

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

Honorable Fredrick E. Clement
Fresno Federal Courthouse
2500 Tulare Street, 5th Floor
Courtroom 11, Department A
Fresno, California

PRE-HEARING DISPOSITIONS

DAY: WEDNESDAY

DATE: FEBRUARY 5, 2020

CALENDAR: 3:00 P.M. CHAPTERS 13 AND 12 CASES

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

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

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

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

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

1. [19-13900](#)-A-13 **IN RE: JADE LOWY**
[MHM-2](#)

MOTION TO DISMISS CASE
1-7-2020 [[34](#)]

MICHAEL MEYER/MV
DAVID JENKINS/ATTY. FOR DBT.

Final Ruling

Motion: Dismiss Case

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

Disposition: Granted

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 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).

CASE DISMISSAL

The trustee moves to dismiss this chapter 13 case. For the reasons stated in the motion, cause exists under § 1307(c)(1) to dismiss the case. The debtor has failed to confirm a plan within a reasonable time. The case has been pending for approximately 4.5 months, yet a plan has not been confirmed. This constitutes unreasonable delay by the debtor that is prejudicial to creditors. The court will dismiss the case.

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 trustee's motion to dismiss this chapter 13 case has been presented to the court. Having entered the default of respondent debtor for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the motion,

IT IS ORDERED that the motion is granted. The court hereby dismisses this case.

2. [19-14104](#)-A-13 **IN RE: JOSE CEDANO**
[MHM-3](#)

MOTION TO DISMISS CASE
12-18-2019 [[39](#)]

MICHAEL MEYER/MV
MARK ZIMMERMAN/ATTY. FOR DBT.

Final Ruling.

This motion having been withdrawn, the court will drop this motion from the calendar as moot.

3. [19-14104](#)-A-13 **IN RE: JOSE CEDANO**
[MHM-4](#)

MOTION TO DISMISS CASE
1-6-2020 [[45](#)]

MICHAEL MEYER/MV
MARK ZIMMERMAN/ATTY. FOR DBT.

Final Ruling

Motion: Dismiss Case

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

Disposition: Granted

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 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).

CASE DISMISSAL

The chapter 13 trustee moves to dismiss this chapter 13 case for a delinquency in payments under the debtor's proposed chapter 13 plan. For the reasons stated in the motion, cause exists under § 1307(c)(1), (c)(4) and § 1326(a)(1)(A) to dismiss the case. Payments under the proposed plan are delinquent in the amount of \$1,365.10.

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 trustee's motion to dismiss this chapter 13 case has been presented to the court. Having entered the default of respondent debtor for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the motion,

IT IS ORDERED that the motion is granted because of the delinquency under the proposed chapter 13 plan in this case. The court hereby dismisses this case.

4. [19-14904](#)-A-13 **IN RE: CHRISTINE BOHLANDER**
[MHM-1](#)

MOTION TO DISMISS CASE
1-7-2020 [[15](#)]

MICHAEL MEYER/MV
STEVEN ALPERT/ATTY. FOR DBT.

Final Ruling.

This motion having been withdrawn, the court will drop this motion from the calendar as moot.

5. [19-13109](#)-A-13 **IN RE: IVAN JARA AND CRYSTAL ORTIZ**
[MHM-1](#)

MOTION TO DISMISS CASE
1-2-2020 [[58](#)]

MICHAEL MEYER/MV
MARK ZIMMERMAN/ATTY. FOR DBT.
RESPONSIVE PLEADING

No Ruling

6. [19-14820](#)-A-13 **IN RE: JOHN LOWE**
[MHM-1](#)

MOTION TO DISMISS CASE
1-2-2020 [[35](#)]

MICHAEL MEYER/MV
PETER BUNTING/ATTY. FOR DBT.
RESPONSIVE PLEADING

Final Ruling.

This motion having been withdrawn, the court will drop this motion from the calendar as moot.

7. [19-14128](#)-A-13 **IN RE: LARNELL/JONI AUSTIN**
[SLL-2](#)

MOTION FOR COMPENSATION BY THE LAW OFFICE OF STEPHEN LABIAK
FOR STEPHEN LABIAK, DEBTORS ATTORNEY(S)
12-19-2019 [[24](#)]

STEPHEN LABIAK/ATTY. FOR DBT.

Final Ruling

Application: Allowance of Interim Compensation and Expense Reimbursement

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

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, Stephen L. Labiak has applied for an allowance of interim compensation and reimbursement of expenses. The application requests that the court allow compensation in the amount of \$8,265.00 and reimbursement of expenses in the amount of \$66.88.

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 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.

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.

Stephen L. Labiak's application for allowance of interim 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 on an interim basis. The court allows interim compensation in the amount of \$8,265.00 and reimbursement of expenses in the amount of \$66.88. The aggregate allowed amount equals \$8,331.88. As of the date of the application, the applicant held a retainer in the amount of \$0.00. The amount of \$8,331.88 shall be allowed as an administrative expense to be paid through the plan, and the remainder of the allowed amounts, if any, shall be paid from the retainer held by the applicant. The applicant is authorized to draw on any retainer held.

IT IS FURTHER ORDERED that the fees and costs are allowed pursuant to 11 U.S.C. § 331 as interim fees and costs, subject to final review and allowance pursuant to 11 U.S.C. § 330. Such allowed amounts shall be perfected, and may be adjusted, by a final application for allowance of compensation and reimbursement of expenses, which shall be filed prior to case closure.

IT IS FURTHER ORDERED that the trustee is authorized to pay the fees allowed by this order from the available funds of the plan in a manner consistent with the terms of the confirmed plan.

8. [19-14337](#)-A-13 **IN RE: DONNA REYNA**
[MHM-2](#)

MOTION TO DISMISS CASE
1-2-2020 [[29](#)]

MICHAEL MEYER/MV
JAMES CANALEZ/ATTY. FOR DBT.

Final Ruling

Motion: Dismiss Case

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

Disposition: Granted

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 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).

CASE DISMISSAL

The trustee moves to dismiss this chapter 13 case. For the reasons stated in the motion, cause exists under § 1307(c)(1) to dismiss the case. The debtor has failed to confirm a plan within a reasonable time. The case has been pending for approximately 3.5 months, yet a plan has not been confirmed.

Debtor also did not file complete and accurate Schedules H, I and J in accordance with § 521.

This constitutes unreasonable delay by the debtor that is prejudicial to creditors. The court will dismiss the case.

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 trustee's motion to dismiss this chapter 13 case has been presented to the court. Having entered the default of respondent debtor for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the motion,

IT IS ORDERED that the motion is granted. The court hereby dismisses this case.

9. [19-14337](#)-A-13 **IN RE: DONNA REYNA**
[MHM-3](#)

OBJECTION TO DEBTOR'S CLAIM OF EXEMPTIONS
1-7-2020 [[34](#)]

MICHAEL MEYER/MV
JAMES CANALEZ/ATTY. FOR DBT.

Final Ruling.

This case having been dismissed (Item 8), the court will drop this motion from the calendar as moot.

10. [20-10037](#)-A-13 **IN RE: CARLOS PADILLA**
[SL-1](#)

MOTION TO EXTEND AUTOMATIC STAY
1-16-2020 [[9](#)]

CARLOS PADILLA/MV
SCOTT LYONS/ATTY. FOR DBT.

Final Ruling

This case having been dismissed on January 27, 2020, the court will drop this matter from the calendar as moot.

11. [19-14739](#)-A-13 **IN RE: MARIA RODRIGUEZ**
[MHM-1](#)

MOTION TO DISMISS CASE
1-2-2020 [[15](#)]

MICHAEL MEYER/MV
MARK ZIMMERMAN/ATTY. FOR DBT.
WITHDRAWN

Final Ruling

The motion having been withdrawn, the matter is dropped as moot.

12. [19-13841](#)-A-13 **IN RE: LOTTIE STEWART**
[JDR-2](#)

OBJECTION TO CLAIM OF SFM-6, LLC, CLAIM NUMBER 10
12-17-2019 [[25](#)]

LOTTIE STEWART/MV
JEFFREY ROWE/ATTY. FOR DBT.

Final Ruling

This objection has been re-noticed for March 18, 2020, at 3:00 p.m.
and the matter is continued to that hearing date time.

13. [19-14541](#)-A-13 **IN RE: MOSES/SONIA MALDONADO**
[MHM-2](#)

MOTION TO DISMISS CASE
1-7-2020 [[19](#)]

MICHAEL MEYER/MV
JEFFREY MEISNER/ATTY. FOR DBT.
RESPONSIVE PLEADING

No Ruling

14. [19-14442](#)-A-13 **IN RE: ANTONIO CASTANEDA**
[MHM-2](#)

MOTION TO DISMISS CASE
1-6-2020 [[22](#)]

MICHAEL MEYER/MV
THOMAS GILLIS/ATTY. FOR DBT.

Final Ruling.

This motion having been withdrawn, the court will drop this motion
from the calendar as moot.

15. [19-14442](#)-A-13 **IN RE: ANTONIO CASTANEDA**
[MHM-3](#)

MOTION TO DISMISS CASE
1-8-2020 [[28](#)]

MICHAEL MEYER/MV
THOMAS GILLIS/ATTY. FOR DBT.
WITHDRAWN

Final Ruling

The motion having been withdrawn, the matter is dropped as moot.

16. [16-12147](#)-A-13 **IN RE: ANTONIO/MARIA NAVARRO**
[MRG-5](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
1-2-2020 [[131](#)]

US BANK TRUST N.A./MV
MATTHEW GRECH/ATTY. FOR DBT.
KRISTIN ZILBERSTEIN/ATTY. FOR MV.

Tentative Ruling

Motion: Stay Relief

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

Disposition: Denied as moot

Order: Civil minute order

Federal courts have no authority to decide moot questions. *Arizonans for Official English v. Arizona*, 520 U.S. 43, 67-68, 72 (1997). "Mootness has been described as the doctrine of standing set in a time frame: The requisite personal interest that must exist at the commencement of the litigation (standing) must continue throughout its existence (mootness)." *Id.* at 68 n.22 (quoting *U.S. Parole Comm'n v. Geraghty*, 445 U.S. 388, 397 (1980)) (internal quotation marks omitted).

The confirmed chapter 13 plan in this case provides for the movant's claim in Class 4. Class 4 secured claims are long-term claims that mature after the completion of the plan's term. They are not modified by the plan, and they are not in default as of the filing of the petition. They are paid directly by the debtor or a third party. Section 3.11(a) of the plan provides: Upon confirmation of the plan, the automatic stay of 11 U.S.C. § 362(a) and the co-debtor stay of 11 U.S.C. § 1301(a) are . . . modified to allow the holder of a Class 4 secured claim to exercise its rights against its collateral and any nondebtor in the event of a default under applicable law or contract"

Because the plan has been confirmed, the automatic stay has already been modified to allow the moving party to exercise its rights

against its collateral. No effective relief can be awarded. The movant's personal interest in obtaining relief from the stay no longer exists because the stay no longer affects its collateral. The motion will be denied as moot.

17. [19-14249](#)-A-13 **IN RE: GUILLERMO DE LA ISLA**
[MHM-2](#)

MOTION TO DISMISS CASE
1-2-2020 [[37](#)]

MICHAEL MEYER/MV
JAMES CANALEZ/ATTY. FOR DBT.

Final Ruling

Motion: Dismiss Case

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

Disposition: Granted

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 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).

CASE DISMISSAL

The trustee moves to dismiss this chapter 13 case. For the reasons stated in the motion, cause exists under § 1307(c)(1) to dismiss the case. The debtor has failed to confirm a plan within a reasonable time. The case has been pending for approximately 4 months, yet a plan has not been confirmed.

Debtor has also not provided the requested verification of his social security number. 11 U.S.C. § 521(a)(3)(4).

This constitutes unreasonable delay by the debtor that is prejudicial to creditors. The court will dismiss the case.

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 trustee's motion to dismiss this chapter 13 case has been presented to the court. Having entered the default of respondent

debtor for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the motion,

IT IS ORDERED that the motion is granted. The court hereby dismisses this case.

18. [19-14755](#)-A-13 **IN RE: ANTHONY SMITH**
[MHM-2](#)

MOTION TO DISMISS CASE
1-8-2020 [[18](#)]

MICHAEL MEYER/MV
JEFFREY MEISNER/ATTY. FOR DBT.
RESPONSIVE PLEADING

No Ruling

19. [19-15362](#)-A-13 **IN RE: CHARLES THOMPSON**
[ETW-1](#)

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

NEAL HORN/MV
EDWARD WEBER/ATTY. FOR MV.
DISMISSED 1/17/2020

Final Ruling

This case having been dismissed, the court will drop this matter from the calendar as moot.

20. [19-14571](#)-A-13 **IN RE: AURORA FERRELL**
[MHM-2](#)

MOTION TO DISMISS CASE
1-6-2020 [[21](#)]

MICHAEL MEYER/MV
TIMOTHY SPRINGER/ATTY. FOR DBT.

Final Ruling

Motion: Dismiss Case

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

Disposition: Granted

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 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).

CASE DISMISSAL

The chapter 13 trustee moves to dismiss this chapter 13 case for a delinquency in payments under the debtor's proposed chapter 13 plan. For the reasons stated in the motion, cause exists under § 1307(c)(1), (c)(4) and § 1326(a)(1)(A) to dismiss the case. Payments under the proposed plan are delinquent in the amount of \$724.00.

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 trustee's motion to dismiss this chapter 13 case has been presented to the court. Having entered the default of respondent debtor for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the motion,

IT IS ORDERED that the motion is granted because of the delinquency under the proposed chapter 13 plan in this case. The court hereby dismisses this case.

21. [19-14971](#)-A-13 **IN RE: JAVIER/OLGA RODRIGUEZ**
[MHM-2](#)

MOTION TO DISMISS CASE
1-8-2020 [[24](#)]

MICHAEL MEYER/MV
THOMAS GILLIS/ATTY. FOR DBT.

Final Ruling

Motion: Dismiss Case

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

Disposition: Granted

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 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).

CASE DISMISSAL

The debtor has failed to provide the trustee with required or requested documents. See 11 U.S.C. § 521(a)(3)-(4). Trustee requested and Debtor failed to provide documents supporting disposable income.

For the reasons stated in the motion, cause exists to dismiss the case. *Id.* § 1307(c)(1).

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 trustee's motion to dismiss has been presented to the court. Having entered the default of the respondent debtor for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the motion,

IT IS ORDERED that the motion is granted for unreasonable delay by the debtor that is prejudicial to creditors. The court hereby dismisses this case.

22. [14-13974](#)-A-13 **IN RE: FERNANDO POO AND PALOMA HERNANDEZ**
[CDR-2](#)

OBJECTION TO NOTICE OF INTENT TO ENTER DISCHARGE BY CREDITOR
FRANCHISE TAX BOARD
12-20-2019 [[159](#)]

THOMAS GILLIS/ATTY. FOR DBT.
RESPONSIVE PLEADING

Final Ruling

This case having been dismissed on 1/25/20, the Objection is dropped as moot.

23. [19-14977](#)-A-13 **IN RE: JOSE/MARIA CHAVARRIA**
[MHM-1](#)

MOTION TO DISMISS CASE
1-2-2020 [[17](#)]

MICHAEL MEYER/MV
MARK ZIMMERMAN/ATTY. FOR DBT.
RESPONSIVE PLEADING

Final Ruling.

This motion having been withdrawn, the court will drop this motion from the calendar as moot.

24. [19-14578](#)-A-13 **IN RE: STEVE/SANDY GONZALES**
[MHM-3](#)

OBJECTION TO DEBTOR'S CLAIM OF EXEMPTIONS
1-7-2020 [[37](#)]

MICHAEL MEYER/MV
THOMAS MOORE/ATTY. FOR DBT.

Final Ruling

This Objection having been withdrawn, the matter is dropped as moot.

25. [19-12679](#)-A-13 **IN RE: NAEEM/SAIMA QARNI**
[NEA-4](#)

MOTION TO CONFIRM PLAN
12-18-2019 [[194](#)]

NAEEM QARNI/MV
NICHOLAS ANIOTZBEHERE/ATTY. FOR DBT.
RESPONSIVE PLEADING

No Ruling

26. [19-15179](#)-A-13 **IN RE: ANGELA VALENCIA**
[PBB-1](#)

MOTION TO VALUE COLLATERAL OF CONSUMER PORTFOLIO SERVICES,
INC.
12-30-2019 [[9](#)]

ANGELA VALENCIA/MV
PETER BUNTING/ATTY. FOR DBT.

Final Ruling

Motion: Value Collateral [Personal Property; Motor Vehicle]

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

Disposition: Granted

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 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 respondent 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).

VALUATION OF COLLATERAL

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 described as a 2017 Nissan Sentra. The debt secured by the vehicle was not incurred within the 910-day period preceding the date of the petition. The court values the vehicle at \$12,714.00.

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 value collateral consisting of a motor vehicle 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 motion,

IT IS ORDERED that the motion is granted. The personal property collateral described as a 2017 Nissan Sentra has a value of \$12,714.00. No senior liens on the collateral have been identified. The respondent has a secured claim in the amount of \$12,714.00 equal to the value of the collateral that is unencumbered by senior liens. The respondent has a general unsecured claim for the balance of the claim.

27. [20-10188](#)-A-12 **IN RE: MIKE WEBER**
[DRJ-1](#)

MOTION TO EXTEND AUTOMATIC STAY
1-22-2020 [\[9\]](#)

MIKE WEBER/MV
DAVID JENKINS/ATTY. FOR DBT.

Final Ruling

This case being a Chapter 12, 11 U.S.C. § 362(c)(3) evaporative provisions are inapplicable to this case. The court will deny this motion as moot.

28. [19-11493](#)-A-13 **IN RE: KENNETH/LAVERNE BRISTER**
[TCS-2](#)

MOTION FOR COMPENSATION BY THE LAW OFFICE OF TIMOTHY C.
SPRINGER DEBTORS ATTORNEY(S)
1-3-2020 [[49](#)]

TIMOTHY SPRINGER/ATTY. FOR DBT.

Final Ruling

Application: Allowance of Interim Compensation and Expense
Reimbursement

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

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, Timothy C. Springer has applied for an allowance of interim compensation and reimbursement of expenses. The application requests that the court allow compensation in the amount of \$8,565.00 and reimbursement of expenses in the amount of \$0.00.

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 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.

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.

Timothy C. Springer's application for allowance of interim 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 on an interim basis. The court allows interim compensation in the amount of \$8,565.00 and reimbursement of expenses in the amount of \$0.00. The aggregate allowed amount equals \$8,565.00. As of the date of the application, the applicant held a retainer in the amount of \$0.00. The amount of \$8,565.00 shall be allowed as an administrative expense to be paid through the plan, and the remainder of the allowed amounts, if any, shall be paid from the retainer held by the applicant. The applicant is authorized to draw on any retainer held.

IT IS FURTHER ORDERED that the fees and costs are allowed pursuant to 11 U.S.C. § 331 as interim fees and costs, subject to final review and allowance pursuant to 11 U.S.C. § 330. Such allowed amounts shall be perfected, and may be adjusted, by a final application for allowance of compensation and reimbursement of expenses, which shall be filed prior to case closure.

IT IS FURTHER ORDERED that the trustee is authorized to pay the fees allowed by this order from the available funds of the plan in a manner consistent with the terms of the confirmed plan.