

UNITED STATES BANKRUPTCY COURT  
Eastern District of California  
Honorable Jennifer E. Niemann  
Hearing Date: Thursday, February 3, 2022  
Place: Department A – 510 19th Street  
Bakersfield, California

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

*Pursuant to District Court General Order 631, courthouses for the Eastern District of California were reopened to the public effective June 14, 2021.*

*At this time, when in-person hearings in Bakersfield will resume is to be determined. No persons are permitted to appear in court for the time being. All appearances of parties and attorneys shall be telephonic through CourtCall. The contact information for CourtCall to arrange for a phone appearance is: (866) 582-6878.*

**INSTRUCTIONS FOR PRE-HEARING DISPOSITIONS**

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

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

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

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

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

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

1. [21-12401](#)-A-13     **IN RE: TIMOTHY/SHERRY CASTLEBERRY**  
[MHM-1](#)

OBJECTION TO DEBTOR'S CLAIM OF EXEMPTIONS  
12-16-2021    [[14](#)]

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

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

DISPOSITION:        Overruled as moot.

ORDER:                The court will issue an order.

This objection is OVERRULED AS MOOT. The debtors filed an amended Schedule C on January 26, 2022, amending the claimed exemption in the firearms. Doc. #19.

2. [21-10716](#)-A-13     **IN RE: VINOD SAHNI**  
[RSW-1](#)

STATUS CONFERENCE RE: MOTION TO CONFIRM PLAN  
7-1-2021    [[29](#)]

VINOD SAHNI/MV  
ROBERT WILLIAMS/ATTY. FOR DBT.  
RESPONSIVE PLEADING

TENTATIVE RULING:        This matter will proceed as scheduled.

DISPOSITION:        Continued to April 7, 2022, at 9:00 a.m.

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

Based on the joint status report filed on January 27, 2022, Doc. #63, the court is inclined to continue the hearing on the motion to confirm the plan to April 7, 2022, at 9:00 a.m.

3. [18-12923](#)-A-13     **IN RE: JESUS/ROCHELLE PORTILLO**  
[PK-5](#)

CONTINUED MOTION TO MODIFY PLAN  
11-8-2021    [\[87\]](#)

ROCHELLE PORTILLO/MV  
PATRICK KAVANAGH/ATTY. FOR DBT.  
RESPONSIVE PLEADING

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

DISPOSITION:        Denied.

ORDER:                The court will issue an order.

Debtors Jesus Reynaldo Portillo and Rochelle Desiree Portillo (collectively, "Debtors") filed and served this motion to confirm the third modified chapter 13 plan pursuant to Local Rule of Practice ("LBR") 3015-1(d)(2) and set for hearing on January 6, 2022. Doc. ##87-94. The chapter 13 trustee ("Trustee") filed two oppositions to Debtors' motion. Doc. ##108, 110. The court continued this matter to February 3, 2022 and ordered Debtors to file and serve a written response to Trustee's objection by January 20, 2022; or if Debtors elected to withdraw this plan, then Debtors had to file, serve, and set for hearing a confirmable modified plan by January 27, 2022. Doc. #114.

Having reviewed the docket in this case, the court finds Debtors have not voluntarily converted this case to chapter 7 or dismissed this case, and Trustee's objection has not been withdrawn. Further, Debtors have not filed and served any written response to Trustee's objection. Debtors have not filed, served, and set for hearing a confirmable modified plan by the time set by the court.

Accordingly, Debtors' motion to confirm their third modified chapter 13 plan is DENIED on the grounds set forth in Trustee's opposition.

4. [18-14853](#)-A-13     **IN RE: JERRICK/SANDRA BLOCK**  
[RSW-4](#)

MOTION TO MODIFY PLAN  
12-14-2021    [\[65\]](#)

SANDRA BLOCK/MV  
ROBERT WILLIAMS/ATTY. FOR DBT.  
RESPONSIVE PLEADING

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

DISPOSITION:        Continued to March 3, 2022 at 9:00 a.m.

ORDER:                The court will issue an order.

This motion was set for hearing on at least 35 days' notice as required by Local Rule of Practice ("LBR") 3015-1(d)(2). The chapter 13 trustee ("Trustee") filed an objection to the debtors' motion to modify the chapter 13 plan. Tr.'s Opp'n, Doc. #73. Unless this case is voluntarily converted to chapter 7,

dismissed, or Trustee's opposition to confirmation is withdrawn, the debtors shall file and serve a written response no later than February 17, 2022. The response shall specifically address each issue raised in the objection to confirmation, state whether the issue is disputed or undisputed, and include admissible evidence to support the debtors' position. Trustee shall file and serve a reply, if any, by February 24, 2022.

If the debtors elect to withdraw this plan and file a modified plan in lieu of filing a response, then a confirmable modified plan shall be filed, served, and set for hearing, not later than February 24, 2022. If the debtors do not timely file a modified plan or a written response, this motion will be denied on the grounds stated in Trustee's opposition without a further hearing.

5. [21-12758](#)-A-13     **IN RE: CRISTY PAREDES**  
[MHM-1](#)

MOTION TO DISMISS CASE  
12-23-2021    [\[14\]](#)

MICHAEL MEYER/MV  
PETER NISSON/ATTY. FOR DBT.

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

DISPOSITION:        Continued to March 3, 2022 at 9:00 a.m.

ORDER:                The court will issue an order.

Pursuant to the request of the movant, the hearing on the motion to dismiss the case will be continued to March 3, 2022 at 9:00 a.m. Doc. #23.

6. [21-11969](#)-A-13     **IN RE: MAE MAGSBY**  
[MHM-1](#)

CONTINUED MOTION TO DISMISS CASE  
11-2-2021    [\[18\]](#)

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

TENTATIVE RULING:        This matter will proceed as scheduled.

DISPOSITION:        Continued to April 7, 2022, at 9:00 a.m.

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

This motion to dismiss was originally filed by the chapter 13 trustee ("Trustee") on November 2, 2021, and set for hearing on December 9, 2022, at 9:00 a.m. Doc. ##18-21. Trustee moved to dismiss for: (1) unreasonable delay by the debtor that is prejudicial to creditors under 11 U.S.C. § 1307(c)(1); and (2) failure to confirm a chapter 13 plan. Doc. #18. Trustee is unable to submit an order confirming the chapter 13 plan because an order valuing certain property of the debtor has not yet been entered by the court.

The hearing on this matter was continued to February 3, 2022, to track with the hearing on the debtor's motion to value collateral. Doc. #35. A status report filed in connection with the motion to value collateral indicates that the debtor and secured creditor are likely to reach a settlement of the valuation motion. Doc. #41. The hearing on the motion to value collateral will be continued to April 7, 2022, to allow the debtor and secured creditor time to finalize a settlement. See matter number 7, below.

Unless the motion to dismiss is withdrawn, the court is inclined to continue the hearing on Trustee's motion to dismiss to April 7, 2022, at 9:00 a.m.

7. [21-11969](#)-A-13     **IN RE: MAE MAGSBY**  
[RSW-1](#)

CONTINUED MOTION TO VALUE COLLATERAL OF WILMINGTON SAVINGS FUND SOCIETY  
11-24-2021    [\[22\]](#)

MAE MAGSBY/MV  
ROBERT WILLIAMS/ATTY. FOR DBT.  
RESPONSIVE PLEADING

TENTATIVE RULING:            This matter will proceed as scheduled.

DISPOSITION:                Continued to April 7, 2022, at 9:00 a.m.

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

Pursuant to the status report filed on January 27, 2022, Doc. #41, the court is inclined to continue the hearing on the debtor's motion to value collateral to April 7, 2022, at 9:00 a.m., so that the debtor and secured creditor can finalize settlement negotiations.

The parties shall file a joint status report not later than March 31, 2022.

8. [21-12175](#)-A-13     **IN RE: SHANNON SIMPSON**  
[MHM-2](#)

CONTINUED MOTION TO DISMISS CASE  
11-17-2021    [\[22\]](#)

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

TENTATIVE RULING:            This matter will proceed as scheduled.

DISPOSITION:                Granted.

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

This motion to dismiss was originally filed by the chapter 13 trustee ("Trustee") on November 17, 2021 and set for hearing on January 6, 2022 at 9:00 a.m. Doc. ##22-25. Trustee moved to dismiss for: (1) unreasonable delay by the debtor that is prejudicial to creditors under 11 U.S.C. § 1307(c)(1); and (2) failure to make all payments due under the plan, citing 11 U.S.C. § 1307(c)(1) and (4). Doc. #22. This matter will proceed as scheduled.

The hearing on this matter was continued to February 3, 2022 to track with the hearing on the motion to confirm the first modified plan filed by Shannon Elaine Simpson ("Debtor"), the debtor in this chapter 13 case. Doc. #42. The hearing on the confirmation motion is calendared at matter number 9, below, and is tentatively ruled as denied. If Debtor's motion to confirm the plan is denied at the hearing, the court is inclined to grant Trustee's motion to dismiss.

Trustee contends that Debtor has failed to make all payments due under the plan. Doc. #24. At the time the motion to dismiss was filed on November 17, 2021, Debtor was delinquent \$1,103.54. Doc. #24. Based on Trustee's opposition to plan confirmation filed on January 19, 2022, it appears Debtor still has not come current on past due plan payments. Doc. #44.

Under 11 U.S.C. § 1307(c), the court may convert or dismiss a case, whichever is in the best interests of creditors and the estate, for cause. "A debtor's unjustified failure to expeditiously accomplish any task required either to propose or to confirm a chapter 13 plan may constitute cause for dismissal under § 1307(c)(1)." Ellsworth v. Lifescape Med. Assocs., P.C. (In re Ellsworth), 455 B.R. 904, 915 (B.A.P. 9th Cir. 2011). There is "cause" for dismissal under 11 U.S.C. § 1307(c)(1) for unreasonable delay by debtor that is prejudicial to creditors and 11 U.S.C. § 1307(c)(4) for failing to timely make payments due under the plan.

A review of Debtor's Schedules A/B and D shows that Debtor's significant assets, two cars and real property, are over encumbered. Debtor claims exemptions in the remaining assets. Because there is no equity to be realized for the benefit of the estate, dismissal, rather than conversion to chapter 7, is in the best interests of creditors and the estate.

Accordingly, this motion will be GRANTED. This case will be dismissed.

9. [21-12175](#)-A-13      **IN RE: SHANNON SIMPSON**  
[RSW-3](#)

MOTION TO CONFIRM PLAN  
12-23-2021    [\[33\]](#)

SHANNON SIMPSON/MV  
ROBERT WILLIAMS/ATTY. FOR DBT.  
RESPONSIVE PLEADING

TENTATIVE RULING:            This matter will proceed as scheduled.

DISPOSITION:                  Denied.

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

This motion was set for hearing on at least 35 days' notice as required by Local Rule of Practice ("LBR") 3015-1(d)(1). On January 19, 2022, the chapter 13 trustee ("Trustee") filed an objection to the debtor's motion to confirm the chapter 13 plan. Doc. #44. On January 25, 2022, the debtor filed a supplemental declaration explaining adjustments in income and expenses reflected in amended Schedules I & J filed the day before. Doc. #52, 51. The failure of other creditors, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Therefore, the defaults of the above-mentioned parties in interest are entered. This matter will proceed as scheduled.

Shannon Elaine Simpson ("Debtor") filed the First Modified Chapter 13 Plan on December 23, 2021 (the "Plan"). Doc. #37. The Plan calls for monthly payments of \$885 for 60 months, with a 0% dividend to unsecured creditors. Doc. #37. Trustee objects to confirmation of the Plan because Debtor will not be able to make all payments under the plan and comply with the plan, as required by 11 U.S.C. § 1325(a)(6). Doc. #44.

Trustee contends that the Plan payment will need to be increased to \$4,062.35 per month to fund over 60 months. Doc. #44. At the time the objection was submitted, Debtor's Schedules I & J showed that Debtor could support a monthly plan payment of \$3,159.57, although Trustee indicated that amount would still be insufficient. Debtor's supplemental declaration and amended Schedules I & J increased Debtor's expenses, thereby reducing Debtor's monthly net income to \$888.57. Am. Schedules I & J, Doc. #51. While these changes demonstrate why Debtor's monthly Plan payment should not be increased, it fails to address Trustee's objection, which is that the Plan does not pay enough.

Class 1 of the Plan states that a \$60,320.85 arrearage is owed on Debtor's mortgage but does not provide for an arrearage dividend. Class 1 of the Plan also does not provide for any post-petition monthly payment on the mortgage. Neither does the Plan state that Debtor will pay the mortgage payment directly. The nonstandard provision in Section 7 of the Plan states that monthly payments to Class 1 creditors are to begin after Debtor's forbearance ends, but Trustee asserts that monthly payments were to resume in December 2021. As a result, the Plan does not fund in 60 months with a monthly payment of \$885. According to Trustee, to cure the arrearage in 60 months, the arrearage dividend would need to be approximately \$1,005. Doc. #44. It appears that Debtor will not be able to make all payments under the Plan and comply with the Plan, as required by 11 U.S.C. § 1325(a)(6).

On January 31, 2022, U.S. Bank National Association, as Trustee, successor in interest to Bank of America N.A., as Trustee, successor by merger to LaSalle Bank N.A., as Trustee for Merrill Lynch Mortgage Investors Trust, Mortgage Loan Asset-Backed Certificates, Series 2006-RM5 ("Creditor") filed a notice of forbearance. Per the notice, Creditor states that the forbearance on the mortgage starting on September 1, 2021 has been extended through and including the payment due April 1, 2022. Debtor will be required to resume mortgage payments beginning May 1, 2022 and will be required to cure the delinquency created by the forbearance extension period. It does not appear to the court that the extended forbearance increases Debtor's ability to make payments under the Plan and comply with the Plan because the Plan still does not provide for any arrearage dividend or post-petition monthly payment.

Accordingly, the Debtor's motion to confirm the Plan will be DENIED.

10. [21-12384](#)-A-13     **IN RE: JOSEPH SMELTZER**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES  
12-17-2021    [[47](#)]

DISMISSED 1/6/22

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

DISPOSITION:                    Dropped as moot.

NO ORDER REQUIRED.

An order dismissing the case was entered on January 6, 2022. Doc. #62. The Order to Show Cause will be dropped as moot. No appearance is necessary.

11. [17-12991](#)-A-13     **IN RE: TOMMY/JANET SVARE**  
[RSW-4](#)

CONTINUED MOTION TO MODIFY PLAN  
10-27-2021    [[66](#)]

JANET SVARE/MV  
ROBERT WILLIAMS/ATTY. FOR DBT.  
RESPONSIVE PLEADING

NO RULING.

12. [21-12495](#)-A-13     **IN RE: JARED/CHRISTINA HARP**  
[DMG-1](#)

MOTION TO AVOID LIEN OF FINANCIAL CREDIT NETWORK INC.  
12-21-2021    [[23](#)]

CHRISTINA HARP/MV  
D. GARDNER/ATTY. FOR DBT.

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

DISPOSITION:                    Granted.

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

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



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

Jared Christopher Harp and Christina Govan Harp (collectively, "Debtors"), the debtors in this chapter 13 case, move pursuant to 11 U.S.C. § 522(f) and Federal Rules of Bankruptcy Procedure 4003(d) and 9014 to avoid the judicial lien of Financial Credit Network Inc. ("Creditor") on their residential real property commonly referred to as 820 Philippine St., Taft, CA 93268 (the "Property"). Doc. #23; Schedule C, Doc. #9.

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

Debtors filed their bankruptcy petition on October 26, 2021. A judgment was entered against Debtors in the amount of \$7,202.82 in favor of Creditor on September 1, 2021. Ex. A, Doc. #25. The abstract of judgment was recorded pre-petition in Kern County on September 15, 2021 as document number 221175302. Ex. A, Doc. #25. The lien attached to Debtors' interest in the Property located in Kern County. Doc. #26. The Property also is encumbered by a lien in favor of Guild Mortgage in the amount of \$198,989.40. Schedule D, Doc. #9. Debtors claimed an exemption of \$129,710.60 in the Property under California Code of Civil Procedure § 704.730. Schedule C, Doc. #9. Debtors assert a market value for the Property as of the petition date at \$328,700.00. Am. Schedule A/B, Doc. #28.

Applying the statutory formula:

Amount of Creditor's judicial lien		\$7,202.82
Total amount of all other liens on the Property (excluding junior judicial liens)	+	198,989.40
Amount of Debtors' claim of exemption in the Property	+	129,710.60
		\$335,902.82
Value of Debtors' interest in the Property absent liens	-	328,700.00
Amount Creditor's lien impairs Debtors' exemption		\$7,202.82

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

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

13. [21-12495](#)-A-13     **IN RE: JARED/CHRISTINA HARP**  
[DMG-2](#)

MOTION TO CONFIRM PLAN  
12-30-2021    [\[29\]](#)

CHRISTINA HARP/MV  
D. GARDNER/ATTY. FOR DBT.  
RESPONSIVE PLEADING

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

DISPOSITION:     Continued to March 3, 2022 at 9:00 a.m.

ORDER:             The court will issue an order.

This motion was set for hearing on at least 35 days' notice as required by Local Rule of Practice ("LBR") 3015-1(d)(1). The chapter 13 trustee ("Trustee") filed an objection to the debtors' motion to confirm the Chapter 13 plan. Tr.'s Opp'n, Doc. #37. Unless this case is voluntarily converted to chapter 7, dismissed, or Trustee's opposition to confirmation is withdrawn, the debtors shall file and serve a written response no later than February 17, 2022. The response shall specifically address each issue raised in the objection to confirmation, state whether the issue is disputed or undisputed, and include admissible evidence to support the debtors' position. Trustee shall file and serve a reply, if any, by February 24, 2022.

If the debtors elect to withdraw this plan and file a modified plan in lieu of filing a response, then a confirmable modified plan shall be filed, served, and set for hearing, not later than February 24, 2022. If the debtors do not timely file a modified plan or a written response, this motion will be denied on the grounds stated in Trustee's opposition without a further hearing.

14. [21-12296](#)-A-13     **IN RE: ISTVAN/MARGIT MAJOROS**  
[EAT-1](#)

CONTINUED OBJECTION TO CONFIRMATION OF PLAN BY NEW RESIDENTIAL  
MORTGAGE LOAN TRUST 2018-1  
11-9-2021    [\[30\]](#)

NEW RESIDENTIAL MORTGAGE LOAN TRUST 2018-1/MV  
PHILLIP GILLET/ATTY. FOR DBT.  
CASSANDRA RICHEY/ATTY. FOR MV.

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

DISPOSITION:     Overruled as moot.

ORDER:             The court will issue an order.

This objection is OVERRULED AS MOOT. The debtor filed a modified plan on December 23, 2021 (PWG-1, Doc. #54), with a motion to confirm the modified plan set for hearing on February 3, 2022 at 9:00 a.m., matter number 15, below. Doc. ##50-56.

15. [21-12296](#)-A-13     **IN RE: ISTVAN/MARGIT MAJOROS**  
[PWG-1](#)

MOTION TO CONFIRM PLAN  
12-23-2021    [\[50\]](#)

MARGIT MAJOROS/MV  
PHILLIP GILLET/ATTY. FOR DBT.

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

DISPOSITION:     Continued to March 10, 2022 at 9:30 a.m.

ORDER:             The court will issue an order.

Pursuant to the request of the chapter 13 trustee, the hearing on the motion to confirm plan will be continued to March 10, 2022 at 9:30 a.m. Doc. #57. The meeting of creditors is scheduled for March 8, 2022.

16. [21-12496](#)-A-13     **IN RE: VANESSA GARCIA AMPARANO**  
[MHM-1](#)

CONTINUED OBJECTION TO CONFIRMATION OF PLAN BY TRUSTEE MICHAEL H. MEYER  
12-14-2021    [\[16\]](#)

D. GARDNER/ATTY. FOR DBT.

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

DISPOSITION:     Overruled as moot.

ORDER:             The court will issue an order.

This objection is OVERRULED AS MOOT. The debtor filed a modified plan on January 14, 2022 (DMG-1, Doc. #28), with a motion to confirm the modified plan set for hearing on February 24, 2022 at 9:30 a.m. Doc. ##26-30.

1. [21-10530](#)-A-7     **IN RE: CHRISTOPHER METAS**  
[EJT-1](#)

CONTINUED OBJECTION TO CLAIM OF MELAINE METAS, CLAIM NUMBER 8  
11-24-2021    [[47](#)]

LAW OFFICE OF EDWARD J. THOMAS/MV  
LEONARD WELSH/ATTY. FOR DBT.  
EDWARD THOMAS/ATTY. FOR MV.

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

DISPOSITION:     Continued to August 4, 2022 at 10:00 a.m.

NO ORDER REQUIRED.

On February 2, 2022, the court issued an order approving a stipulation to continue the hearing on the objection to claim as a status conference set for August 4, 2022 at 10:00 a.m. Doc. #62.

The parties shall file and serve a joint status conference statement not later than July 28, 2022.

2. [16-11458](#)-A-7     **IN RE: WILLIAM/PHYLLIS STANE**  
[DMG-4](#)

MOTION FOR COMPENSATION FOR D. MAX GARDNER, TRUSTEES ATTORNEY(S)  
1-13-2022    [[64](#)]

VINCENT GORSKI/ATTY. FOR DBT.

TENTATIVE RULING:     This matter will proceed as scheduled.

DISPOSITION:     Granted.

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

This motion was filed and served on at least 21 days' notice prior to the hearing date pursuant to Federal Rule of Bankruptcy Procedure 2002 and Local Rule of Practice ("LBR") 9014-1(f)(2) and will proceed as scheduled. Unless opposition is presented at the hearing, the court intends to enter the respondents' defaults and grant the motion. If opposition is presented at the hearing, the court will consider the opposition and whether further hearing is proper pursuant to LBR 9014-1(f)(2). The court will issue an order if a further hearing is necessary.

D. Max Gardner, Attorney at Law ("Movant"), attorney for chapter 7 trustee Jeffrey M. Vetter ("Trustee"), requests allowance of final compensation and reimbursement for expenses for services rendered June 15, 2021 through February 3, 2022. Doc. #64. Movant provided legal services valued at \$4,420.00, and requests compensation for that amount. Doc. #64. Movant requests

reimbursement for expenses in the amount of \$86.15. Doc. #64. This is Movant's first and final fee application.

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

Movant's services included, without limitation: (1) providing counsel to Trustee as to the administration of the chapter 7 case; (2) preparing objection to claim of exemption; and (3) preparing and filing employment and fee applications. Decl. of D. Max Gardner, Doc. #66; Ex. A, Doc. #67. Trustee has reviewed the application and has no objection. Doc. #73. The court finds the compensation and reimbursement sought are reasonable, actual, and necessary.

This motion is GRANTED on a final basis. The court allows final compensation in the amount of \$4,420.00 and reimbursement for expenses in the amount of \$86.15. Trustee is authorized to make a combined payment of \$4,506.15, representing compensation and reimbursement, to Movant. Trustee is authorized to pay the amount allowed by this order from available funds only if the estate is administratively solvent and such payment is consistent with the priorities of the Bankruptcy Code.

3. [19-14772](#)-A-7     **IN RE: ELECTRICAL POWER SERVICES, INC.**  
[JMV-2](#)

MOTION FOR COMPENSATION FOR JEFFREY M. VETTER, CHAPTER 7 TRUSTEE(S)  
12-28-2021    [\[58\]](#)

JEFFREY VETTER/MV  
D. GARDNER/ATTY. FOR DBT.  
LISA HOLDER/ATTY. FOR MV.

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

DISPOSITION:     Granted.

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

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

Jeffrey M. Vetter ("Trustee"), the chapter 7 trustee, requests an allowance of final compensation and reimbursement for expenses for services rendered as the chapter 7 trustee in this case. Doc. #58. Movant provided services as trustee valued at \$10,093.81, and requests compensation for that amount. Doc. #58. Movant requests reimbursement for expenses in the amount of \$368.55. Doc. #58. Since being appointed to this case on November 15, 2019, Trustee administered the estate, employed counsel and accountants, disposed of estate property, reviewed and reconciled financial records, and prepared final filings. Exs., Doc. #61.

Section 330(a)(1) of the Bankruptcy Code authorizes "reasonable compensation for actual, necessary services rendered" and "reimbursement for actual, necessary expenses" to a chapter 7 trustee. 11 U.S.C. § 330(a)(1). In determining the amount of reasonable compensation to be awarded a chapter 7 trustee, the court shall treat such compensation as a commission, based on § 326 of the Bankruptcy Code. 11 U.S.C. § 330(a)(7). Here, Trustee demonstrates reasonable compensation in accordance with the statutory framework of § 326. Exs. A-C, Doc. #61. Further, the court finds Trustee's services and requested expenses were actual and necessary to the administration of this estate.

This motion is GRANTED. The court allows statutory compensation in the amount of \$10,093.81 and reimbursement for expenses in the amount of \$368.55.

10:30 AM

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

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

LEONARD WELSH/ATTY. FOR DBT.

NO RULING.

11:00 AM

1. [21-10425](#)-A-7     **IN RE: WAMIDH AL KAJAJI**  
[21-1028](#)

PRE-TRIAL CONFERENCE RE: AMENDED COMPLAINT  
8-31-2021    [[11](#)]

SMAHA LAW GROUP, APC V. KAJAJI ET AL  
KRISTEN FRITZ/ATTY. FOR PL.  
RESPONSIVE PLEADING

NO RULING.