 3015-1(c)(4). If the debtor withdraws the plan or files a modification of the plan under § 1323, the modified plan becomes the plan. 11 U.S.C. § 1323(b). Doing so renders moot any pending objection to confirmation of the previously filed plan.

The debtor has filed a supplemental document stating that confirmation of a fifth modified plan will be immediately sought. The court will deny the objection as moot.

3. [12-12705](#)-A-13 JEFFREY DEMENT AND KARA MOTION TO MODIFY PLAN
JMA-7 NORD-DEMENT 11-25-13 [[93](#)]
JEFFREY DEMENT/MV
JOSEPH ARNOLD/Atty. for dbt.

Final Ruling

Motion: Confirm Modified Chapter 13 Plan
Notice: LBR 3015-1(d)(2), 9014-1(f)(1); written opposition required
Disposition: Granted
Order: Prepared by Chapter 13 trustee, approved by debtor's counsel

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

Chapter 13 plan confirmation is governed by 11 U.S.C. §§ 1322, 1323, 1325, 1329 and by Federal Rules of Bankruptcy Procedure 2002(a)(5) and 3015(g) and Local Bankruptcy Rule 3015-1. The debtor bears the burden of proof as to each element. *In re Barnes*, 32 F.3d 405, 407 (9th Cir. 1994). The court finds that the debtor has sustained that burden, and the court will approve modification of the plan.

4. [13-17505](#)-A-13 SERGIO/MARTHA ROJAS
TOG-1
SERGIO ROJAS/MV
12-12-13 [[10](#)]
THOMAS GILLIS/Atty. for dbt.

MOTION TO VALUE COLLATERAL OF
BANK OF AMERICA, N.A.

Final Ruling

Motion: Value Collateral [Real Property; Principal Residence]

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

Disposition: Granted

Order: Prepared by the moving party

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

Chapter 13 debtors may strip off a wholly unsecured junior lien encumbering the debtor's principal residence. 11 U.S.C. §§ 506(a), 1322(b)(2); *In re Lam*, 211 B.R. 36, 40-42 (B.A.P. 9th Cir. 1997); *In re Zimmer*, 313 F.3d 1220, 1222-25 (9th Cir. 2002). A motion to value the debtor's principal residence should be granted upon a threefold showing by the moving party. First, the moving party must proceed by noticed motion. Fed. R. Bankr. P. 3012. Second, the motion must be served on the holder of the secured claim. Fed. R. Bankr. P. 3012, 9014(a); LBR 3015-1(j). Third, the moving party must prove by admissible evidence that the debt secured by liens senior to the responding party's claim exceeds the value of the principal residence. 11 U.S.C. § 506(a); *Lam*, 211 B.R. at 40-42; *Zimmer*, 313 F.3d at 1222-25.

The motion seeks to value real property collateral that is the moving party's principal residence. Because the amount owed to senior lienholders exceeds the value of the collateral, the responding party's claim is wholly unsecured and no portion will be allowed as a secured claim. See 11 U.S.C. § 506(a).

5. [13-16006](#)-A-13 ARTHUR/KAREN GONZALES

GARY HUSS/Atty. for dbt.
FINAL PAYMENT PAID 1/13/14

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
1-8-14 [[25](#)]

Final Ruling

The fee having been paid in full, the order to show cause is discharged.

6. [13-17007](#)-A-13 DANNY/LORI CARRELL
GMA-1
DANNY CARRELL/MV
GEOFFREY ADALIAN/Atty. for dbt.

MOTION TO VALUE COLLATERAL OF
BENEFICIAL FINANCIAL I, INC.
11-27-13 [[17](#)]

Final Ruling

Motion: Value Collateral [Real Property; Principal Residence]

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

Disposition: Granted

Order: Prepared by the moving party

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

Chapter 13 debtors may strip off a wholly unsecured junior lien encumbering the debtor's principal residence. 11 U.S.C. §§ 506(a), 1322(b)(2); *In re Lam*, 211 B.R. 36, 40-42 (B.A.P. 9th Cir. 1997); *In re Zimmer*, 313 F.3d 1220, 1222-25 (9th Cir. 2002). A motion to value the debtor's principal residence should be granted upon a threefold showing by the moving party. First, the moving party must proceed by noticed motion. Fed. R. Bankr. P. 3012. Second, the motion must be served on the holder of the secured claim. Fed. R. Bankr. P. 3012, 9014(a); LBR 3015-1(j). Third, the moving party must prove by admissible evidence that the debt secured by liens senior to the responding party's claim exceeds the value of the principal residence. 11 U.S.C. § 506(a); *Lam*, 211 B.R. at 40-42; *Zimmer*, 313 F.3d at 1222-25.

The motion seeks to value real property collateral that is the moving party's principal residence. Because the amount owed to senior lienholders exceeds the value of the collateral, the responding party's claim is wholly unsecured and no portion will be allowed as a secured claim. See 11 U.S.C. § 506(a).

7. [13-17007](#)-A-13 DANNY/LORI CARRELL
GMA-2
DANNY CARRELL/MV
GEOFFREY ADALIAN/Atty. for dbt.

MOTION TO AVOID LIEN OF MIDLAND
FUNDING, LLC
11-27-13 [[21](#)]

Final Ruling

Motion: Avoid Lien that Impairs Exemption

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

Disposition: Granted

Order: Prepared by moving party

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court

considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

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

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

- | | |
|---|--|
| 8. 13-17008 -A-13 JASON/MONA MENDONCA
JRL-1
SENTHIL KUMAR/MV
NANCY KLEPAC/Atty. for dbt.
JERRY LOWE/Atty. for mv. | OBJECTION TO CONFIRMATION OF
PLAN BY SENTHIL KUMAR
12-24-13 [26] |
|---|--|

No tentative ruling.

- | | |
|--|---|
| 9. 13-17008 -A-13 JASON/MONA MENDONCA
JRL-2
SENTHIL KUHMAR/MV
NANCY KLEPAC/Atty. for dbt.
JERRY LOWE/Atty. for mv. | MOTION FOR RELIEF FROM
AUTOMATIC STAY
12-27-13 [30] |
|--|---|

Tentative Ruling

Motion: Relief from Stay

Disposition: Denied without prejudice

Order: Civil minute order

Local Bankruptcy Rule 4001-1(a)(3) requires the movant to file and serve a *Relief from Stay Summary Sheet* when the movant files a motion for stay relief. No such summary sheet has been filed or served. The motion does not comply with LBR 4001-1(a).

The motion also has not been served sufficiently on the chapter 13 trustee. The proof of service shows an incorrect email address for the chapter 13 trustee. Rule 9013 requires every motion to be served

on the trustee. Fed. R. Bankr. P. 9013.

10. [10-64011](#)-A-13 CATHY HULL
TCS-4
CATHY HULL/MV
TIMOTHY SPRINGER/Atty. for dbt.

MOTION TO MODIFY PLAN
12-10-13 [[55](#)]

Final Ruling

Motion: Confirm Modified Chapter 13 Plan

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

Disposition: Granted

Order: Prepared by Chapter 13 trustee, approved by debtor's counsel

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

Chapter 13 plan confirmation is governed by 11 U.S.C. §§ 1322, 1323, 1325, 1329 and by Federal Rules of Bankruptcy Procedure 2002(a)(5) and 3015(g) and Local Bankruptcy Rule 3015-1. The debtor bears the burden of proof as to each element. *In re Barnes*, 32 F.3d 405, 407 (9th Cir. 1994). The court finds that the debtor has sustained that burden, and the court will approve modification of the plan.

11. [13-17215](#)-A-13 JULIE GERBERDING

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
1-13-14 [[30](#)]

Final Ruling

The case dismissed, the order to show cause is discharged.

12. [11-17816](#)-A-13 MARLOWE FOSSEN
MDE-1
U.S. BANK, N.A./MV
TIMOTHY SPRINGER/Atty. for dbt.
MARK ESTLE/Atty. for mv.
RESPONSIVE PLEADING

CONTINUED MOTION FOR RELIEF
FROM AUTOMATIC STAY
11-26-13 [[60](#)]

No tentative ruling.

13. [10-63817](#)-A-13 ANIRUDH SUD
HDN-3
ANIRUDH SUD/MV
HENRY NUNEZ/Atty. for dbt.

MOTION TO MODIFY PLAN
12-10-13 [[93](#)]

Final Ruling

Motion: Confirm Modified Chapter 13 Plan

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

Disposition: Denied as moot

Order: Civil minute order

Chapter 13 debtors may modify the plan after confirmation but before completion of payments under the plan. 11 U.S.C. § 1329(a). After the debtor files a modification under § 1329, the modified plan becomes the plan, unless after notice and a hearing, such modification is disapproved. 11 U.S.C. § 1329(b)(2). Doing so renders moot any pending motion requesting approval of a previously filed modification of the confirmed plan.

14. [13-13518](#)-A-13 JACK/CAROL PEERY
RHB-2
JACK PEERY/MV
RICHARD BAMBL/Atty. for dbt.
RESPONSIVE PLEADING

CONTINUED MOTION TO CONFIRM
PLAN
10-3-13 [[52](#)]

Final Ruling

Motion: Confirm Chapter 13 Plan

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

Disposition: Granted

Order: Prepared by Chapter 13 trustee, approved by debtor's counsel

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

Chapter 13 plan confirmation is governed by 11 U.S.C. §§ 1322, 1325 and by Federal Rule of Bankruptcy Procedure 2002(b) and Local Bankruptcy Rule 3015-1. The debtor bears the burden of proof as to each element. *In re Barnes*, 32 F.3d 405, 407 (9th Cir. 1994). The court finds that the debtor has sustained that burden, and the court will approve confirmation of the plan.

15. [13-13518](#)-A-13 JACK/CAROL PEERY
RHB-4
JACK PEERY/MV

MOTION TO VALUE COLLATERAL OF
EDUCATIONAL EMPLOYEES CREDIT
UNION
12-31-13 [[79](#)]

RICHARD BAMBL/Atty. for dbt.

Final Ruling

Motion: Value Collateral [Personal Property; Motor Vehicle]

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

Disposition: Granted

Order: Prepared by moving party

Collateral Value: \$5,010

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

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

A debtor's ability to value collateral consisting of a motor vehicle is limited by the terms of the hanging paragraph of § 1325(a). See 11 U.S.C. § 1325(a) (hanging paragraph). Under this statute, a lien secured by a motor vehicle cannot be stripped down to the collateral's value if: (i) the lien securing the claim is a purchase money security interest, (ii) the debt was incurred within the 910-day period preceding the date of the petition, and (iii) the motor vehicle was acquired for the debtor's personal use. 11 U.S.C. § 1325(a) (hanging paragraph).

In this case, the debtor seeks to value collateral consisting of a motor vehicle. The debt secured by the vehicle was not incurred within the 910-day period preceding the date of the petition. In the absence of any opposition to the motion, the court finds that the replacement value of the vehicle is the amount set forth above.

16. [13-16218](#)-A-13 JOHN/LORIANN HUERTA
KMM-5
JOHN HUERTA/MV
KARNEY MEKHITARIAN/Atty. for dbt.

MOTION TO CONFIRM PLAN
12-10-13 [[55](#)]

Final Ruling

Motion: Confirm Chapter 13 Plan

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

Disposition: Granted

Order: Prepared by Chapter 13 trustee, approved by debtor's counsel

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

Chapter 13 plan confirmation is governed by 11 U.S.C. §§ 1322, 1325 and by Federal Rule of Bankruptcy Procedure 2002(b) and Local Bankruptcy Rule 3015-1. The debtor bears the burden of proof as to each element. *In re Barnes*, 32 F.3d 405, 407 (9th Cir. 1994). The court finds that the debtor has sustained that burden, and the court will approve confirmation of the plan.

17. [13-16020](#)-A-13 BLANCA MARTINEZ
TOG-1
MICHAEL MEYER/MV

THOMAS GILLIS/Atty. for dbt.

CONTINUED MOTION TO EXTEND TIME
TO OBJECT TO CONFIRMATION OF
PLAN
10-24-13 [[14](#)]

Tentative Ruling

The court finds that the trustee's ex parte application to extend time to object to confirmation has already been resolved by an order entered at docket number 17 on October 24, 2013. This matter should be dropped as moot.

It appears that this matter was erroneously continued because a civil minute order, ECF No. 92 having TOG-1 as the DCN, has incorrectly been associated with this motion to extend time.

18. [13-16020](#)-A-13 BLANCA MARTINEZ
TOG-1
BLANCA MARTINEZ/MV

CONTINUED MOTION TO VALUE
COLLATERAL OF GREEN TREE
SERVICING, LLC
11-8-13 [[27](#)]

THOMAS GILLIS/Atty. for dbt.
RESPONSIVE PLEADING

Final Ruling

The parties have filed a joint status report requesting a continuance. The court further continues the hearing on this matter to the court's Chapter 13 calendar on April 17, 2014, at 9:00 a.m.

19. [08-17225](#)-A-13 JEANNE CLARK
MHM-1
MICHAEL MEYER/MV

MOTION TO DETERMINE FINAL CURE
AND MORTGAGE PAYMENT RULE
3002.1
1-2-14 [[51](#)]

PETER FEAR/Atty. for dbt.

Tentative Ruling

Motion: Determination of Final Cure and Payment of Required
Postpetition Amounts under Rule 3002.1(h)

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

Disposition: Granted if the debtor's attorney confirms at the hearing that the subject real property securing OneWest Bank, FSB's claim is the debtor's principal residence

Order: Prepared by moving party

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

Federal Rule of Bankruptcy Procedure 3002.1(h) provides that the debtor or trustee may file a motion to "determine whether the debtor has cured the default and paid all required postpetition amounts" due on a claim in a chapter 13 case that is "(1) secured by a security interest in the debtor's principal residence, and (2) provided for under § 1322(b)(5) of the Code in the debtor's plan." Fed. R. Bankr. P. 3002.1.

Rule 3002.1(f) and (g) describe procedures that must be followed before the motion may be filed. These procedures begin with the trustee's filing and serving "a notice stating that the debtor has paid in full the amount required to cure any default on the claim" and "inform[ing] the holder of its obligation to file and serve a response under subdivision (g)." Fed. R. Bankr. P. 3002.1(f). The debtor may file this notice if the trustee does not timely file it. *Id.* The holder of the claim has a limited time to file a response to this notice. See Fed. R. Bankr. P. 3002.1(g).

The motion for a determination of final cure and payment must be filed within 21 days after service of the claimholder's response statement under subdivision (g) of Rule 3002.1. Fed. R. Bankr. P. 3002.1(h).

If the movant complies with these procedures, then "the court shall, after notice and hearing, determine whether the debtor has cured the default and paid all required postpetition amounts." *Id.*

For the reasons stated in the motion and supporting papers, the court will grant the motion. The court will determine that the debtor has cured the default and paid all required postpetition amounts due on the secured claim described in the motion as of the date the plan was completed.

20. [08-17225](#)-A-13 JEANNE CLARK
PLF-3
JEANNE CLARK/MV

MOTION TO DETERMINE FINAL CURE
AND MORTGAGE PAYMENT RULE
3002.1
1-2-14 [[56](#)]

PETER FEAR/Atty. for dbt.

Tentative Ruling

Motion: Determination of Final Cure and Payment of Required Postpetition Amounts under Rule 3002.1(h)

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

Disposition: Denied in part as moot (determination under Rule 3002.1(h)); denied in part (attorney's fees)

Order: Prepared by moving party

The court has granted the trustee's motion for the same determination requested by this motion. The determination requested has already been granted. Accordingly, as to such relief, the motion will be denied as moot.

The court will also deny the attorney's fees requested for the debtor's prosecution of the motion. The debtor has not made a sufficient showing in the motion that the respondent failed to provide information required by subdivision (b), (c), or (g) of Rule 3002.1. On the docket, the court has viewed the respondent creditor's timely statement provided under Rule 3002.1(g) in response to the trustee's notice under Rule 3002.1(f).

21. [13-15728](#)-A-13 WADE WILLIAMS
BPF-1
ROBERT RUCKER/MV

OBJECTION TO CONFIRMATION OF
PLAN BY RUCKER CONSTRUCTION,
INC. AND ROBERT E. RUCKER
1-15-14 [[72](#)]

BRIAN HADDIX/Atty. for dbt.

ELIZABETH WALDOW/Atty. for mv.

Tentative Ruling

Rucker Construction, Inc. and Robert Rucker ("Creditors") have objected to confirmation of the plan. However, this calendar matter is a duplicate of the opposition filed in response to the matter on calendar immediately following this matter, which is the debtor's motion to confirm his Chapter 13 plan. As a result, the court will drop this objection from calendar.

22. [13-15728](#)-A-13 WADE WILLIAMS
BSH-2
WADE WILLIAMS/MV
BRIAN HADDIX/Atty. for dbt.
RESPONSIVE PLEADING

AMENDED MOTION TO CONFIRM PLAN
12-4-13 [[61](#)]

Tentative Ruling

Motion: Confirm Chapter 13 Plan

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

Disposition: Pending

Order: Pending

The motion requests confirmation of the Chapter 13 plan in this case. See 11 U.S.C. §§ 1322, 1323, 1325; Fed. R. Bankr. P. 2002(b); LBR 3015-1(d)(1)-(2). Rucker Construction, Inc. and Robert Rucker ("Creditors") oppose the motion, objecting to confirmation. But the moving party has not filed a reply to the opposition.

Without the benefit of a reply, the court cannot determine whether the grounds for the opposition are disputed or undisputed. As a result, the court does not consider the matter to be ripe for a decision in advance of the hearing.

If such grounds are undisputed, the moving party may appear at the hearing and affirm that they are undisputed. The moving party may opt not to appear at the hearing, and such nonappearance will be deemed by the court as a concession that the Creditors' grounds for opposition are undisputed and meritorious.

If such grounds are disputed, the moving party shall appear at the hearing. The court may either (1) rule on the merits and resolve any disputed issues appropriate for resolution at the initial hearing, or (2) treat the initial hearing as a status conference and schedule an evidentiary hearing to resolve disputed, material factual issues or schedule a further hearing after additional briefing on any disputed legal issues.

23. [13-15728](#)-A-13 WADE WILLIAMS
MHM-2
MICHAEL MEYER/MV

CONTINUED MOTION TO DISMISS
CASE FOR UNREASONABLE DELAY
THAT IS PREJUDICIAL TO
CREDITORS
11-22-13 [[46](#)]

BRIAN HADDIX/Atty. for dbt.
WITHDRAWN

Final Ruling

The motion withdrawn, the matter is dropped as moot.

24. [11-19929](#)-A-13 JOHN/NORMA PINEDO
PLF-4
JOHN PINEDO/MV
PETER FEAR/Atty. for dbt.
RESPONSIVE PLEADING

MOTION TO MODIFY PLAN
12-6-13 [[71](#)]

Final Ruling

Motion: Confirm Modified Chapter 13 Plan

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

Disposition: Granted

Order: Prepared by Chapter 13 trustee, approved by debtor's counsel

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

Chapter 13 plan confirmation is governed by 11 U.S.C. §§ 1322, 1323, 1325, 1329 and by Federal Rules of Bankruptcy Procedure 2002(a)(5) and 3015(g) and Local Bankruptcy Rule 3015-1. The debtor bears the burden of proof as to each element. *In re Barnes*, 32 F.3d 405, 407 (9th Cir. 1994). The court finds that the debtor has sustained that burden, and the court will approve modification of the plan.

25. [09-60132](#)-A-13 WILLIAM SIMS
MNE-2
WILLIAM SIMS/MV
M. ENMARK/Atty. for dbt.
RESPONSIVE PLEADING

MOTION TO MODIFY PLAN
12-5-13 [[90](#)]

Final Ruling

Motion: Confirm Modified Chapter 13 Plan

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

Disposition: Granted

Order: Prepared by Chapter 13 trustee, approved by debtor's counsel

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

Chapter 13 plan confirmation is governed by 11 U.S.C. §§ 1322, 1323, 1325, 1329 and by Federal Rules of Bankruptcy Procedure 2002(a)(5) and 3015(g) and Local Bankruptcy Rule 3015-1. The debtor bears the burden of proof as to each element. *In re Barnes*, 32 F.3d 405, 407 (9th Cir. 1994). The court finds that the debtor has sustained that burden, and the court will approve modification of the plan.

26. [12-19337](#)-A-13 DARRIN/LISA CHILDERS MOTION TO MODIFY PLAN
WC-4 12-13-13 [[66](#)]
DARRIN CHILDERS/MV
WILLIAM COLLIER/Atty. for dbt.

Final Ruling

Motion: Confirm Modified Chapter 13 Plan

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

Disposition: Granted

Order: Prepared by Chapter 13 trustee, approved by debtor's counsel

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

Chapter 13 plan confirmation is governed by 11 U.S.C. §§ 1322, 1323, 1325, 1329 and by Federal Rules of Bankruptcy Procedure 2002(a)(5) and 3015(g) and Local Bankruptcy Rule 3015-1. The debtor bears the burden of proof as to each element. *In re Barnes*, 32 F.3d 405, 407 (9th Cir. 1994). The court finds that the debtor has sustained that burden, and the court will approve modification of the plan.

27. [12-19337](#)-A-13 DARRIN/LISA CHILDERS CONTINUED MOTION TO MODIFY PLAN
WC-4 11-23-13 [[58](#)]
DARRIN CHILDERS/MV
WILLIAM COLLIER/Atty. for dbt.

Final Ruling

This motion is a duplicate of the immediately preceding matter on calendar, which is the debtor's motion to modify their plan in this case. The court will drop this matter from calendar as moot.

28. [13-17651](#)-A-13 CLAUDE POISSON ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
1-6-14 [[24](#)]

Tentative Ruling

If the \$70 installment due January 2, 2014, has not been paid by the time of the hearing, the case will be dismissed without further notice or hearing.

29. [13-17754](#)-A-13 EDUARDO SOLIS AND ROSA MOTION TO VALUE COLLATERAL OF
TOG-1 CASTILLO GMAC MORTGAGE, LLC
EDUARDO SOLIS/MV 12-12-13 [[8](#)]
THOMAS GILLIS/Atty. for dbt.

Final Ruling

Motion: Value Collateral [Real Property; Nonresidential]

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

Disposition: Granted

Order: Prepared by moving party

Collateral Value: \$150,000.00

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

The motion requests that the court value nonresidential real property that is the responding party's collateral. The court values the collateral at the amount set forth above. The responding creditor's claim is secured only to the extent of the collateral's value unencumbered by any senior liens. See 11 U.S.C. § 506(a).

30. [12-19562](#)-A-13 BRIAN/KERI MITCHELL MOTION TO MODIFY PLAN
GMA-1 11-21-13 [[26](#)]
BRIAN MITCHELL/MV
GEOFFREY ADALIAN/Atty. for dbt.
RESPONSIVE PLEADING

Tentative Ruling

Motion: Modify Chapter 13 Plan

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

Disposition: Pending

Order: Pending

The motion requests modification of the Chapter 13 plan in this case. See 11 U.S.C. §§ 1322, 1325, 1329; Fed. R. Bankr. P. 2002(b); LBR 3015-1(d)(2). The Chapter 13 trustee opposes the motion, objecting to the modification. But the moving party has not filed a reply to the opposition.

Without the benefit of a reply, the court cannot determine whether the grounds for the trustee's opposition are disputed or undisputed. As a result, the court does not consider the matter to be ripe for a decision in advance of the hearing.

If such grounds are undisputed, the moving party may appear at the hearing and affirm that they are undisputed. The moving party may opt not to appear at the hearing, and such nonappearance will be deemed by the court as a concession that the trustee's grounds for opposition are undisputed and meritorious.

If such grounds are disputed, the moving party shall appear at the hearing. The court may either (1) rule on the merits and resolve any disputed issues appropriate for resolution at the initial hearing, or (2) treat the initial hearing as a status conference and schedule an evidentiary hearing to resolve disputed, material factual issues or schedule a further hearing after additional briefing on any disputed legal issues.

31. [13-17268](#)-A-13 CHRISTOPHER/NORMA ABLES MOTION TO CONFIRM PLAN
JRL-1 12-12-13 [[20](#)]
CHRISTOPHER ABLES/MV
JERRY LOWE/Atty. for dbt.
RESPONSIVE PLEADING

Tentative Ruling

Motion: Confirm Chapter 13 Plan

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

Disposition: Pending

Order: Pending

The motion requests confirmation of the Chapter 13 plan in this case. 11 U.S.C. §§ 1322, 1323, 1325; Fed. R. Bankr. P. 2002(b); LBR 3015-1(d)(1). The Chapter 13 trustee opposes the motion, objecting to confirmation. But the moving party has not filed a reply to the opposition.

POTENTIALLY INSUFFICIENT NOTICE

The proof of service shows that the plan and notice of hearing on confirmation were mailed to the trustee and certain other parties. But the proof also references an attached "service list" but no mailing list is attached to the proof. All creditors and parties in interest must receive notice of the confirmation hearing. Fed. R. Bankr. P. 2002(b).

The court will allow an amended proof of service to be filed only if all the following conditions are satisfied: (1) if all creditors and parties in interest did receive notice of the plan and the motion and the service list was inadvertently not attached to the proof of service, and (2) if the court otherwise decides to grant the motion to confirm because the trustee's objection is resolvable at the hearing.

CONFIRMATION

Without the benefit of a reply, the court cannot determine whether the grounds for the trustee's opposition are disputed or undisputed. As a result, the court does not consider the matter to be ripe for a decision in advance of the hearing.

If such grounds are undisputed, the moving party may appear at the hearing and affirm that they are undisputed. The moving party may opt not to appear at the hearing, and such nonappearance will be deemed by the court as a concession that the trustee's grounds for opposition are undisputed and meritorious.

If such grounds are disputed, the moving party shall appear at the

hearing. The court may either (1) rule on the merits and resolve any disputed issues appropriate for resolution at the initial hearing, or (2) treat the initial hearing as a status conference and schedule an evidentiary hearing to resolve disputed, material factual issues or schedule a further hearing after additional briefing on any disputed legal issues.

75 DAY ORDER

A Chapter 13 plan must be confirmed no later than the first hearing date available after the 75-day period that commences on the date of this hearing. If a Chapter 13 plan has not been confirmed by such date, the court may dismiss the case on the trustee's motion. See 11 U.S.C. § 1307(c)(1).

32. [13-17171](#)-A-13 DARREN/STEPHANIE GODWIN MOTION TO VALUE COLLATERAL OF
PBB-1 JPMORGAN CHASE BANK, N.A.
DARREN GODWIN/MV 12-26-13 [[16](#)]
PETER BUNTING/Atty. for dbt.

Final Ruling

The parties have resolved the matter by stipulation. The matter will be dropped from calendar as moot.

33. [10-13172](#)-A-13 LUIS/ADRIANA SOLIS MOTION TO MODIFY PLAN
PLF-3 12-5-13 [[46](#)]
LUIS SOLIS/MV
PETER FEAR/Atty. for dbt.
RESPONSIVE PLEADING

Tentative Ruling

Motion: Modify Chapter 13 Plan

Notice: LBR 3015-1(d)(2), 9014-1(f)(1); opposition filed by creditor; Chapter 13 trustee has withdrawn opposition

Disposition: Pending

Order: Pending

The motion requests modification of the Chapter 13 plan in this case. See 11 U.S.C. §§ 1322, 1325, 1329; Fed. R. Bankr. P. 2002(b); LBR 3015-1(d)(2). Creditor Citimortgage Inc. ("Creditor") opposes the motion, objecting to the modification. The trustee also opposed the motion but the trustee has withdrawn his opposition.

Creditor asserts (as the trustee's opposition had asserted) that the plan fails to state a monthly dividend for the Class 1 arrearage for months 1-43. As a result, the confirmed plan's arrearage dividend applies. Creditor also states that the Class 1 arrears claim is delinquent for months 1-43 under the confirmed plan.

Creditor further contends that plan does not fund as to the monthly dividend for the Class 1 arrearage amount. It explains that the arrearage dividend must increase to \$529.03 per month for months 45-60 for the plan as modified to fund in 60 months.

The trustee also made the above arguments in opposition, but determined that these were resolvable in the order confirming the plan. The trustee then withdrew his opposition.

The court believes that this matter will be resolved by the debtors in the order confirming the plan. The debtors have no objection to raising the Class 1 arrearage dividend to \$529.03 for months 45-60 of the plan. The court also finds it likely that the debtors will be amenable to including the language in the order confirming the plan stating the amount paid toward the Class 1 arrears for months 1 to 44.

34. [13-10672](#)-A-13 SAMUEL/PAMELA FRAIJO MOTION TO MODIFY PLAN
JMA-1 11-19-13 [[28](#)]
SAMUEL FRAIJO/MV
JOSEPH ARNOLD/Atty. for dbt.

Final Ruling

Motion: Confirm Modified Chapter 13 Plan

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

Disposition: Granted

Order: Prepared by Chapter 13 trustee, approved by debtor's counsel

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

Chapter 13 plan confirmation is governed by 11 U.S.C. §§ 1322, 1323, 1325, 1329 and by Federal Rules of Bankruptcy Procedure 2002(a)(5) and 3015(g) and Local Bankruptcy Rule 3015-1. The debtor bears the burden of proof as to each element. *In re Barnes*, 32 F.3d 405, 407 (9th Cir. 1994). The court finds that the debtor has sustained that burden, and the court will approve modification of the plan.

35. [13-16274](#)-A-13 JOSEPH DESROSIERS MOTION TO CONFIRM PLAN
JRL-1 12-3-13 [[34](#)]
JOSEPH DESROSIERS/MV
JERRY LOWE/Atty. for dbt.
WITHDRAWN

Final Ruling

Having been withdrawn, the matter is dropped from calendar as moot.

36. [13-17076](#)-A-13 RAQUEL ARROYO
TOG-1
RAQUEL ARROYO/MV

CONTINUED MOTION TO VALUE
COLLATERAL OF CALIFORNIA BANK
AND TRUST
11-8-13 [[9](#)]

THOMAS GILLIS/Atty. for dbt.
ORDER APPROVING STIPULATION

Final Ruling

The parties have resolved the matter by stipulation. The matter will be dropped from calendar as moot.

37. [13-15181](#)-A-13 LINDSAY LEMONS
GEG-1
WAYNE STORMS/MV
SCOTT LYONS/Atty. for dbt.
GLEN GATES/Atty. for mv.

MOTION FOR RELIEF FROM
AUTOMATIC STAY
12-23-13 [[101](#)]

[This matter will be called in conjunction with matter no. 2 on the 9:30 a.m. calendar (relating to the continued status conference re: complaint in the Storms v. Lemons adversary proceeding).]

Tentative Ruling

Motion: Motion for Relief from the Automatic Stay
Notice: LBR 9014-1(f)(1); written opposition filed
Disposition: Denied
Order: Civil minute order

The creditors Wayne and Wes Storms (the "Stormses") have filed a motion for relief from stay in order to continue litigation in the state court against the debtor Lindsay Lemons (the "Debtor"). The Debtor has filed an opposition.

For the reasons set forth below, the court will deny the motion.

DISCUSSION

Section 362(d)(1) authorizes stay relief for cause. Cause is determined on a case-by-case basis and may include the existence of litigation pending in a non-bankruptcy forum that should be properly pursued. *Christensen v. Tucson Estates, Inc. (In re Tucson Estates, Inc.)*, 912 F.2d 1162, 1169 (9th Cir. 1990). The B.A.P. has indicated that the "Curtis factors are appropriate, nonexclusive, factors to consider in deciding whether to grant relief from the automatic stay to allow pending litigation to continue in another forum." *Kronmeyer v. Am. Contractors Indem. Co. (In re Kronmeyer)*, 405 B.R. 915, 921 (B.A.P. 9th Cir. 2009). The factors include the following:

- (1) Whether the relief will result in a partial or complete resolution of the issues;
- (2) The lack of any connection with or interference with the bankruptcy case;
- (3) Whether the foreign proceeding involves the debtor as a fiduciary;
- (4) Whether a specialized tribunal has been established to hear the particular cause of action and whether that tribunal has the expertise to hear such cases;
- (5) Whether the debtor's insurance carrier has assumed full financial

responsibility for defending the litigation;

(6) Whether the action essentially involves third parties, and the debtor functions only as a bailee or conduit for the goods or proceeds in question;

(7) Whether the litigation in another forum would prejudice the interests of other creditors, the creditors' committee and other interested parties;

(8) Whether the judgment claim arising from the foreign action is subject to equitable subordination under Section 510(c);

(9) Whether movant's success in the foreign proceeding would result in a judicial lien avoidable by the debtor under Section 522(f);

(10) The interests of judicial economy and the expeditious and economical determination of litigation for the parties;

(11) Whether the foreign proceedings have progressed to the point where the parties are prepared for trial, and

(12) The impact of the stay on the parties and the "balance of hurt[.]"

Truebro, Inc. v. Plumberex Specialty Prods., Inc. (In re Plumberex Specialty Prods., Inc.), 311 B.R. 551, 559 (Bankr. C.D. Cal. 2004) (citing *In re Curtis*, 40 B.R. 795, 799-800 (Bankr. D. Utah 1984)). The court may consider whichever factors are relevant to the particular case, and the decision whether to lift the stay remains within the court's discretion.

(1) Whether the relief will result in a partial or complete resolution of the issues

As to the first factor, lifting the stay to allow the state court litigation to continue would only result in the partial resolution of the issues. The state court has no jurisdiction to allow or disallow claims for bankruptcy purposes or to enter a judgment in a § 523(a)(4) action. Thus, the parties would necessarily be required to return to the bankruptcy court to obtain the appropriate relief.

Although, upon return to the bankruptcy court, the Stormses could ask this court to apply collateral estoppel for claims allowance and nondischargeability purposes, nothing guarantees that the judgment and accompanying record from the state court would be sufficient to permit the application of collateral estoppel. An issue might be unclear or unresolved requiring relitigation in the bankruptcy court and eliminating any efficiencies that were originally sought by having the state court adjudicate the issues. Additionally, this opens up the possibility for inconsistent judgments. If all of the litigation remains in the bankruptcy court, there will be a complete resolution of the issues and no possibility for inconsistent judgments.

(2) The lack of any connection with or interference with the bankruptcy case

As to the second factor, the state court litigation has a connection to the bankruptcy case but may also interfere with the bankruptcy case. As the Stormses have provided, "the primary motivation in the state court action would be to liquidate the claims against the Debtor." Yet, that is essentially the same as pursuing the claims allowance process in the bankruptcy court. The Stormses have already filed proofs of claim in this case and have already initiated a nondischargeability proceeding against the Debtor. Thus, it is unclear why the Stormses would need to pursue what is essentially bankruptcy litigation in a non-bankruptcy forum when they have already submitted to the jurisdiction of the bankruptcy court.

At the same time, the Stormses suggest that the state court litigation would be substantially different than what would occur in litigating the claim objections and nondischargeability action. But it is unclear what the Stormses intend to argue when they state, "Not only would the proofs of claim and dischargeability issues be dealt with in the state court action, other issues pertaining to numerous wrongs by the Debtor would be adjudicated." If there are "numerous wrongs by the Debtor" that the Stormses do not intend to incorporate into their proofs of claim, then there is no point in litigating these "wrongs" in the state court. If the Debtor receives his discharge, any liability based on those "wrongs" would be discharged. Allowing the state court litigation to continue for the adjudication of these "numerous wrongs" would be an empty exercise.

(3) Whether the foreign proceeding involves the debtor as a fiduciary

As to the third factor, the state court litigation does involve the Debtor as a fiduciary since the Stormses do allege that the Debtor breached his fiduciary duty as a partner of a partnership. However, it is unclear how this factor favors either lifting or declining to lift the automatic stay.

(5) Whether the debtor's insurance carrier has assumed full financial responsibility for defending the litigation / (6) Whether the action essentially involves third parties, and the debtor functions only as a bailee or conduit for the goods or proceeds in question

As to the fifth and sixth factors, the state court litigation does not involve third parties, such as an insurance carrier or other co-defendants. The state court litigation only involves the Debtor as the defendant. Thus, this is not a situation where stay relief is necessary to allow litigation against co-defendants to resume.

(7) Whether the litigation in another forum would prejudice the interests of other creditors, the creditors' committee and other interested parties

As to the seventh factor, the state court litigation may not necessarily prejudice the interests of other creditors or other interested parties. If the parties were required to litigate in the bankruptcy court, then the Debtor would likely incur almost the same amount of time and expenses that he would if the litigation occurred in the state court. Thus, the Debtor's arguments regarding this factor are not well taken.

(10) The interests of judicial economy and the expeditious and economical determination of litigation for the parties / (11) Whether the foreign proceedings have progressed to the point where the parties are prepared for trial

As to the tenth and eleventh factors, the Stormses argue that it would be more efficient and economical to simply allow the state court litigation to continue, rather than restart the process here, given that the state court litigation is already pending and that the trial date is coming up soon. However, it is unclear whether it would be more efficient and economical to return to the state court. As mentioned above, the parties would still need to return to the bankruptcy court for final adjudication of the claim objections and the nondischargeability action, and it is uncertain whether the state court's judgment and record would be sufficient for collateral

estoppel purposes. In this court's view, the complete resolution of the issues would occur within the bankruptcy court without having to move back and forth from other courts. Thus, it seems that the bankruptcy court is the more efficient venue in this case.

Additionally, it does not appear that the state court action has "progressed to the point where the parties are prepared for trial." Although a trial date has been set, it was likely set before the Debtor filed his bankruptcy petition and would need to be rescheduled to a later date. Further, it appears that the Stormses still want more discovery in the form of more document production and depositions. The Stormses also repeatedly mention how complex the state court litigation will be given the amount of evidence and documents involved and how there may be a need to appoint a special master. Thus, the parties are not so far along in the litigation such that resuming the state court litigation would be the obvious choice.

(12) The impact of the stay on the parties and the "balance of hurt"

As to the final factor, there does not appear to be an adverse impact on the Stormses if they were required to litigate their claims in the bankruptcy court. The Stormses have not laid out exactly what the state court can do that the bankruptcy court would be unable to do. Although the Stormses have alleged accounting as one of their causes of action in the state court, it appears that an accounting may be accomplished as part of discovery for the claim objections and nondischargeability action. Since the Stormses' ultimate goal for this litigation is to liquidate their claims against the Debtor for bankruptcy purposes, it is unclear why the litigation cannot occur in the bankruptcy court.

CONCLUSION

Taking into account all of the relevant *Curtis* factors, as discussed above, the court finds that the Stormses have not established cause for lifting the automatic stay to continue the state court litigation.

As a result, for the reasons set forth above, the court will deny the motion.

38. [13-15181](#)-A-13 LINDSAY LEMONS
SL-2
LINDSAY LEMONS/MV
SCOTT LYONS/Atty. for dbt.
RESPONSIVE PLEADING

CONTINUED OBJECTION TO CLAIM OF
WAYNE STORMS, CLAIM NUMBER 1
10-24-13 [[44](#)]

Tentative Ruling

Objection: Objection to Claim No. 1 of Wayne Storms
Notice: LBR 9014-1(f)(1); written opposition filed
Disposition: Continued for evidentiary hearing
Order: Civil minute order

At the hearing on the matter, the court will hold a scheduling conference and set an evidentiary hearing under Federal Rule of Bankruptcy Procedure 9014(d). An evidentiary hearing is required because disputed, material factual issues must be resolved before the court can rule on the relief requested. The court identifies the following disputed, material factual issues: (1) whether the debtor is liable to the claimant based on all claims the claimant has against the debtor, and (2) what the liquidated amount of the debtor's total liability to the claimant is.

Before the hearing, the parties shall attempt to meet and confer to determine: (i) whether the court has fully and fairly described the evidentiary issues requiring resolution; (ii) whether any party wishes to engage in discovery prior to the evidentiary hearing and the time necessary to complete discovery; (iii) the deadlines for any dispositive motions or evidentiary motions; (iv) the dates for the evidentiary hearing and the trial time that will be required; (v) whether the parties wish to use or waive the provisions of Local Bankruptcy Rule 9017-1; and (vi) any other such matters as may be necessary or expedient to the resolution of these issues.

39. [13-15181](#)-A-13 LINDSAY LEMONS
SL-3
LINDSAY LEMONS/MV
SCOTT LYONS/Atty. for dbt.
RESPONSIVE PLEADING

CONTINUED OBJECTION TO CLAIM OF
WES STORMS, CLAIM NUMBER 2
11-7-13 [[49](#)]

Tentative Ruling

At the hearing on the matter, the court will hold a scheduling conference and set an evidentiary hearing under Federal Rule of Bankruptcy Procedure 9014(d). An evidentiary hearing is required because disputed, material factual issues must be resolved before the court can rule on the relief requested. The court identifies the following disputed, material factual issues: (1) whether the debtor is liable to the claimant based on all claims the claimant has against the debtor, and (2) what the liquidated amount of the debtor's total liability to the claimant is.

Before the hearing, the parties shall attempt to meet and confer to determine: (i) whether the court has fully and fairly described the evidentiary issues requiring resolution; (ii) whether any party wishes to engage in discovery prior to the evidentiary hearing and the time necessary to complete discovery; (iii) the deadlines for any dispositive motions or evidentiary motions; (iv) the dates for the evidentiary hearing and the trial time that will be required; (v) whether the parties wish to use or waive the provisions of Local Bankruptcy Rule 9017-1; and (vi) any other such matters as may be necessary or expedient to the resolution of these issues.

40. [13-15181](#)-A-13 LINDSAY LEMONS
SL-4
LINDSAY LEMONS/MV
SCOTT LYONS/Atty. for dbt.
RESPONSIVE PLEADING

CONTINUED OBJECTION TO CLAIM OF
WAYLENCO, CLAIM NUMBER 3
11-7-13 [[54](#)]

Tentative Ruling

At the hearing on the matter, the court will hold a scheduling conference and set an evidentiary hearing under Federal Rule of Bankruptcy Procedure 9014(d). An evidentiary hearing is required because disputed, material factual issues must be resolved before the court can rule on the relief requested. The court identifies the following disputed, material factual issues: (1) whether the debtor is liable to the claimant based on all claims the claimant has against the debtor, and (2) what the liquidated amount of the debtor's total liability to the claimant is.

Before the hearing, the parties shall attempt to meet and confer to determine: (i) whether the court has fully and fairly described the evidentiary issues requiring resolution; (ii) whether any party wishes to engage in discovery prior to the evidentiary hearing and the time necessary to complete discovery; (iii) the deadlines for any dispositive motions or evidentiary motions; (iv) the dates for the evidentiary hearing and the trial time that will be required; (v) whether the parties wish to use or waive the provisions of Local Bankruptcy Rule 9017-1; and (vi) any other such matters as may be necessary or expedient to the resolution of these issues.

41. [13-16281](#)-A-13 JON-SCOTT/ANABEL COLEMAN
JDM-1
JON-SCOTT COLEMAN/MV
JAMES MILLER/Atty. for dbt.

MOTION TO VALUE COLLATERAL OF
GREEN TREE SERVICING, LLC
12-12-13 [[16](#)]

Final Ruling

Motion: Value Collateral [Real Property; Principal Residence]

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

Disposition: Granted

Order: Prepared by the moving party

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

Chapter 13 debtors may strip off a wholly unsecured junior lien encumbering the debtor's principal residence. 11 U.S.C. §§ 506(a), 1322(b)(2); *In re Lam*, 211 B.R. 36, 40-42 (B.A.P. 9th Cir. 1997); *In re Zimmer*, 313 F.3d 1220, 1222-25 (9th Cir. 2002). A motion to value the debtor's principal residence should be granted upon a threefold showing by the moving party. First, the moving party must proceed by noticed motion. Fed. R. Bankr. P. 3012. Second, the motion must be served on the holder of the secured claim. Fed. R. Bankr. P. 3012, 9014(a); LBR 3015-1(j). Third, the moving party must prove by

admissible evidence that the debt secured by liens senior to the responding party's claim exceeds the value of the principal residence. 11 U.S.C. § 506(a); *Lam*, 211 B.R. at 40-42; *Zimmer*, 313 F.3d at 1222-25.

The motion seeks to value real property collateral that is the moving party's principal residence. Because the amount owed to senior lienholders exceeds the value of the collateral, the responding party's claim is wholly unsecured and no portion will be allowed as a secured claim. See 11 U.S.C. § 506(a).

42. [13-16281](#)-A-13 JON-SCOTT/ANABEL COLEMAN MOTION TO VALUE COLLATERAL OF
JDM-2 HSBC RETAIL SERVICES, INC.
JON-SCOTT COLEMAN/MV 12-12-13 [[21](#)]
JAMES MILLER/Atty. for dbt.

Final Ruling

Motion: Value Collateral [Personal Property; Non-vehicular]

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

Disposition: Granted

Order: Prepared by moving party

Collateral Value: \$300.00

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

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

The right to value non-vehicular collateral in which the creditor has a purchase money security interest is limited to collateral securing a debt that was incurred more than one year before the date of the petition. 11 U.S.C. §1325(a) (hanging paragraph).

In this case, the debtor seeks to value collateral consisting of non-vehicular personal property. The court infers that the debt secured by such property was not incurred within the 1-year period preceding the date of the petition because the motion states that the collateral was acquired in or about November 2007, and the assumption is that

debt securing a purchase money security interest is incurred about the time that the collateral is acquired. In the absence of any opposition to the motion, the court finds that the replacement value of the collateral is the amount set forth above.

43. [13-15982](#)-A-13 RICHARD DIAZ
PLG-1
ALLAN WILLIAMS/MV

MOTION FOR COMPENSATION BY THE
LAW OFFICE OF PRICE LAW GROUP,
APC FOR ALLAN S. WILLIAMS,
DEBTOR'S ATTORNEY(S), FEE:
\$3000.00, EXPENSES: \$0.00
1-3-14 [[19](#)]

ALLAN WILLIAMS/Atty. for dbt.

Tentative Ruling

Application: Interim Compensation and Expenses

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

Disposition: Approved

Order: Prepared by applicant

Applicant: Alan S. Williams for Price Law Group, A.P.C.

Compensation approved: \$4,000.00

Costs approved: \$0.00

Aggregate fees and costs approved: \$4,000.00

Retainer held: \$1,281.00 (includes \$281.00 for the filing fee)

Amount to be paid as administrative expense: \$3,000.00

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

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

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

44. [13-15284](#)-A-13 CRISPIN/SILVIA RODRIGUEZ CONTINUED MOTION TO CONFIRM
DRJ-3 PLAN
CRISPIN RODRIGUEZ/MV 10-8-13 [[23](#)]
DAVID JENKINS/Atty. for dbt.
RESPONSIVE PLEADING
WITHDRAWN,

Final Ruling

Motion: Confirm Chapter 13 Plan

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

Disposition: Granted

Order: Prepared by Chapter 13 trustee, approved by debtor's counsel

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

Chapter 13 plan confirmation is governed by 11 U.S.C. §§ 1322, 1325 and by Federal Rule of Bankruptcy Procedure 2002(b) and Local Bankruptcy Rule 3015-1. The debtor bears the burden of proof as to each element. *In re Barnes*, 32 F.3d 405, 407 (9th Cir. 1994). The court finds that the debtor has sustained that burden, and the court will approve confirmation of the plan.

45. [13-16984](#)-A-13 CLIFFORD HARMON AMENDED ORDER TO SHOW CAUSE -
FAILURE TO PAY FEES
1-10-14 [[43](#)]

Final Ruling

The past due fee paid, the order to show cause is discharged.

46. [13-15989](#)-A-13 BRENDA LOPEZ MOTION TO VALUE COLLATERAL OF
TCS-1 PEOPLE'S CHOICE HOME LOAN, INC.
BRENDA LOPEZ/MV 12-16-13 [[28](#)]
TIMOTHY SPRINGER/Atty. for dbt.

Final Ruling

Motion: Value Collateral [Real Property; Principal Residence]

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

Disposition: Granted

Order: Prepared by the moving party

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). None has been

filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

Chapter 13 debtors may strip off a wholly unsecured junior lien encumbering the debtor's principal residence. 11 U.S.C. §§ 506(a), 1322(b)(2); *In re Lam*, 211 B.R. 36, 40-42 (B.A.P. 9th Cir. 1997); *In re Zimmer*, 313 F.3d 1220, 1222-25 (9th Cir. 2002). A motion to value the debtor's principal residence should be granted upon a threefold showing by the moving party. First, the moving party must proceed by noticed motion. Fed. R. Bankr. P. 3012. Second, the motion must be served on the holder of the secured claim. Fed. R. Bankr. P. 3012, 9014(a); LBR 3015-1(j). Third, the moving party must prove by admissible evidence that the debt secured by liens senior to the responding party's claim exceeds the value of the principal residence. 11 U.S.C. § 506(a); *Lam*, 211 B.R. at 40-42; *Zimmer*, 313 F.3d at 1222-25.

The motion seeks to value real property collateral that is the moving party's principal residence. Because the amount owed to senior lienholders exceeds the value of the collateral, the responding party's claim is wholly unsecured and no portion will be allowed as a secured claim. See 11 U.S.C. § 506(a).

47. [12-60092](#)-A-13 GARY/CHRISTINA STAHL MOTION TO MODIFY PLAN
PLF-1 12-16-13 [[22](#)]
GARY STAHL/MV
PETER FEAR/Atty. for dbt.

Final Ruling

Motion: Confirm Modified Chapter 13 Plan

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

Disposition: Granted

Order: Prepared by Chapter 13 trustee, approved by debtor's counsel

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

Chapter 13 plan confirmation is governed by 11 U.S.C. §§ 1322, 1323, 1325, 1329 and by Federal Rules of Bankruptcy Procedure 2002(a)(5) and 3015(g) and Local Bankruptcy Rule 3015-1. The debtor bears the burden of proof as to each element. *In re Barnes*, 32 F.3d 405, 407 (9th Cir. 1994). The court finds that the debtor has sustained that burden, and the court will approve modification of the plan.

48. [10-18694](#)-A-13 ROSENDO/SILVIA ABARCA MOTION TO MODIFY PLAN
HDN-7 12-12-13 [[274](#)]
ROSENDO ABARCA/MV
HENRY NUNEZ/Atty. for dbt.
RESPONSIVE PLEADING

Final Ruling

Motion: Confirm Modified Chapter 13 Plan

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

Disposition: Granted

Order: Prepared by Chapter 13 trustee, approved by debtor's counsel

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

Chapter 13 plan confirmation is governed by 11 U.S.C. §§ 1322, 1323, 1325, 1329 and by Federal Rules of Bankruptcy Procedure 2002(a)(5) and 3015(g) and Local Bankruptcy Rule 3015-1. The debtor bears the burden of proof as to each element. *In re Barnes*, 32 F.3d 405, 407 (9th Cir. 1994). The court finds that the debtor has sustained that burden, and the court will approve modification of the plan.

49. [13-15898](#)-A-13 WALTER/SHANNON OXBORROW MOTION TO CONFIRM PLAN
JRL-3 12-6-13 [[36](#)]
WALTER OXBORROW/MV
JERRY LOWE/Atty. for dbt.

Final Ruling

Motion: Confirm Chapter 13 Plan

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

Disposition: Granted

Order: Prepared by Chapter 13 trustee, approved by debtor's counsel

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

Chapter 13 plan confirmation is governed by 11 U.S.C. §§ 1322, 1325 and by Federal Rule of Bankruptcy Procedure 2002(b) and Local Bankruptcy Rule 3015-1. The debtor bears the burden of proof as to each element. *In re Barnes*, 32 F.3d 405, 407 (9th Cir. 1994). The court finds that the debtor has sustained that burden, and the court will approve confirmation of the plan.

50. [13-17599](#)-A-13 JUAN/CONCEPCION MARTINEZ MOTION TO VALUE COLLATERAL OF
BDB-1 BANK OF AMERICA, N.A.
JUAN MARTINEZ/MV 12-19-13 [[17](#)]
BENNY BARCO/Atty. for dbt.

Final Ruling

Motion: Value Collateral [Real Property; Principal Residence]

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

Disposition: Granted

Order: Prepared by the moving party pursuant to the instructions in the last paragraph of this ruling

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

Chapter 13 debtors may strip off a wholly unsecured junior lien encumbering the debtor's principal residence. 11 U.S.C. §§ 506(a), 1322(b)(2); *In re Lam*, 211 B.R. 36, 40-42 (B.A.P. 9th Cir. 1997); *In re Zimmer*, 313 F.3d 1220, 1222-25 (9th Cir. 2002). A motion to value the debtor's principal residence should be granted upon a threefold showing by the moving party. First, the moving party must proceed by noticed motion. Fed. R. Bankr. P. 3012. Second, the motion must be served on the holder of the secured claim. Fed. R. Bankr. P. 3012, 9014(a); LBR 3015-1(j). Third, the moving party must prove by admissible evidence that the debt secured by liens senior to the responding party's claim exceeds the value of the principal residence. 11 U.S.C. § 506(a); *Lam*, 211 B.R. at 40-42; *Zimmer*, 313 F.3d at 1222-25.

The motion seeks to value real property collateral that is the moving party's principal residence. Because the amount owed to senior lienholders exceeds the value of the collateral, the responding party's claim is wholly unsecured and no portion will be allowed as a secured claim. See 11 U.S.C. § 506(a).

Given that the responding party holds both the first and second deeds of trust on the collateral, the moving party shall draft the proposed order to specifically identify by book and page number, instrument number, or other identifying information, the second deed of trust subject to this order.

9:15 a.m.

1. [13-16900](#)-A-13 RAUL MARTINEZ
MHM-1
MICHAEL MEYER/MV
JEFFREY ROWE/Atty. for dbt.

MOTION TO DISMISS CASE FOR
FAILURE TO MAKE PLAN PAYMENTS
1-3-14 [[22](#)]

No tentative ruling.

2. [13-16900](#)-A-13 RAUL MARTINEZ
MHM-2
MICHAEL MEYER/MV

MOTION TO DISMISS CASE FOR
UNREASONABLE DELAY THAT IS
PREJUDICIAL TO CREDITORS AND/OR
MOTION TO DISMISS CASE
1-15-14 [[26](#)]

JEFFREY ROWE/Atty. for dbt.

No tentative ruling.

3. [13-17007](#)-A-13 DANNY/LORI CARRELL
MHM-1
MICHAEL MEYER/MV
GEOFFREY ADALIAN/Atty. for dbt.

MOTION TO DISMISS CASE FOR
FAILURE TO MAKE PLAN PAYMENTS
1-3-14 [[30](#)]

No tentative ruling.

4. [13-17008](#)-A-13 JASON/MONA MENDONCA
MHM-1
MICHAEL MEYER/MV
NANCY KLEPAC/Atty. for dbt.

MOTION TO DISMISS CASE FOR
FAILURE TO MAKE PLAN PAYMENTS
1-3-14 [[35](#)]

No tentative ruling.

5. [13-17215](#)-A-13 JULIE GERBERDING
MHM-1
MICHAEL MEYER/MV

MOTION TO DISMISS CASE FOR
UNREASONABLE DELAY THAT IS
PREJUDICIAL TO CREDITORS AND/OR
MOTION TO DISMISS CASE , MOTION
TO DISMISS CASE FOR FAILURE TO
PROVIDE TAX DOCUMENTS
12-27-13 [[26](#)]

Final Ruling

The case dismissed, the matter is dropped as moot.

6. [13-12717](#)-A-13 JESSE/LORENA AVILA
MHM-1
MICHAEL MEYER/MV
OVIDIO OVIEDO/Atty. for dbt.
MICHAEL MEYER/Atty. for mv.

MOTION TO DISMISS CASE FOR
FAILURE TO MAKE PLAN PAYMENTS
1-3-14 [[67](#)]

No tentative ruling.

7. [13-12717](#)-A-13 JESSE/LORENA AVILA
MHM-2
MICHAEL MEYER/MV

MOTION TO DISMISS CASE FOR
UNREASONABLE DELAY THAT IS
PREJUDICIAL TO CREDITORS AND/OR
MOTION TO DISMISS CASE FOR
FAILURE TO PROVIDE TAX
DOCUMENTS , MOTION TO DISMISS
CASE
1-13-14 [[72](#)]

OVIDIO OVIEDO/Atty. for dbt.
MICHAEL MEYER/Atty. for mv.

No tentative ruling.

8. [13-15961](#)-A-13 ROBERT/HOLLY WOODS
MHM-1
MICHAEL MEYER/MV
JOSEPH ARNOLD/Atty. for dbt.

MOTION TO DISMISS CASE FOR
FAILURE TO MAKE PLAN PAYMENTS
1-3-14 [[52](#)]

No tentative ruling.

9. [13-17562](#)-A-13 SAMMY/ALVA MARTINEZ
MHM-1
MICHAEL MEYER/MV

MOTION TO DISMISS CASE FOR
UNREASONABLE DELAY THAT IS
PREJUDICIAL TO CREDITORS AND/OR
MOTION TO DISMISS CASE FOR
FAILURE TO MAKE PLAN PAYMENTS
1-10-14 [[33](#)]

No tentative ruling.

10. [13-16274](#)-A-13 JOSEPH DESROSIERS
MHM-1
MICHAEL MEYER/MV

CONTINUED MOTION TO DISMISS
CASE FOR UNREASONABLE DELAY
THAT IS PREJUDICIAL TO
CREDITORS, MOTION TO DISMISS
CASE FOR FAILURE TO MAKE PLAN
PAYMENTS, MOTION TO DISMISS
CASE FOR FAILURE TO PROVIDE TAX
DOCUMENTS
11-8-13 [[26](#)]

JERRY LOWE/Atty. for dbt.
WITHDRAWN

Final Ruling

The motion withdrawn, the matter is dropped as moot.

11. [13-16274](#)-A-13 JOSEPH DESROSIERS
MHM-2
MICHAEL MEYER/MV

JERRY LOWE/Atty. for dbt.
RESPONSIVE PLEADING

No tentative ruling.

MOTION TO DISMISS CASE FOR
UNREASONABLE DELAY THAT IS
PREJUDICIAL TO CREDITORS AND/OR
MOTION TO DISMISS CASE
1-13-14 [[48](#)]

12. [13-11576](#)-A-13 BENITO/MARTHA GALARZA
MHM-1
MICHAEL MEYER/MV

THOMAS GILLIS/Atty. for dbt.
RESPONSIVE PLEADING

No tentative ruling.

MOTION TO DISMISS CASE FOR
UNREASONABLE DELAY THAT IS
PREJUDICIAL TO CREDITORS AND/OR
MOTION TO DISMISS CASE
12-31-13 [[139](#)]

13. [13-16984](#)-A-13 CLIFFORD HARMON
MHM-1
MICHAEL MEYER/MV

No tentative ruling.

MOTION TO DISMISS CASE FOR
UNREASONABLE DELAY THAT IS
PREJUDICIAL TO CREDITORS ,
MOTION TO DISMISS CASE FOR
FAILURE TO MAKE PLAN PAYMENTS ,
MOTION TO DISMISS CASE FOR
FAILURE TO PROVIDE TAX
DOCUMENTS , MOTION TO DISMISS
CASE
12-26-13 [[37](#)]

14. [13-16385](#)-A-13 GABRIELLE LUNA
MHM-1
MICHAEL MEYER/MV
GEORGE LOGAN/Atty. for dbt.

No tentative ruling.

MOTION TO DISMISS CASE
1-14-14 [[24](#)]

15. [13-16686](#)-A-13 CARLEEN KEMMERLING
MHM-1
MICHAEL MEYER/MV
PETER BUNTING/Atty. for dbt.

No tentative ruling.

MOTION TO DISMISS CASE FOR
FAILURE TO MAKE PLAN PAYMENTS
1-3-14 [[27](#)]

16. [13-16686](#)-A-13 CARLEEN KEMMERLING
MHM-2
MICHAEL MEYER/MV

MOTION TO DISMISS CASE FOR
UNREASONABLE DELAY THAT IS
PREJUDICIAL TO CREDITORS AND/OR
MOTION TO DISMISS CASE
1-14-14 [[34](#)]

PETER BUNTING/Atty. for dbt.

No tentative ruling.

17. [13-15989](#)-A-13 BRENDA LOPEZ
MHM-1
MICHAEL MEYER/MV
TIMOTHY SPRINGER/Atty. for dbt.

MOTION TO DISMISS CASE FOR
FAILURE TO MAKE PLAN PAYMENTS
1-3-14 [[32](#)]

Final Ruling

The motion withdrawn, the matter is dropped as moot.

9:30 a.m.

1. [08-11880](#)-A-13 WAYNE/JONALYN YOUNG
[13-1130](#)
YOUNG ET AL V. BANK OF
AMERICA, N.A. ET AL
PETER FEAR/Atty. for pl.

STATUS CONFERENCE RE: COMPLAINT
11-22-13 [[1](#)]

Final Ruling

The matter is continued to April 3, 2014, at 9:30 a.m. to allow the plaintiff to enter and prove up the default against the defendants. In the event a judgment or dismissal is not in the file, not less than 14 days prior to the continued hearing, the plaintiff shall file a status report.

2. [13-15181](#)-A-13 LINDSAY LEMONS
[13-1124](#)
STORMS ET AL V. LEMONS
GLEN GATES/Atty. for pl.
RESPONSIVE PLEADING

CONTINUED STATUS CONFERENCE RE:
COMPLAINT
11-12-13 [[1](#)]

No tentative ruling.

10:00 a.m.

1. [10-19042](#)-A-12 LUIS/MARIA SOTO MOTION TO MODIFY CHAPTER 12
TOG-13 PLAN
LUIS SOTO/MV 12-10-13 [[163](#)]
THOMAS GILLIS/Atty. for dbt.
CONDITIONAL NON-OPPOSITION

Tentative Ruling

Motion: Motion to Modify Chapter 12 Plan

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

Disposition: Granted

Order: Prepared by moving party

The Debtors have moved to modify their chapter 12 plan, specifically to modify the treatment of Prudential Insurance Company of America's ("Prudential") secured claim. The proposed modified treatment would be in accordance with the Third Addendum Dated September 10, 2013 (attached as Exhibit A to the motion, ECF No. 165).

No parties have filed an opposition. However, Prudential has filed a statement of conditional non-opposition to the motion "provided that the modification of the Plan is in accordance with the Third Addendum and, as such, approves and incorporates the Third Addendum into the Plan as part of the Stipulation and, thereby, the modified Plan provisions concerning Prudential's claim, lien rights and interests." There is no indication that the modified plan would not incorporate the Third Addendum, but if Prudential desires, such express language may be included in and/or the Third Addendum may be attached to the modification order.

Because the court finds that the Debtors have sustained their burden as to each applicable element of confirmation and modification under §§ 1222, 1225, and 1229, the court will grant the motion and approve modification of the plan.

2. [12-19290](#)-A-12 DIMAS/ROSA COELHO CONTINUED PRE-TRIAL CONFERENCE
TOG-7 RE: MOTION TO VALUE COLLATERAL
DIMAS COELHO/MV OF HAMILTON AND JOSEPHINE
SANTOS
5-16-13 [[83](#)]
THOMAS GILLIS/Atty. for dbt.
RESPONSIVE PLEADING

Tentative Ruling

The court will inquire as to the status of the settlement discussed at the prior hearing.