

**UNITED STATES BANKRUPTCY COURT**

Eastern District of California

Honorable Fredrick E. Clement  
Bankruptcy Judge

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

**THURSDAY**

**FEBRUARY 13, 2014**

**PRE-HEARING DISPOSITIONS**

**GENERAL DESIGNATIONS**

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

**MATTERS RESOLVED BEFORE HEARING**

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

**ERRORS IN FINAL RULINGS**

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

9:00 a.m.

1. [13-16207](#)-A-13 MICHAEL/NOREEN THACKREY MOTION FOR RELIEF FROM  
SW-1 AUTOMATIC STAY  
ALLY FINANCIAL INC./MV 1-23-14 [[30](#)]  
PETER FEAR/Atty. for dbt.  
BERNARD KORNBERG/Atty. for mv.

**Tentative Ruling**

**Motion:** Stay Relief

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

**Disposition:** Denied in part as moot as to the vehicle; Granted in part as to the debtors

**Order:** Prepared by moving party

**Subject:** 2010 Chevrolet Equinox

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).

**AS TO THE VEHICLE**

Although the debtors' confirmed plan does not provide for the moving party's collateral or claim, the exhibits to the motion show that an entity named The Gym of the North Hollywood LLC is the owner of the vehicle that is the moving party's collateral. The property described above is not listed on Schedule B and does not appear to be property of the estate. Accordingly, no stay affects the property. *See, e.g.*, 11 U.S.C. § 362(a), (c)(1).

**AS TO THE DEBTOR**

The moving party's claim is not provided for in the plan. The moving party has filed a claim against the debtors, which is deemed allowed in the absence of an objection. *See* 11 U.S.C. § 502(a). The confirmed plan provides that the failure to include a secured claim in Class 1, 2, 3, or 4 of the plan may be cause to terminate the automatic stay. Cause exists to grant relief from stay under § 362(d)(1).

The motion will be granted as to the debtors provided that the moving party does not seek to collect a deficiency or other money judgment against the debtor (except through a proof of claim filed in this court), and the 14-day stay of Federal Rule of Bankruptcy Procedure 4001(a)(3) will be waived. No other relief will be awarded.

2. [13-16207](#)-A-13 MICHAEL/NOREEN THACKREY MOTION FOR RELIEF FROM  
SW-2 AUTOMATIC STAY  
ALLY FINANCIAL INC./MV 1-23-14 [[36](#)]  
PETER FEAR/Atty. for dbt.  
BERNARD KORNBERG/Atty. for mv.

**Tentative Ruling**

**Motion:** Stay Relief

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

**Disposition:** Denied in part as moot as to the vehicle; Granted in part as to the debtors

**Order:** Prepared by moving party

**Subject:** 2010 Chevrolet HHR

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).

**AS TO THE VEHICLE**

Although the debtors' confirmed plan does not provide for the moving party's collateral or claim, the exhibits to the motion show that an entity named The Gym of the North Hollywood LLC is the owner of the vehicle that is the moving party's collateral. The property described above is not listed on Schedule B and does not appear to be property of the estate. Accordingly, no stay affects the property. See, e.g., 11 U.S.C. § 362(a), (c)(1).

**AS TO THE DEBTOR**

The moving party's claim is not provided for in the plan. The moving party has filed a claim against the debtors, which is deemed allowed in the absence of an objection. See 11 U.S.C. § 502(a). The confirmed plan provides that the failure to include a secured claim in Class 1, 2, 3, or 4 of the plan may be cause to terminate the automatic stay. Cause exists to grant relief from stay under § 362(d)(1).

The motion will be granted as to the debtors provided that the moving party does not seek to collect a deficiency or other money judgment against the debtor (except through a proof of claim filed in this court), and the 14-day stay of Federal Rule of Bankruptcy Procedure 4001(a)(3) will be waived. No other relief will be awarded.

3. [13-13912](#)-A-13 LUIS/RUBY BURGOS

MICHAEL MEYER/MV

THOMAS GILLIS/Atty. for dbt.  
DISMISSED

CONTINUED MOTION OF  
NON-COMPLIANCE AND REQUEST TO  
RE-ISSUE COURT'S ORDER TO SHOW  
CAUSE  
12-20-13 [[50](#)]

**No tentative ruling**

4. [11-11215](#)-A-13 TY/JENNIFER HAWTHORNE

MNE-1

TY HAWTHORNE/MV

M. ENMARK/Atty. for dbt.  
RESPONSIVE PLEADING

MOTION TO MODIFY PLAN  
12-26-13 [[36](#)]

**Tentative Ruling**

**Motion:** Modify Chapter 13 Plan

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

**Disposition:** Pending

**Order:** Pending

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

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

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

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

5. [12-11831](#)-A-13 LYDIA CLARY  
JDR-7  
LYDIA CLARY/MV  
JEFFREY ROWE/Atty. for dbt.  
RESPONSIVE PLEADING

MOTION TO MODIFY PLAN  
1-7-14 [[119](#)]

**Tentative Ruling**

**Motion:** Confirm Modified Chapter 13 Plan

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

**Disposition:** Denied as moot

**Order:** Civil minute order

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

The debtor has filed a reply to the trustee's opposition stating that debtor's counsel will appear at the scheduled hearing and will withdraw the Fifth Modified Chapter 13 Plan and will anticipate filing another modified plan.

6. [13-17332](#)-A-13 LORENZO/MARIA TOVAR  
MAS-1  
UNION BANK, N.A./MV  
HENRY NUNEZ/Atty. for dbt.  
MARK SERLIN/Atty. for mv.

OBJECTION TO CONFIRMATION OF  
PLAN BY UNION BANK, N.A.  
12-24-13 [[35](#)]

**Tentative 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). If the debtor withdraws the plan or files a modification of the plan under § 1323, the modified plan becomes the plan. 11 U.S.C. § 1323(b). Doing so renders moot any pending objection to confirmation of the previously filed plan. The debtor has either withdrawn the plan or filed a plan modification since the filing of this objection. The court will overrule the objection as moot.

7. [13-17637](#)-A-13 BENJAMIN/SONIA VELO  
OCWEN LOAN SERVICING, LLC/MV  
ANDREW MOHER/Atty. for dbt.  
BRIAN TRAN/Atty. for mv.
- OBJECTION TO CONFIRMATION OF  
PLAN BY OCWEN LOAN SERVICING,  
LLC  
1-14-14 [[23](#)]

### **Tentative 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). If the debtor withdraws the plan or files a modification of the plan under § 1323, the modified plan becomes the plan. 11 U.S.C. § 1323(b). Doing so renders moot any pending objection to confirmation of the previously filed plan. The debtor has either withdrawn the plan or filed a plan modification since the filing of this objection. The court will overrule the objection as moot.

8. [13-16739](#)-A-13 JOE/STEPHANIE ORDONEZ  
MHM-1  
MICHAEL MEYER/MV  
MARK ZIMMERMAN/Atty. for dbt.  
WITHDRAWN
- OBJECTION TO DEBTOR'S CLAIM OF  
EXEMPTIONS  
1-14-14 [[19](#)]

### **Final Ruling**

The objection has been withdrawn and will be overruled as moot.

9. [14-10043](#)-A-13 OSCAR SOLIS  
KMM-1  
OSCAR SOLIS/MV  
KARNEY MEKHITARIAN/Atty. for dbt.
- MOTION TO VALUE COLLATERAL OF  
OCWEN LOAN SERVICING, LLC  
1-9-14 [[8](#)]

### **Final Ruling**

**Motion:** Value Collateral [Real Property; Principal Residence]

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

**Disposition:** Granted

**Order:** Prepared by the moving party

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

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

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

10. [13-15146](#)-A-13 BARBARA BRYAN  
JDW-3  
BARBARA BRYAN/MV  
JOEL WINTER/Atty. for dbt.  
RESPONSIVE PLEADING

MOTION TO CONFIRM PLAN  
12-26-13 [[46](#)]

### **Tentative Ruling**

**Motion:** Confirm Chapter 13 Plan

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

**Disposition:** Pending

**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 basis for the trustee's opposition is that the debtor is delinquent \$910.75 pursuant to the proposed plan, an amount that does not include the January 2014 plan payment of \$638.46. This delinquency would make the plan not feasible.

The trustee will withdraw his opposition to the plan if the debtor becomes fully current (including the January 2014 payment) under the proposed plan by the hearing date. If the debtor has not become fully current by the hearing date, the court is inclined to deny confirmation without prejudice unless the debtor intends to request an evidentiary hearing on whether a delinquency exists.

11. [13-17668](#)-A-13 JULIAN/ANN SALINAS  
GH-1  
JULIAN SALINAS/MV  
GARY HUSS/Atty. for dbt.

MOTION TO VALUE COLLATERAL OF  
CHASE AUTO FINANCE  
12-5-13 [[10](#)]

**Final Ruling**

**Motion:** Value Collateral [Personal Property; Motor Vehicle]

**Disposition:** Denied without prejudice

**Order:** Civil minute order

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 debtors seek to value collateral consisting of a motor vehicle. The court cannot determine whether the hanging paragraph of 11 U.S.C. § 1325(a) applies to the respondent creditor's claim in this case. Thus, the motion does not sufficiently demonstrate an entitlement to the relief requested. See LBR 9014-1(d)(6). Factual information relevant to the hanging paragraph of § 1325(a) is also an essential aspect of the grounds for the relief requested that should be contained in the motion itself and stated with particularity. See Fed. R. Bankr. P. 9013.

12. [13-17668](#)-A-13 JULIAN/ANN SALINAS  
JHW-1  
AMERICREDIT FINANCIAL  
SERVICES, INC./MV  
GARY HUSS/Atty. for dbt.  
JENNIFER WANG/Atty. for mv.  
RESPONSIVE PLEADING

MOTION FOR RELIEF FROM  
AUTOMATIC STAY  
1-13-14 [[21](#)]

**No tentative ruling**



13. [10-65069](#)-A-13 LIDIA CONTRERAS  
SL-4  
LIDIA CONTRERAS/MV  
SCOTT LYONS/Atty. for dbt.  
RESPONSIVE PLEADING  
WITHDRAWN

MOTION TO MODIFY PLAN  
1-3-14 [[71](#)]

**Final Ruling**

**Motion:** Confirm Modified Chapter 13 Plan

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

**Disposition:** Granted

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

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

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

14. [13-16274](#)-A-13 JOSEPH DESROSIERS

ORDER TO SHOW CAUSE - FAILURE  
TO PAY FEES  
1-27-14 [[61](#)]

JERRY LOWE/Atty. for dbt.

**Final Ruling**

The final installment fee has been paid in full. Therefore, the OSC is discharged.

15. [13-11576](#)-A-13 BENITO/MARTHA GALARZA  
MHM-1  
MICHAEL MEYER/MV

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

THOMAS GILLIS/Atty. for dbt.  
RESPONSIVE PLEADING

*[The hearing on this motion to dismiss will be concurrent with the hearing on the debtors' motion to confirm their third amended plan in this case having docket control no. TOG-6.]*

**No Tentative Ruling**

16. [13-11576](#)-A-13 BENITO/MARTHA GALARZA  
TOG-6 MOTION TO CONFIRM PLAN  
12-23-13 [[131](#)]  
BENITO GALARZA/MV  
THOMAS GILLIS/Atty. for dbt.

**Tentative Ruling**

**Motion:** Confirmation of a Chapter 13 Plan

**Disposition:** Denied without prejudice

**Order:** Civil minute order

All creditors and parties in interest have not received the notice required by Federal Rule of Bankruptcy Procedure 2002(b). The certificate of service for the motion, notice and plan shows a copy of the court's matrix that has a case number different from the debtors' case number. It also shows a date that post-dates the date of service by 8 days.

17. [13-13383](#)-A-13 BOBBY MAXWELL  
JFS-1 CONTINUED STATUS CONFERENCE RE:  
GERALD MAXWELL/MV OBJECTION TO CONFIRMATION OF  
PLAN BY GERALD MAXWELL  
6-19-13 [[20](#)]  
PATRICK KAVANAGH/Atty. for dbt.  
JOSEPH SOARES/Atty. for mv.  
ORDER 1/17/14

**No tentative ruling**

18. [13-13383](#)-A-13 BOBBY MAXWELL  
MHM-1 CONTINUED STATUS CONFERENCE RE:  
MICHAEL MEYER/MV OBJECTION TO CONFIRMATION OF  
PLAN BY MICHAEL H. MEYER  
8-22-13 [[41](#)]  
PATRICK KAVANAGH/Atty. for dbt.  
ORDER 1/17/14

**No tentative ruling**

19. [13-16686](#)-A-13 CARLEEN KEMMERLING  
EGS-1 MOTION FOR RELIEF FROM  
AUTOMATIC STAY  
1-15-14 [[38](#)]  
BAYVIEW LOAN SERVICING, LLC/MV  
PETER BUNTING/Atty. for dbt.  
EDWARD SCHLOSS/Atty. for mv.  
DISMISSED

**Final Ruling**

The case dismissed, the matter is dropped from calendar as moot.

20. [13-15687](#)-A-13 ROMY DABRITZ  
RDB-2  
ROMY DABRITZ/MV  
RICK BANKS/Atty. for dbt.  
RESPONSIVE PLEADING

MOTION TO CONFIRM PLAN  
1-2-14 [[37](#)]

### **Tentative Ruling**

**Motion:** Confirm Chapter 13 Plan

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

**Disposition:** Pending

**Order:** Pending

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

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

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

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

21. [12-14489](#)-A-13 BASILIO LEDEZMA  
JRL-3  
BASILIO LEDEZMA/MV

MOTION FOR CONSENT TO ENTER  
INTO LOAN MODIFICATION  
AGREEMENT  
12-27-13 [[61](#)]

JERRY LOWE/Atty. for dbt.

### **Final Ruling**

**Motion:** Loan Modification Approval

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

**Disposition:** Granted

**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). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court

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

The motion 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 and authorize the debtor and the holder of the loan to be modified 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 order shall state only that the court grants the motion and 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.

22.	<a href="#">13-16391</a> -A-13 JOSHUA/SOMMER RITTER JDW-3 JOSHUA RITTER/MV JOEL WINTER/Atty. for dbt. RESPONSIVE PLEADING	MOTION TO CONFIRM PLAN 12-26-13 [ <a href="#">43</a> ]
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### **Tentative Ruling**

**Motion:** Confirm Chapter 13 Plan

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

**Disposition:** Denied without prejudice

**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 trustee states that the meeting of creditors has not been concluded because all documents required or requested have not been provided. The trustee's requires all documents before being able to recommend confirmation. Unless the debtors request an evidentiary hearing on whether documents have been provided, a request that the court would likely grant, the court is inclined to deny confirmation without prejudice.

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

9:15 a.m.

1. [13-13518](#)-A-13 JACK/CAROL PEERY  
MHM-1  
MICHAEL MEYER/MV  
MOTION TO DISMISS CASE FOR  
UNREASONABLE DELAY THAT IS  
PREJUDICIAL TO CREDITORS AND/OR  
MOTION TO DISMISS CASE  
12-13-13 [[73](#)]

RICHARD BAMBL/Atty. for dbt.  
WITHDRAWN

**Final Ruling**

The motion withdrawn, the matter is dropped as moot.

2. [13-12125](#)-A-13 TERRY/KATHRYN HORAK  
MHM-1  
MICHAEL MEYER/MV  
CONTINUED MOTION TO DISMISS  
CASE FOR UNREASONABLE DELAY  
THAT IS PREJUDICIAL TO  
CREDITORS AND/OR MOTION TO  
DISMISS CASE  
9-18-13 [[56](#)]

GARY HUSS/Atty. for dbt.  
RESPONSIVE PLEADING, MOTION  
WITHDRAWN

**Final Ruling**

The motion withdrawn, the matter is dropped as moot.

3. [13-17549](#)-A-13 LEON COLE  
MHM-1  
MICHAEL MEYER/MV  
MOTION TO DISMISS CASE FOR  
UNREASONABLE DELAY THAT IS  
PREJUDICIAL TO CREDITORS,  
MOTION TO DISMISS CASE FOR  
FAILURE TO MAKE PLAN PAYMENTS,  
MOTION TO DISMISS CASE FOR  
FAILURE TO FILE DOCUMENTS,  
MOTION TO DISMISS CASE  
1-14-14 [[27](#)]

**No tentative ruling**

4. [13-15979](#)-A-13 JAIME HERNANDEZ  
MHM-1  
MICHAEL MEYER/MV  
MOTION TO DISMISS CASE FOR  
UNREASONABLE DELAY THAT IS  
PREJUDICIAL TO CREDITORS AND/OR  
MOTION TO DISMISS CASE  
12-31-13 [[39](#)]

**No tentative ruling**

9:30 a.m.

1. [13-10971](#)-A-13 JEREMY WINANS CONTINUED STATUS CONFERENCE RE:  
[13-1054](#) COMPLAINT  
DAVIS V. WINANS  
5-14-13 [[1](#)]  
THOMAS ARMSTRONG/Atty. for pl.  
RESPONSIVE PLEADING

**Final Ruling**

This matter is continued to April 16, 2014, at 9:30 a.m. Not later than 7 days prior the continued hearing the parties shall file a joint status report.

2. [11-62861](#)-A-13 ROBERT/LYUDMILA BARRAZA SCHEDULING HEARING RE: MOTION  
PK-6 TO MODIFY PLAN  
ROBERT BARRAZA/MV 1-31-14 [[111](#)]  
PATRICK KAVANAGH/Atty. for dbt.

**No tentative ruling**

3. [11-62861](#)-A-13 ROBERT/LYUDMILA BARRAZA SCHEDULING HEARING RE: MOTION  
MHM-2 TO MODIFY PLAN  
MICHAEL MEYER/MV 12-10-13 [[87](#)]  
PATRICK KAVANAGH/Atty. for dbt.  
SARAH VELASCO/Atty. for mv.

**No tentative ruling**

10:00 a.m.

1. [12-19290](#)-A-12 DIMAS/ROSA COELHO CONTINUED MOTION TO VALUE  
TOG-7 COLLATERAL OF HAMILTON AND  
DIMAS COELHO/MV  
JOSEPHINE SANTOS  
5-16-13 [[83](#)]  
THOMAS GILLIS/Atty. for dbt.  
RESPONSIVE PLEADING

**Tentative Ruling**

The matter is resolved by stipulation and will be dropped from calendar.