

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

Honorable Fredrick E. Clement
Sacramento Federal Courthouse
501 I Street, 7th Floor
Courtroom 28, Department A
Sacramento, California

DAY: TUESDAY
DATE: FEBRUARY 2, 2021
CALENDAR: 9:00 A.M. CHAPTER 13 CASES

RULINGS

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

"No Ruling" means the likely disposition of the matter will not be disclosed in advance of the hearing. The matter will be called; parties wishing to be heard should rise and be heard.

"Tentative Ruling" means the likely disposition, and the reasons therefor, are set forth herein. The matter will be called. Aggrieved parties or parties for whom written opposition was not required should rise and be heard. Parties favored by the tentative ruling need not appear. Non-appearing parties are advised that the court may adopt a ruling other than that set forth herein without further hearing or notice.

"Final Ruling" means that the matter will be resolved in the manner, and for the reasons, indicated below. The matter will not be called; parties and/or counsel need not appear and will not be heard on the matter.

CHANGES TO PREVIOUSLY PUBLISHED RULINGS

On occasion, the court will change its intended ruling on some of the matters to be called and will republish its rulings. The parties and counsel are advised to recheck the posted rulings after 3:00 p.m. on the next business day prior to the hearing. Any such changed ruling will be preceded by the following bold face text: "[**Since posting its original rulings, the court has changed its intended ruling on this matter**]".

ERRORS IN RULINGS

Clerical errors of an insignificant nature, e.g. nomenclature ("2017 Honda Accord," rather than "2016 Honda Accord"), amounts, ("\$880," not "\$808"), may be corrected in (1) tentative rulings by appearance at the hearing; or (2) final rulings by appropriate ex parte application. Fed. R. Civ. P. 60(a) *incorporated by* Fed. R. Bankr. P. 9024. All other errors, including those occasioned by mistake, inadvertence, surprise or excusable neglect, must be corrected by noticed motion. Fed. R. Bankr. P. 60(b), *incorporated by* Fed. R. Bankr. P. 9023.

1. [21-20100](#)-A-13 **IN RE: JORGE VASQUEZ**
[NSV-1](#)

MOTION TO EXTEND AUTOMATIC STAY
1-18-2021 [\[10\]](#)

NIMA VOKSHORI/ATTY. FOR DBT.

Final Ruling

Motion: Extend the Automatic Stay

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

Disposition: Denied without prejudice

Order: Civil minute order

"If a single or joint case is filed by or against the debtor who is an individual in a case under chapter 7, 11, or 13, and if a...case of the debtor was pending within the preceding 1-year period but was dismissed, other than a case refiled under a chapter under chapter 7... on the motion of a party in interest for continuation of automatic stay and upon notice and hearing, the court may extend the stay in particular cases as to any or all creditors...after notice and hearing completed before the expiration of the 30-day period only if the party in interest demonstrates that the filing of the later case is in good faith as to the creditors to be stayed," 11 U.S.C. § 362(c)(3)(B). The Federal Rules of Bankruptcy Procedure provide no guidance as to the scope of service of such a motion.

But constitutional due process does so. Due process of law requires that defendants be afforded *notice* of proceedings involving their interests and an *opportunity to be heard*. Basically, this requires "notice reasonably calculated, under all the circumstances," to apprise interested parties of pendency of the action and "afford them an opportunity to present their objections." *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306 (1950).

In the motion the debtor requests that "the Court enter an order extending the automatic stay under 11 U.S.C. § 362(a) as to *all* creditors pursuant to 11 U.S.C. § 362(c)(3)(B)," Motion, p. 1, ECF No. 10 (emphasis added). However, numerous creditors have been redacted off the certificate of service, ECF No. 13. The court construes that Deutsche Bank National Trust Company, Select Portfolio Servicing Inc., Jorge Alfredo Vasquez, Select Portfolio Servicing, Inc., Nima S. Vokshori, Community Choice Financial, Portfolio Recovery Associates LLC, Synchrony Bank, and Robert P. Zahradka have not been served. Because the foregoing creditors do not have notice of the hearing, due process has not been satisfied given that creditors have not received "notice reasonably calculated . . . to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections." *SEC v. Ross*, 504 F.3d 1130, 1138 (9th Cir. 2007) (quoting *Mullane v. Cent. Hanover Bank & Trust Co.*, 339 U.S. 306, 314 (1950)). Creditors will be unable to present their objections at a hearing of which they have no notice. For the foregoing reasons, the court will deny the debtor's motion without prejudice.

2. [20-25104](#)-A-13 **IN RE: MARTIN/LINDA GLASENAPP**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES
1-11-2021 [[34](#)]

SCOTT SHUMAKER/ATTY. FOR DBT.
1/13/2021 INSTALLMENT FEE PAID \$154

Final Ruling

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

3. [20-24713](#)-A-13 **IN RE: BONITA BROOKS**
[DPC-1](#)

CONTINUED OBJECTION TO CONFIRMATION OF PLAN BY DAVID P.
CUSICK
11-18-2020 [[22](#)]

MARY TERRANELLA/ATTY. FOR DBT.
RESPONSIVE PLEADING

Tentative Ruling

Objection: Trustee's Objection to Confirmation of Plan
Notice: LBR 3015-1(c)(4), 9014-1(f)(2); written opposition filed
Disposition: Sustained and confirmation denied
Order: Civil minute order

No responding party is required to file written opposition to the objection; opposition may be presented at the hearing. LBR 3015-1(c)(4), 9014-1(f)(2)(C). If opposition is presented at the hearing, the court may rule on the merits or set a briefing schedule. Absent such opposition, the court will adopt this tentative ruling.

11 U.S.C. § 1322(d)

"If the current monthly income of the debtor and the debtor's spouse combined, when multiplied by 12, is less than...in the case of a debtor in a household of 2, 3, or 4 individuals, the highest median family income of the applicable State for a family of the same number or fewer individuals, the plan may not provide for payments over a period that is longer than 3 years, unless the court, for cause, approves a longer period, but the court may not approve a period that is longer than 5 years," 11 U.S.C. § 1322(d).

The debtor's proposed plan is overextended under 11 U.S.C. § 1322(d). Here the plan provides for \$5,400.00 monthly payments for 60 months with 100% to unsecured creditors. However, the IRS filed an amended proof of claim for priority taxes in the amount of \$47,355.72, Claim No. 3-2. The trustee calculates that the plan will

fund in 70 months. The court cannot confirm a chapter 13 plan that funds beyond 60 months and will sustain the trustee's objection under § 1322(d)

11 U.S.C. § 1325(a)(1)

11 U.S.C. § 1325(a)(1) requires that "a plan comply with provisions of this chapter and with other applicable provisions of this title" to be confirmed.

Section 522 of Title 11 allows a debtor (1) to exempt property under § 522(d), unless a state does not so authorize, or (2) to exempt property under state or local law and federal law other than § 522(d). *Id.* § 522(b)(2)-(3)(A), (d). California has opted out of the federal exemption scheme. *Wolfe v. Jacobson (In re Jacobson)*, 676 F.3d 1193, 1198 (9th Cir. 2012) (citations omitted); accord 11 U.S.C. §§ 522(b)(2), 522(b)(3)(A), 522(d); Cal. Civ. Proc. Code §§ 703.010(a), 703.130, 703.140.

Under California exemption law, debtors may elect either the set of special exemptions available only to debtors in bankruptcy under section 703.140(b) of the California Code of Civil Procedure ("special bankruptcy exemptions") or they may elect the regular set of exemptions under Chapter 4 of Part 2, Title 9, Division 2 of the California Code of Civil Procedure excluding the exemptions under section 703.140(b) ("regular non-bankruptcy exemptions"). See Cal. Civ. Proc. Code § 703.140(a). But they may not elect both. See Cal. Civ. Proc. Code § 703.140(a)(1)-(3).

The debtor elected to exempt property in Schedule C under C.C.P. § 704. The debtor however improperly exempted equity in a "Possible Refund of Trustee payments made prior to dismissal consisting of paid earnings" under C.C.P. § 704.070, ECF No. 1. C.C.P. § 704.070 is to exempt paid earnings. The debtor is not employed by the trustee, nor does the trustee pay the debtor in any capacity as an employee. Therefore, the funds exempted are not "paid earnings." The trustee reports that the debtor has not yet amended Schedule C to correct this matter, Status Report, ECF No. 34.

For the foregoing reasons, the court will sustain the trustee's objection.

CIVIL MINUTE ORDER

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

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

The chapter 13 trustee's objection to confirmation has been presented to the court. Having considered the objection, oppositions, responses and replies, if any, and having heard oral argument presented at the hearing,

IT IS ORDERED that the objection is sustained. The court denies confirmation of the chapter 13 plan.

4. [20-25314](#)-A-13 **IN RE: KEVIN BRIDGES**
[DPC-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY DAVID P. CUSICK
1-13-2021 [[14](#)]

MARK WOLFF/ATTY. FOR DBT.

No Ruling

5. [19-23816](#)-A-13 **IN RE: ALEXANDRA TRUE AND DAN DELLETT**
[DJC-1](#)

MOTION TO DISMISS CASE
1-19-2021 [[26](#)]

DIANA CAVANAUGH/ATTY. FOR DBT.

Tentative Ruling

Motion: Dismiss Chapter 13 Case

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

Disposition: Granted

Order: Prepared by the movant

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 1307(b) of the Bankruptcy Code provides that "[o]n request of the debtor at any time, if the case has not been converted under section 706, 1112, or 1208 of this title, the court shall dismiss a case under this chapter. Any waiver of the right to dismiss under this subsection is unenforceable." 11 U.S.C. § 1307(b). For the reasons stated in the motion, the court will dismiss this case.

6. [18-20627](#)-A-13 **IN RE: ANNE HARPER**
[JMC-2](#)

MOTION TO MODIFY PLAN
12-18-2020 [\[77\]](#)

JOSEPH CANNING/ATTY. FOR DBT.
DEBTOR DISMISSED: 12/23/20

Final Ruling

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

7. [20-24128](#)-A-13 **IN RE: JOANNA GOODWIN**
[MMM-1](#)

MOTION TO MODIFY PLAN
12-29-2020 [\[35\]](#)

MOHAMMAD MOKARRAM/ATTY. FOR DBT.
RESPONSIVE PLEADING

Final Ruling

Motion: Modify Chapter 13 Plan

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

Disposition: Granted

Order: Prepared by movant, approved by the trustee

Subject: First Amended Chapter 13 Plan, November 29, 2020

DEFAULT OF RESPONDENT

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

CHAPTER 13 PLAN MODIFICATION

Chapter 13 plan modification is governed by 11 U.S.C. §§ 1322, 1323, 1325, 1329 and by Federal Rules of Bankruptcy Procedure 2002(a)(5) and 3015(g) and Local Bankruptcy Rule 3015-1. "[T]he only limits on modification are those set forth in the language of the Code itself, coupled with the bankruptcy judge's discretion and good judgment in reviewing the motion to modify." *In re Powers*, 202 B.R. 618, 622 (B.A.P. 9th Cir. 1996).

Chapter 13 debtors seeking plan modification have the burden of proving that all requirements of § 1322(a) and (b) and § 1325(a) have been met. See 11 U.S.C. §§ 1322(a)-(b), 1325(a), 1329(b)(1); see also *In re Powers*, 202 B.R. at 622 ("[Section] 1329(b)(1) protects the parties from unwarranted modification motions by ensuring that the proposed modifications satisfy the same standards as required of the initial plan."); see also *In re Barnes*, 32 F.3d 405, 407 (9th Cir. 1994); *In re Andrews*, 49 F.3d 1404, 1408 (9th Cir. 1995).

The court finds that the debtor has sustained this burden of proof. The court will grant the motion and approve the modification.

8. [20-25336](#)-A-13 **IN RE: ROGELIO DE LEON**
[DPC-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY DAVID P. CUSICK
1-13-2021 [\[21\]](#)

ANH NGUYEN/ATTY. FOR DBT.

Final Ruling

Objection: Trustee's Objection to Confirmation of Plan

Notice: LBR 3015-1(c)(4), 9014-1(f)(2); no written opposition required

Disposition: Withdrawn

Order: Civil minute order

Chapter 13 trustee David P. Cusick interposed an objection to the debtor(s)' Chapter 13 plan. LBR 3015-1(c)(4). The debtor(s) responded to the trustee's objection.

DISCUSSION

Federal Rule of Civil Procedure 41 governs the circumstances where a party may withdraw a motion or objection. Fed. R. Civ. P. 41, incorporated by Fed. R. Bankr. P. 7041, 9014(c) (applying rule dismissal of adversary proceedings to contested matters). A motion or objection may be withdrawn without a court order only if it has not been opposed or by stipulation "signed by all parties who have appeared." Fed. R. Civ. P. 41(a)(1)(A). In all other instances, a motion or objection may be withdrawn "only by court order, on terms that the court considers proper." Fed. R. Civ. P. 41(a)(2). Here, the Chapter 13 trustee has signaled his abandonment of his objection. Neither the debtor(s), nor any creditor, has expressed opposition to the withdrawal of the trustee's objection. No unfair prejudice will result from withdrawal of the objection and the court will accede to the trustee's request.

CIVIL MINUTE ORDER

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

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

IT IS ORDERED that the objection is withdrawn.

9. [21-20037](#)-A-13 **IN RE: ANDREW HUNLEY**
[TJW-1](#)

MOTION TO EXTEND AUTOMATIC STAY
1-12-2021 [[10](#)]

TIMOTHY WALSH/ATTY. FOR DBT.
NON-OPPOSITION

No Ruling

10. [19-22839](#)-A-13 **IN RE: RAYMOND/CAROLE CLOUTIER**
[MET-5](#)

MOTION FOR COMPENSATION FOR MARY ELLEN TERRANELLA, DEBTORS
ATTORNEY(S)
12-21-2020 [[78](#)]

MARY TERRANELLA/ATTY. FOR DBT.
RESPONSIVE PLEADING

Final Ruling

Application: Allowance of Compensation and Expense Reimbursement

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

Disposition: Approved

Order: Civil minute order

COMPENSATION AND EXPENSES

In this Chapter 13 case, Mary Ellen Terranella has applied for an allowance of compensation and reimbursement of expenses. The application requests that the court allow compensation in the amount of \$5,355.00 and reimbursement of expenses in the amount of \$0.00.

The applicant filed Form EDC 3-096, *Rights and Responsibilities of Chapter 13 Debtors and Their Attorneys*, "opting in" to the no-look fee approved through plan confirmation, ECF No. 5. The plan also shows the attorney opted in pursuant to Local Bankruptcy Rule 2016-1(c), ECF No. 61. The applicant now seeks additional fees, arguing that the no-look fee is insufficient to fairly compensate the applicant. However, in cases in which the fixed, no-look fee has been approved as part of a confirmed plan, an applicant requesting additional compensation must show that substantial and unanticipated post-confirmation work was necessary. See L.B.R. 2016-1(c).

The court finds that the compensation and expenses sought are reasonable, as the debtor's counsel performed substantial and unanticipated work (i.e. Notice of Death and Motion for Further Administration of Case and Motion to Modify).

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

The court finds that the compensation and expenses sought are reasonable, and the court will approve the application.

CIVIL MINUTE ORDER

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

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

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

IT IS ORDERED that the application is approved. The court allows compensation in the amount of \$5,355.00 and reimbursement of expenses in the amount of \$0.00.

11. [19-24540](#)-A-13 **IN RE: SHEILA BROWN**
[PSB-3](#)

MOTION FOR COMPENSATION BY THE LAW OFFICE OF BAINS LEGAL, PC
FOR PAULDEEP BAINS, DEBTORS ATTORNEY(S)
12-29-2020 [[63](#)]

PAULDEEP BAINS/ATTY. FOR DBT.
RESPONSIVE PLEADING

Final Ruling

Application: Allowance of Compensation and Expense Reimbursement

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

Disposition: Approved

Order: Civil minute order

COMPENSATION AND EXPENSES

In this Chapter 13 case, Pauldeep Bains has applied for an allowance of compensation and reimbursement of expenses. The application

requests that the court allow compensation in the amount of \$1,928.00 and reimbursement of expenses in the amount of \$0.00.

The applicant filed Form EDC 3-096, *Rights and Responsibilities of Chapter 13 Debtors and Their Attorneys*, "opting in" to the no-look fee approved through plan confirmation, ECF No. 4. The plan also shows the attorney opted in pursuant to Local Bankruptcy Rule 2016-1(c), ECF No. 52. The applicant now seeks additional fees, arguing that the no-look fee is insufficient to fairly compensate the applicant. However, in cases in which the fixed, no-look fee has been approved as part of a confirmed plan, an applicant requesting additional compensation must show that substantial and unanticipated post-confirmation work was necessary. See L.B.R. 2016-1(c).

The court finds that the compensation and expenses sought are reasonable, as the debtor's counsel performed substantial and unanticipated work (i.e. debtors receiving a 20% pay reduction and suffering unexpected car repairs, debtors falling behind in payments, counsel defending the debtor in Motion to Dismiss and prosecuting the debtors' Motion to Modify).

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

The court finds that the compensation and expenses sought are reasonable, and the court will approve the application.

CIVIL MINUTE ORDER

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

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

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

IT IS ORDERED that the application is approved. The court allows compensation in the amount of \$1,928.00 and reimbursement of expenses in the amount of \$0.00.

12. [20-24640](#)-A-13 **IN RE: TROY TATE**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES
1-6-2021 [[32](#)]

Tentative Ruling

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

13. [20-22445](#)-A-13 **IN RE: GREG/TERESA REYNOLDS**
[RLC-1](#)

MOTION TO CONFIRM PLAN
12-21-2020 [[41](#)]

STEPHEN REYNOLDS/ATTY. FOR DBT.
RESPONSIVE PLEADING

No Ruling

14. [20-21346](#)-A-13 **IN RE: BENJAMIN/MELISSA RINGER**
[RLC-2](#)

MOTION TO CONFIRM PLAN
12-21-2020 [[65](#)]

STEPHEN REYNOLDS/ATTY. FOR DBT.
RESPONSIVE PLEADING

No Ruling

15. [20-23552](#)-A-13 **IN RE: REGINALD/RAMONA BURTON**
[DPC-6](#)

MOTION TO EXAMINE ATTORNEY FEES
12-23-2020 [[51](#)]

THOMAS MOORE/ATTY. FOR DBT.
DEBTORS DISMISSED: 11/27/2020;
RESPONSIVE PLEADING

No Ruling

16. [19-21258](#)-A-13 **IN RE: TROY EMRY**
[PSB-4](#)

MOTION FOR COMPENSATION FOR PAULDEEP BAINS, DEBTORS
ATTORNEY(S)
12-22-2020 [\[92\]](#)

PAULDEEP BAINS/ATTY. FOR DBT.
NON-OPPOSITION

Final Ruling

Application: Allowance of Compensation and Expense Reimbursement

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

Disposition: Approved

Order: Civil minute order

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

COMPENSATION AND EXPENSES

In this Chapter 13 case, Pauldeep Bains has applied for an allowance of compensation and reimbursement of expenses. The application requests that the court allow compensation in the amount of \$2,217.00 and reimbursement of expenses in the amount of \$0.00.

The applicant filed Form EDC 3-096, *Rights and Responsibilities of Chapter 13 Debtors and Their Attorneys*, "opting in" to the no-look fee approved through plan confirmation, ECF No. 4. The plan also shows the attorney opted in pursuant to Local Bankruptcy Rule 2016-1(c), ECF No. 77. The applicant now seeks additional fees, arguing that the no-look fee is insufficient to fairly compensate the applicant. However, in cases in which the fixed, no-look fee has been approved as part of a confirmed plan, an applicant requesting additional compensation must show that substantial and unanticipated post-confirmation work was necessary. See L.B.R. 2016-1(c).

The court finds that the compensation and expenses sought are reasonable, as the debtor's counsel performed substantial and unanticipated work (i.e. defending the debtors who fell behind in payments due to COVID in Motion to Dismiss and prosecuting the debtors' Motion to Modify).

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

The court finds that the compensation and expenses sought are reasonable, and the court will approve the application.

CIVIL MINUTE ORDER

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

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

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

IT IS ORDERED that the application is approved. The court allows compensation in the amount of \$2,217.00 and reimbursement of expenses in the amount of \$0.00.

17. [17-21160](#)-A-13 **IN RE: LUIS/MELISSA CRUZ DE LA CRUZ**
[TJW-1](#)

CONTINUED MOTION TO CONFIRM SALE OF REAL PROPERTY
12-22-2020 [[54](#)]

STEPHEN MURPHY/ATTY. FOR DBT.
GRANTED ON 1/20/2021

Final Ruling

An Amended Notice of hearing, ECF No. 63, set this motion on calendar January 20, 2021 and the motion was granted. This matter is dropped as moot.

18. [21-20073](#)-A-13 **IN RE: EDGARDO/LETICIA PADAAN**
[DPR-1](#)

MOTION TO EXTEND AUTOMATIC STAY
1-18-2021 [[9](#)]

DAVID RITZINGER/ATTY. FOR DBT.

No Ruling

19. [20-21479](#)-A-13 **IN RE: MARCO/CAROL GOMEZ**
[WW-4](#)

CONTINUED OBJECTION TO CLAIM OF U.S. BANK, N.A., CLAIM
NUMBER 10-1
11-23-2020 [[35](#)]

MARK WOLFF/ATTY. FOR DBT.
RESPONSIVE PLEADING

No Ruling

20. [20-25379](#)-A-13 **IN RE: JOANNE ASPIRAS**
[PLC-2](#)

MOTION TO CONFIRM PLAN
12-18-2020 [[20](#)]

PETER CIANCHETTA/ATTY. FOR DBT.
RESPONSIVE PLEADING

Tentative Ruling

Motion: Confirm Chapter 13 Plan

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

Disposition: Denied

Order: Civil minute order

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). The Chapter 13 trustee opposes the motion, objecting to confirmation.

The debtor has the burden of proving that the plan complies with all statutory requirements of confirmation. *In re Andrews*, 49 F.3d 1404, 1407-08 (9th Cir. 1995); *In re Barnes*, 32 F.3d 405, 407-08 (9th Cir. 1994).

11 U.S.C. § 1325(a)(6)

The plan must be feasible under 11 U.S.C. § 1325(a)(6). The debtor is \$443.34 delinquent. Another payment of \$1,450.00 is due before the hearing. The court will deny confirmation under 11 U.S.C. § 1325(a)(6).

11 U.S.C. § 1325(b)

The debtor has not shown that the plan meets the "best efforts test" under 11 U.S.C. § 1325(b). The debtor is below median income. The trustee notes however that in Amended Schedule I, ECF No. 23, the debtor has "Other Deductions" totaling \$3,361.64, \$2,480.83 for Allotment, SV, \$260.54 for VCS, \$245.70 for TSP Savings, \$229.15 for FSA-HC, and \$147.42 for Roth Ded. The debtor admitted at the meeting

of creditors that she is a government employee and these deductions are voluntary. She also advised that the "Allotment, SV" deduction of \$2,480.83 is for payments of monthly bills, along with payments to her children. Question #13 indicates the allotments pays, in part, "\$140.00 to daughter, \$150.00 to Son, \$100 to Son," ECF No. 23; however, it does not state how many son(s) the debtor supports or if it is a temporary or long term support.

The debtor's amended Schedule J, ECF No. 23, shows the debtor's budget is tight for 5 people. The debtor has not made clear whether the amended Schedule J reflects a budget just for the debtor or whether the adult dependents have their own income and/or contribute additional funds for expenses.

Form 122C-1, ECF No. 1, shows the debtor's gross monthly income as \$0.00 for the last six months. The debtor's Statement of Financial Affairs, question #4 ECF No. 1, indicates that the Debtor's 2020 gross income is \$84,664.52. The debtor has also provided the trustee with several pay advices which indicate she has been working for the federal government and receives wage income during the reporting period. The debtor bears the burden of proving the debtor is actually below median income and that the form is completed correctly, *see In re Andrews*, 49 F.3d 1404, 1407-08 (9th Cir. 1995); *In re Barnes*, 32 F.3d 405, 407-08 (9th Cir. 1994). The debtor failed to show whether she is applying all applicable disposable income toward to plan.

For the foregoing reasons, the court will deny confirmation of the debtor's plan.

CIVIL MINUTE ORDER

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

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

The debtor's motion to confirm a chapter 13 plan has been presented to the court. Having considered the motion together with papers filed in support and opposition to it, and having heard the arguments of counsel, if any, and good cause appearing, presented at the hearing,

IT IS ORDERED that the motion is denied. The court denies confirmation of the chapter 13 plan.

21. [20-25080](#)-A-13 **IN RE: KARAMDEEP SINGH**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES
1-8-2021 [[45](#)]

PETER MACALUSO/ATTY. FOR DBT.

Final Ruling

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

22. [20-25391](#)-A-13 **IN RE: MICHELE DENHAM**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES
1-5-2021 [[16](#)]

PAULDEEP BAINS/ATTY. FOR DBT.
1/7/2021 INSTALLMENT FEE PAID \$79

Final Ruling

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

23. [20-25492](#)-A-13 **IN RE: MARIA DEL SOCORRO/RENE ORTIZ**
[ETW-2](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
1-15-2021 [[23](#)]

PETER MACALUSO/ATTY. FOR DBT.
EDWARD WEBER/ATTY. FOR MV.
YULI HU VS.;
RESPONSIVE PLEADING

No Ruling