

**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: THURSDAY
DATE: FEBRUARY 11, 2016
CALENDAR: 9:00 A.M. CHAPTERS 13 AND 12 CASES

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.

ORAL ARGUMENT

For matters that are called, the court may determine in its discretion whether the resolution of such matter requires oral argument. See *Morrow v. Topping*, 437 F.2d 1155, 1156-57 (9th Cir. 1971); accord LBR 9014-1(h). When the court has published a tentative ruling for a matter that is called, the court shall not accept oral argument from any attorney appearing on such matter who is unfamiliar with such tentative ruling or its grounds.

COURT'S 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 60(a), as incorporated by Federal Rules of Bankruptcy Procedure 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.

1. [15-14701](#)-A-13 WILLIAM/PATRICIA GRIFFIN PLAN
12-3-15 [[5](#)]
DAVID JENKINS/Atty. for dbt.
OBJECTION

[The hearing on this matter will be concurrent with the hearing on the objection to confirmation in this case filed by Ally Financial, having docket control no. SW-1.]

No tentative ruling

2. [15-14701](#)-A-13 WILLIAM/PATRICIA GRIFFIN OBJECTION TO CONFIRMATION OF
SW-1 PLAN BY ALLY FINANCIAL
ALLY FINANCIAL/MV 1-27-16 [[16](#)]
DAVID JENKINS/Atty. for dbt.
TORIANA HOLMES/Atty. for mv.

No tentative ruling.

3. [14-14703](#)-A-13 BEATRICE PENA MOTION TO DISMISS CASE
MHM-2 12-28-15 [[34](#)]
MICHAEL MEYER/MV
TIMOTHY SPRINGER/Atty. for dbt.
WITHDRAWN

Final Ruling

The motion withdrawn, the matter is dropped as moot.

4. [15-12203](#)-A-13 WILLIAM SEUELL AMENDED MOTION TO DISMISS CASE
MHM-4 12-22-15 [[100](#)]
MICHAEL MEYER/MV
SCOTT LYONS/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 \$2098.

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.

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| 5. | 15-10004 -A-13 LARRY VALENCIA
MHM-2
MICHAEL MEYER/MV
TIMOTHY SPRINGER/Atty. for dbt.
RESPONSIVE PLEADING
WITHDRAWN | CONTINUED MOTION TO DISMISS
CASE
9-17-15 [49] |
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Final Ruling

The motion withdrawn, the matter is dropped as moot.

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| 6. | 12-18407 -A-13 MICHAEL ELLIS AND JULIE
PBB-3 GOORABIAN-ELLIS
MICHAEL ELLIS/MV
PETER BUNTING/Atty. for dbt. | MOTION TO REFINANCE
1-14-16 [57] |
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Tentative Ruling

Motion: Approve Refinance / New Debt [New Subordinate Home Loan]

Notice: LBR 9014-1(f)(2); no 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). 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 seeks to incur new debt to finance the purchase of a new home. Amended Schedules I and J have been filed indicating that the debtor can afford (1) the plan payment of \$2100 per month, (2) the proposed monthly loan payment of principal and interest that would result from obtaining this financing (which is \$0.00, with the principal being all due and payable in 2042), and (3) the Class 4 claim of Wells Fargo in the amount of \$2407.84 / month (included on Schedule J). The court will grant the motion, and the trustee will approve the order as to form and content.

7. [13-17007](#)-A-13 DANNY/LORI CARRELL CONTINUED MOTION TO DISMISS
MHM-4 CASE
MICHAEL MEYER/MV 12-10-15 [[102](#)]
GEOFFREY ADALIAN/Atty. for dbt.
WITHDRAWN

Final Ruling

The motion withdrawn, the matter is dropped as moot.

8. [15-14511](#)-A-13 MICHAEL DIAZ PLAN
11-20-15 [[5](#)]
PETER BUNTING/Atty. for dbt.

No tentative ruling.

9. [13-17712](#)-A-13 RUBEN OLVERA AND GLORIA MOTION FOR COMPENSATION FOR
JES-2 CHAVEZ JAMES E. SALVEN, ACCOUNTANT(S)
JAMES SALVEN/MV 11-23-15 [[179](#)]
THOMAS GILLIS/Atty. for dbt.

Tentative Ruling

Application: Allowance of Final Compensation and Expense Reimbursement for Chapter 7 Trustee's Accountant

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

Disposition: Approved in part, disapproved in part

Order: Civil minute order

COMPENSATION AND EXPENSES

Section 330(a) of the Bankruptcy Code authorizes "reasonable compensation for actual, necessary services" rendered by a trustee, examiner or professional person employed under § 327 or § 1103 and "reimbursement for actual, necessary expenses." 11 U.S.C. § 330(a)(1). Reasonable compensation is determined by considering all relevant factors. See *id.* § 330(a)(3).

Before this case was converted, chapter 7 trustee Sheryl Strain employed James E. Salven as an accountant to perform services on behalf of the bankruptcy estate. The case was converted on August 25, 2015.

Salven, as accountant for the trustee, has applied for an allowance of final compensation and reimbursement of expenses. The applicant requests that the court allow compensation in the amount of \$1350 and reimbursement of expenses in the amount of \$238.78.

But some of the services for which compensation is sought were performed following conversion of this case to a case under chapter 13. The Code plainly provides that "[c]onversion of a case under section 706, 1112, 1208, or 1307 of this title terminates the service of any trustee or examiner that is serving in the case before such conversion." 11 U.S.C.A. § 348 (West). It follows that termination of the trustee's services also terminates the services of any person employed by that trustee.

Schedule A, attached to Salven's fee application, shows that services relating to preparing, filing and serving the fee application were performed on November 23, 2015, following the case's conversion. The court therefore will disapprove of 1.5 hours at a rate of \$225 for services performed following the conversion. The remaining hours allowable are 4.5 at a rate of \$225. The total compensation allowed will be \$1012.

Likewise, the court infers that costs incurred relating to service of the fee application were incurred in the amount of \$68.08. The court will also disapprove of costs in this amount. The allowed costs are \$170.70.

The aggregate allowed amount is \$1182.70, and any amount in excess of this amount is disapproved.

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.

Salven's application for allowance of final 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 a final basis. The court allows final compensation in the amount of \$1012 and reimbursement of expenses in the amount of \$170.70.

IT IS FURTHER ORDERED that the trustee is authorized without further order of this court to pay from the estate the aggregate amount allowed by this order in accordance with the Bankruptcy Code and the distribution priorities of § 726.

10. [13-17712](#)-A-13 RUBEN OLIVERA AND GLORIA CONTINUED MOTION FOR
SAS-2 CHAVEZ COMPENSATION FOR SHERYL A.
SHERYL STRAIN/MV STRAIN, CHAPTER 7 TRUSTEE(S)
9-8-15 [[123](#)]

THOMAS GILLIS/Atty. for dbt.
PETER FEAR/Atty. for mv.

Final Ruling

The matter is continued to February 25, 2016, at 9:00 a.m. to coincide with the debtors' motion to confirm modified plan, TOG-13, and trustee Meyer's Motion to Dismiss or Convert, MHM-2.

11. [15-14512](#)-A-13 MARY JAURIQUE PLAN
11-20-15 [[5](#)]

JANINE ESQUIVEL/Atty. for dbt.

No tentative ruling.

12. [15-14514](#)-A-13 BRIAN/MISTIE PRICE PLAN
11-20-15 [[5](#)]

MICHAEL ARNOLD/Atty. for dbt.

No tentative ruling.

13. [15-14415](#)-A-13 ROGELIO ALFARO CONTINUED MOTION FOR RELIEF
JDS-1 FROM AUTOMATIC STAY
LARISA MURREN/MV 12-4-15 [[20](#)]
JERRY LOWE/Atty. for dbt.
JOHN SUHR/Atty. for mv.

Final Ruling

The motion withdrawn, the matter is dropped as moot.

14. [15-14516](#)-A-13 ROSEANN CASTANEDA PLAN
11-20-15 [[5](#)]

TIMOTHY SPRINGER/Atty. for dbt.

No tentative ruling.

15. [15-13717](#)-A-13 BOBBY BLAIR
RS-1
BOBBY BLAIR/MV
RICHARD STURDEVANT/Atty. for dbt.
RESPONSIVE PLEADING

MOTION TO CONFIRM PLAN
12-30-15 [[30](#)]

No tentative ruling.

16. [15-14134](#)-A-13 CARLOS/LUZ DELGADO
CARLOS DELGADO/MV

MOTION TO VALUE COLLATERAL OF
MERCO CREDIT UNION, MOTION TO
AVOID LIEN OF MERCO CREDIT
UNION
10-26-15 [[8](#)]

PIERRE BASMAJI/Atty. for dbt.
OBJECTION WITHDRAWN

Tentative Ruling

Motion: Value Collateral [Real Property; Principal Residence]

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

Disposition: Granted in part, denied in part

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). 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 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) (holding that the trial court erred in deciding that a wholly unsecured lien was within the scope of the antimodification clause of § 1322(b)(2) of the Bankruptcy Code). 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 respondent'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. "In the absence of contrary evidence, an owner's opinion of property value may be conclusive." *Enewally v. Wash. Mut. Bank (In re Enewally)*, 368 F.3d 1165, 1173 (9th Cir. 2004).

The debtor requests that the court value real property collateral. The collateral is the debtor's principal residence located at 4392 S. Fairfax Avenue, Firebaugh, CA.

The court values the collateral at \$175,000. The debt secured by liens senior to the respondent's lien exceeds the value of the collateral. Because the amount owed to senior lienholders exceeds the collateral's value, the respondent's claim is wholly unsecured and no portion will be allowed as a secured claim. See 11 U.S.C. § 506(a).

AVOIDANCE OF THE LIEN

The motion seeks to "void, cancel, extinguish, and annul LENDER'S junior secured lien against debtor's real property RESIDENCE." The court denies this relief. Rule 7001(2) would require an adversary proceeding to obtain such relief. And § 1325(a)(5) prohibits such relief before discharge.

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 real property collateral 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 real property collateral located at 4392 S. Fairfax Avenue, Firebaugh, CA, has a value of \$175,000. The collateral is encumbered by senior liens securing debt that exceeds the collateral's value. The respondent has a secured claim in the amount of \$0.00 and a general unsecured claim for the balance of the claim.

17. [11-60137](#)-A-13 DONNIE/FREDDIE EASON MOTION TO SELL
DRJ-1 1-27-16 [[149](#)]
DONNIE EASON/MV
M. ENMARK/Atty. for dbt.

Final Ruling

Motion: Sell Property

Disposition: Denied without prejudice

Order: Civil minute order

The movant did not provide a sufficient period of notice of the proposed sale. Federal Rule of Bankruptcy Procedure 2002(a)(2) requires not less than 21 days' notice of a proposed use, sale or lease of property of the estate other than in the ordinary course of business unless the court shortens the time for notice for cause. In this case, all creditors and parties in interest received notice of the motion as of January 27, 2016. Proof of Service, ECF No. 152. But 21 days before the hearing was January 21, 2016.

18. [15-10639](#)-A-13 RACHEL RIVERA CONTINUED MOTION TO DISMISS
MHM-1 CASE
MICHAEL MEYER/MV 9-11-15 [[46](#)]
TIMOTHY SPRINGER/Atty. for dbt.
WITHDRAWN

Final Ruling

The motion withdrawn, the matter is dropped as moot.

19. [15-14543](#)-A-13 DAVID DOMINGO PLAN
SCOTT LYONS/Atty. for dbt. 12-3-15 [[9](#)]

No tentative ruling.

20. [14-11944](#)-A-13 FORTUNATO/KATHERINE MOTION TO APPROVE LOAN
SL-2 MORALES MODIFICATION AND/OR MOTION FOR
FORTUNATO MORALES/MV CONSENT TO ENTER INTO LOAN
MODIFICATION AGREEMENT
1-12-16 [[55](#)]
SCOTT LYONS/Atty. for dbt.

Tentative Ruling

Motion: Approval of Mortgage Loan Modification

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

Disposition: Granted in part, denied in part

Order: Prepared by moving party according to the instructions below

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 motion seeks approval of a loan modification agreement. A copy of the loan modification agreement accompanies the motion. See Fed. R. Bankr. 4001(c). The court will grant the motion in part to authorize the debtor and the secured lender to enter into the loan modification agreement subject to the parties' right to reinstatement of the original terms of the loan documents in the event conditions precedent to the loan modification agreement are not satisfied. 11 U.S.C. § 364(d); Fed. R. Bankr. P. 4001(c). To the extent the modification is inconsistent with the confirmed plan, the debtor shall continue to perform the plan as confirmed until it is modified.

By granting this motion, the court is not approving the terms of any loan modification agreement. The motion will be denied in part to the extent that the motion requests approval of the loan modification agreement or other declaratory relief. The order shall state only that the parties are authorized to enter into the loan modification agreement subject to the parties' right to reinstate the agreement if

all conditions precedent are not satisfied. The order shall not recite the terms of the loan modification agreement or state that the court approves the terms of the agreement.

21. [15-14544](#)-A-13 LINDI ELLIS PLAN
11-23-15 [[5](#)]
SCOTT LYONS/Atty. for dbt.

No tentative ruling.

22. [10-61053](#)-A-13 MIGUEL/MARIA SANCHEZ MOTION FOR RELIEF FROM
KAF-1 AUTOMATIC STAY
DEUTSCHE BANK NATIONAL TRUST 1-13-16 [[105](#)]
COMPANY/MV
THOMAS GILLIS/Atty. for dbt.
KENNETH FREEDMAN/Atty. for mv.
NON-OPPOSITION

Tentative Ruling

Motion: Relief from Stay

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

Disposition: Denied as moot

Order: Civil minute order

Subject: 6623 Kraft Ave., North Hollywood, CA 91606

The moving party requests relief from stay under § 362(d)(1), for cause, and for annulment of the stay retroactively to the petition date. The movant asserts that a foreclosure sale of the subject property has been held. Further, the debtors have never had any ownership interest in the subject property. It appears that one of the defendants, or parties in interest, in an unlawful detainer proceeding related to the subject property has a name the same as the debtor.

But the movant makes clear that Miguel Sanchez—the party in the unlawful detainer proceeding—and the debtor Miguel Sanchez are not the same person.

The debtors have filed a non-opposition to the relief sought. ECF No. 109.

However, because the subject property was never property of the estate, see 11 U.S.C. § 362(a)(2)-(3), the stay has not applied to the subject property. Moreover, any proceedings in the unlawful detainer action do not involve the debtor. So any stay provisions protecting the debtor are likewise inapplicable. The court will deny the motion as moot. The court's order will reflect that no stay has affected the subject property in this case. This relief should provide the movant with an order having the same effect as an order granting the stay and annulling it retroactively. No other relief will be awarded.

CIVIL MINUTE ORDER

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

Deutsche Bank National Trust Company, as trustee, has filed its motion for relief from the automatic stay, and for annulment of the stay retroactively. Having reviewed the papers and evidence filed in support and opposition to the motion, and having heard the arguments of counsel, if any, and good cause appearing,

IT IS ORDERED that the motion is denied as moot. The automatic stay in this case has not been applicable on or after the petition date to the subject property commonly known as 6623 Kraft Ave., North Hollywood, CA 91606.

23. [15-14153](#)-A-13 KEVIN/MACKENZIE FERREIRA OBJECTION TO CONFIRMATION OF
MHM-2 PLAN BY TRUSTEE MICHAEL H.
MEYER
1-14-16 [[38](#)]

C. HUGHES/Atty. for dbt.

No tentative ruling.

24. [15-11055](#)-A-13 CHERYL JACQUEZ OBJECTION TO CONFIRMATION OF
MHM-2 PLAN BY TRUSTEE MICHAEL H.
MEYER
1-14-16 [[54](#)]

JERRY LOWE/Atty. for dbt.

No tentative ruling.

25. [15-13461](#)-A-13 RAMIRO OCHOA OBJECTION TO CLAIM OF BANK OF
NRA-2 AMERICA, N.A., CLAIM NUMBER 5
RAMIRO OCHOA/MV 1-7-16 [[56](#)]
NELLIE AGUILAR/Atty. for dbt.
RESPONSIVE PLEADING

Tentative Ruling

Objection: Objection to Claim

Notice: LBR 3007-1(b) (2); no written opposition required

Disposition: Sustained as to the claim's secured status

Order: Civil minute order

OBJECTION TO SECURED CLAIM

The debtor has objected to Bank of America, N.A.'s Claim No. 5 on the ground that the real property securing the claim, 130 N. Fulton Street, Fresno, CA, has been sold at a foreclosure sale. Bank of

America responds by admitting that the real property was sold. It states that it will amend its claim to unsecured. The court will therefore disallow the claim as a secured claim.

OBJECTION TO UNSECURED CLAIM

The objection does not address whether the claim should be allowed as an unsecured claim. The prayer for relief seeks disallowance of the claim as a *secured claim* in its entirety. This suggests that the debtor does not seek disallowance of any unsecured status the claim may have.

In any event, to the extent the objection could be construed to object to the claim's unsecured status, the objection has offered no evidentiary basis for disallowing the claim as an unsecured claim, and it has not argued that Claim No. 5 should not be given the usual evidentiary presumption of validity.

Federal Rule of Bankruptcy Procedure 3001(f) prescribes the evidentiary effect of "[a] proof of claim executed and filed in accordance with [the] rules." Fed. R. Bankr. P. 3001(f). If properly executed and filed under the rules along with all supporting documentation that may be required, see, e.g., Fed. R. Bankr. P. 3001(c), the proof of claim is given an evidentiary presumption of validity. See Fed. R. Bankr. P. 3001(f); *Diamant*, 165 F.3d at 1247-48. The evidentiary presumption created by Rule 3001(f) "operates to shift the burden of going forward but not the burden of proof." See *Litton Loan Servicing, LP v. Garvida (In re Garvida)*, 347 B.R. 697, 706 (B.A.P. 9th Cir. 2006) (citing *Garner v. Shier (In re Garner)*, 246 B.R. 617, 622 (B.A.P. 9th Cir. 2000); *Diamant*, 165 F.3d at 1248). But this evidentiary presumption is rebuttable. *Id.* at 706. "One rebuts evidence with counter-evidence." *Id.* at 707; see also *Am. Express Bank, FSB v. Askenaizer (In re Plourde)*, 418 B.R. 495, 504 (B.A.P. 1st Cir. 2009) ("[T]o rebut the prima facie evidence a proper proof of claim provides, the objecting party must produce 'substantial evidence' in opposition to it.").

Because no evidence has been given to rebut the evidentiary presumption of validity of Claim No. 5 as an *unsecured claim*, the court will not sustain the objection to the extent it could be construed to request disallowance of respondent's claim as an unsecured claim. When Bank of America amends its proof of claim, any objection to the claim's unsecured status may be raised by the debtor.

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 objection to respondent Bank of America, N.A.'s secured claim 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 but only to the extent it is directed at the respondent's secured claim. The claim will be disallowed as a secured claim and allowed as an unsecured claim. This

ruling is without prejudice to the debtor's objection to the claim or an amended claim's unsecured status.

26. [15-14766](#)-A-13 EULALIO ORNELAS AND
ISABEL BERNAL ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
1-19-16 [[16](#)]

THOMAS GILLIS/Atty. for dbt.
FINAL INSTALLMENT PAID
1/27/16

Final Ruling

The fee paid, the order to show cause is discharged and the case remains pending.

27. [15-14767](#)-A-13 RAMON CAMPOS ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
1-19-16 [[17](#)]

THOMAS GILLIS/Atty. for dbt.
FINAL INSTALLMENT PAID
1/27/16

Final Ruling

The fee paid, the order to show cause is discharged and the case remains pending.

28. [15-14575](#)-A-13 HECTOR ZAVALZA PLAN
12-7-15 [[12](#)]

ERIC ESCAMILLA/Atty. for dbt.

No tentative ruling.

29. [15-11376](#)-A-13 SOFIA REYNOZO CONTINUED OBJECTION TO CLAIM OF
GEG-2 NICHOLAS FLORES, CLAIM NUMBER 3
SOFIA REYNOZO/MV 6-30-15 [[39](#)]
GLEN GATES/Atty. for dbt.
RESPONSIVE PLEADING

Tentative Ruling

Objection: Objection to Claim of Nicholas Flores, Claim No. 3

Disposition: Continued to February 25, 2016, at 9:00 a.m.

Order: Not applicable

This matter will be continued to February 25, 2016, at 9:00 a.m. to coincide with the hearing on the motion to compromise controversy, which has docket control number GEG-3.

30. [15-11376](#)-A-13 SOFIA REYNOZO
GEG-3
SOFIA REYNOZO/MV

MOTION TO COMPROMISE
CONTROVERSY/APPROVE SETTLEMENT
AGREEMENT WITH NICHOLAS FLORES
1-14-16 [[69](#)]

GLEN GATES/Atty. for dbt.

Tentative Ruling

Motion: Compromise Controversy / Approve Settlement Agreement

Disposition: Continued to February 25, 2016, at 9:00 a.m.

Order: Civil minute order

The motion or notice of hearing was not mailed to all creditors and parties in interest. The hearing on an approval of a compromise or settlement of a controversy must be noticed to all creditors and parties in interest in the debtor's bankruptcy case as required by Federal Rule of Bankruptcy Procedure 2002(a)(3).

The hearing will be continued to February 25, 2016, at 9:00 a.m. No later than February 12, 2016, the notice of hearing shall be mailed to all creditors and parties in interest shown on an updated court matrix (master mailing list). The notice of hearing shall permit opposition to be raised orally at the hearing pursuant to LBR 9014-1(f)(2).

31. [15-11376](#)-A-13 SOFIA REYNOZO
MHM-1

CONTINUED OBJECTION TO
CONFIRMATION OF PLAN BY TRUSTEE
MICHAEL H. MEYER
7-31-15 [[45](#)]

GLEN GATES/Atty. for dbt.

Tentative Ruling

Objection: Objection to Confirmation of Plan

Disposition: Continued to February 25, 2016, at 9:00 a.m.

Order: Not applicable

This matter will be continued to February 25, 2016, at 9:00 a.m. to coincide with the hearing on the motion to compromise controversy, which has docket control number GEG-3.

32. [15-12776](#)-A-13 TONY/CHRISTINA BONILLA
JRL-2
TONY BONILLA/MV
JERRY LOWE/Atty. for dbt.
RESPONSIVE PLEADING

MOTION TO CONFIRM PLAN
12-29-15 [[55](#)]

No tentative ruling.

33. [15-12776](#)-A-13 TONY/CHRISTINA BONILLA JRL-3
TONY BONILLA/MV
JERRY LOWE/Atty. for dbt.
RESPONSIVE PLEADING
MOTION TO VALUE COLLATERAL OF
AMERICAN FINANCIAL SERVICES,
INC.
12-29-15 [[62](#)]

Final Ruling

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

34. [15-14582](#)-A-13 CLINE/SABRINA GARNER
VARDUHI PETROSYAN/Atty. for dbt.
PLAN
11-25-15 [[7](#)]

No tentative ruling.

35. [15-14385](#)-A-13 JOSEPH BERTAIO
MHM-1
MICHAEL MEYER/MV
JEFF REICH/Atty. for dbt.
MOTION TO DISMISS CASE
1-6-16 [[34](#)]

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

This case was filed November 10, 2015. A plan has not been set for hearing with notice to creditors. 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 debtor's case was filed November 10, 2015, and as of February 10, 2016, 3 months after the petition, the plan had not been noticed to creditors and set for a hearing. The court hereby dismisses this case.

36. [15-13686](#)-A-13 ROBERTO HINOJOSA, JR. CONTINUED MOTION TO DISMISS
MHM-1 CASE
MICHAEL MEYER/MV 12-22-15 [[26](#)]
DAVID JENKINS/Atty. for dbt.
WITHDRAWN

Final Ruling

The motion withdrawn, the matter is dropped as moot.

37. [15-13686](#)-A-13 ROBERTO HINOJOSA, JR. OBJECTION TO CONFIRMATION OF
MHM-2 PLAN BY TRUSTEE MICHAEL H.
MEYER
1-14-16 [[30](#)]
DAVID JENKINS/Atty. for dbt.

Final Ruling

Matter: Objection to Chapter 13 Plan

Notice: LBR 3015-1(c)(4); no written opposition required

Disposition: Overruled 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). But 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). Modifying the plan renders moot any pending objection to confirmation of the previously filed plan.

38. [15-14694](#)-A-13 DAVID PENA

PLAN
12-11-15 [[13](#)]

SCOTT LYONS/Atty. for dbt.
OBJECTION

[The hearing on this matter will be concurrent with the hearing on Wells Fargo Bank, N.A.'s objection to confirmation in this case having docket control no. AP-1.]

No tentative ruling.

39. [15-14694](#)-A-13 DAVID PENA
AP-1
WELLS FARGO BANK, N.A./MV
SCOTT LYONS/Atty. for dbt.
JONATHAN CAHILL/Atty. for mv.

OBJECTION TO CONFIRMATION OF
PLAN BY WELLS FARGO BANK, N.A.
1-20-16 [[27](#)]

No tentative ruling.

40. [15-13698](#)-A-13 XIONG HEU AND BAO VANG
MHM-1

OBJECTION TO CONFIRMATION OF
PLAN BY TRUSTEE MICHAEL H.
MEYER
1-15-16 [[23](#)]

TIMOTHY SPRINGER/Atty. for dbt.

Final Ruling

The objection withdrawn, the matter is dropped as moot.