



**UNITED STATES BANKRUPTCY COURT
Eastern District of California**

**Honorable René Lastreto II
Department B – Courtroom #13
Fresno, California**

Hearing Date: Wednesday, March 20, 2024

Unless otherwise ordered, all matters before the Honorable René Lastreto II shall be simultaneously: (1) **In Person** at, Courtroom #13 (Fresno hearings only), (2) via **ZoomGov Video**, (3) via **ZoomGov Telephone**, and (4) via **CourtCall**. You may choose any of these options unless otherwise ordered or stated below.

All parties or their attorneys who wish to appear at a hearing remotely must sign up by **4:00 p.m. one business day** prior to the hearing. Information regarding how to sign up can be found on the **Remote Appearances** page of our website at <https://www.caeb.uscourts.gov/Calendar/RemoteAppearances>. Each party/attorney who has signed up will receive a Zoom link or phone number, meeting I.D., and password via e-mail.

If the deadline to sign up has passed, parties and their attorneys who wish to appear remotely must contact the Courtroom Deputy for the Department holding the hearing.

Please also note the following:

- Parties in interest and/or their attorneys may connect to the video or audio feed free of charge and should select which method they will use to appear when signing up.
- Members of the public and the press who wish to attend by ZoomGov may only listen in to the hearing using the Zoom telephone number. Video participation or observing are not permitted.
- Members of the public and the press may not listen in to trials or evidentiary hearings, though they may attend in person unless otherwise ordered.

To appear remotely for law and motion or status conference proceedings, you must comply with the following guidelines and procedures:

1. Review the [Pre-Hearing Dispositions](#) prior to appearing at the hearing.
2. Parties appearing via CourtCall are encouraged to review the [CourtCall Appearance Information](#). If you are appearing by ZoomGov phone or video, please join at least 10 minutes prior to the start of the calendar and wait with your microphone muted until the matter is called.

Unauthorized Recording is Prohibited: Any recording of a court proceeding held by video or teleconference, including "screen shots" or other audio or visual copying of a hearing is prohibited. Violation may result in sanctions, including removal of court-issued media credentials, denial of entry to future hearings, or any other sanctions deemed necessary by the court. For more information on photographing, recording, or broadcasting Judicial Proceedings, please refer to Local Rule 173(a) of the United States District Court for the Eastern District of California

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.

9:30 AM

1. [23-12700](#)-B-13 **IN RE: ANTHONY/ALLYSON DETLEFSEN**
[LGT-1](#)

CONTINUED OBJECTION TO CONFIRMATION OF PLAN BY TRUSTEE
LILIAN G. TSANG
1-23-2024 [[26](#)]

STEVEN ALPERT/ATTY. FOR DBT.

This matter was continued from March 13, 2024. Below is the pre-hearing disposition posted before the March 13, 2024 hearing.

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Conditionally overruled.

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

This matter was originally set for hearing on February 14, 2024.
Doc. #45.

The Chapter 13 Trustee ("Trustee") objects to confirmation of the Chapter 13 Plan filed by Anthony and Allyson Detlefsen (collectively "Debtors") on December 1, 2023, on the following basis:

1. Schedule I must be amended to disclose Debtors' G.I. Bill income. [11 U.S.C. § 1322(a)].
2. Debtors have failed to file motion to value the collateral of Pentagon Federal Credit Union ("Pentagon") for two loans in Class 2. Without a proper valuation, the plan is not feasible. [11 U.S.C. § 1325(a)(6)].

Doc. #26.

On January 25, 2024, Debtor filed an Amended Schedule I which appears to resolve the first objection. Doc. #31. On that same day, Debtor filed two Motions to Value Collateral which purported to resolve the second objection. Docs. ##33,37. However, the court has denied both of those motions for procedural reasons and continued the hearing on the objection to March 13, 2023, at 9:30 a.m. Docs. ##45-47, 56. Undaunted, Debtors refiled their Motions to Value Collateral with the procedural deficiencies cured. Those motions are the subject of Items #2 and #3 below and are set for hearing by the court.

While the court is inclined to grant both valuation motions, there appear to be factual disputes as to the value of the collateral. Until the court determines the proper value of the collateral, the court cannot say definitively whether the plan is feasible or not. Accordingly, unless this Objections is withdrawn, this matter will

be heard as scheduled, and the Trustee will have opportunity to advise the court as to whether the Debtors' amendments and the court's valuation decision resolve the Trustee's objections.

2. [23-12700](#)-B-13 **IN RE: ANTHONY/ALLYSON DETLEFSEN**
[RLG-3](#)

CONTINUED RE: MOTION TO VALUE COLLATERAL OF PENTAGON FEDERAL CREDIT UNION
2-14-2024 [[48](#)]

ALLYSON DETLEFSEN/MV
STEVEN ALPERT/ATTY. FOR DBT.

This matter was continued from March 13, 2024. Below is the pre-hearing disposition posted before the March 13, 2024 hearing.

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 will submit a proposed order after hearing.

Anthony Robert Detlefsen and Allyson Michelle Detlefsen ("Debtors") ask this court for an order valuing a 2017 Chevrolet Equinox LS 2WD ("Vehicle") at \$10,885.00 as of the filing. Doc. #48. The Vehicle is encumbered by a nonpurchase money security interest loan held by Pentagon Federal Credit Union ("Creditor"). *Id.* The Certificate of Service reflects that the motion was properly served on one of Creditor's officers. Doc. #51.

This motion was filed and served pursuant to Local Rule of Practice ("LBR") 9014-1(f)(2) and will proceed as scheduled. Although the motion and notice were filed 28 days prior to the hearing date, Debtors' *Notice* incorrectly identifies it as being brought pursuant to the 14-days' notice procedures set forth in LBR 9014-1(f)(2). Because this matter is inextricably linked to the Trustee's pending motion to dismiss this case (*See Item #1, above*), the court elects to overlook the procedural defect and treat this motion as one brought under LBR 9014-1(f)(2) rather than LBR 9014-1(f)(1).

Accordingly, no written opposition was required to be filed prior to the hearing date, and opposition may be presented at that time. Unless such opposition is presented at the hearing, the court intends to enter the respondents' defaults and GRANT the motion at least in part. 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.

11 U.S.C. § 506(a)(1) limits a secured creditor's claim "to the extent of the value of such creditor's interest in the estate's interest in such property . . . and is an unsecured claim to the

extent that the value of such creditor's interest . . . is less than the amount of such allowed claim." "Replacement value" means "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.

11 U.S.C. § 1325(a)(*) (the hanging paragraph) states that 11 U.S.C. § 506 is not applicable to claims described in that paragraph if (1) the creditor has a purchase money security interest securing the debt that is the subject of the claim, (2) the debt was incurred within 910 days preceding the filing of the petition, and (3) the collateral is a motor vehicle acquired for the personal use of the debtor.

According to the moving papers, the Vehicle was purchased in August of 2019, which is more than 910 days prior to the December 1, 2023, filing date. Doc. #48. The Debtors have refinanced the Vehicle since then, but that does not bring it back within the ambit of the hanging paragraph. *Id.* Accordingly, § 506 applies.

In its proof of claim, Creditor asserts that the value of the Vehicle is \$12,695.00. POC #19-1. The Debtors have submitted a Declaration in which they aver that the value of the Vehicle is \$10,885.00. Doc. #50. Debtors are competent to testify as to the value of the Vehicle, and in the absence of contrary evidence, the debtor's opinion of value may be conclusive. *Enewally v. Wash. Mut. Bank (In re Enewally)*, 368 F.3d 1165, 1173 (9th Cir. 2004). The total amount of the secured lien is \$18,109.23, and Creditor concedes that it is unsecured at least up to \$5,414.23. POC #19-1.

If this matter is not resolved prior to the hearing date, the court will consider the factual dispute raised by the Creditor and Debtors' opposing valuations and any evidence they bring in support of their respective valuations. Notably, Creditor's proof of claim contains an evaluation, and it is signed by a "Bankruptcy Specialist" in Creditor's employ. Since Creditor provides no evidence as to the qualifications of the person who opined on the value, the current state of the record does not support Creditor's valuation. Given Creditor's concession that the value of the Vehicle is no higher than \$12,695.00, the court is inclined to GRANT the motion.

The proposed order shall specifically identify the collateral, and if applicable, the proof of claim to which it relates. The order will be effective upon confirmation of the chapter 13 plan.

3. [23-12700](#)-B-13 **IN RE: ANTHONY/ALLYSON DETLEFSEN**
[RLG-4](#)

CONTINUED RE: MOTION TO VALUE COLLATERAL OF PENTAGON FEDERAL
CREDIT UNION
2-14-2024 [\[52\]](#)

ALLYSON DETLEFSEN/MV
STEVEN ALPERT/ATTY. FOR DBT.

This matter was continued from March 13, 2024. Below is the pre-hearing disposition posted before the March 13, 2024 hearing.

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 will submit a proposed order after hearing.

Anthony Robert Detlefsen and Allyson Michelle Detlefsen ("Debtors") ask this court for an order valuing a 2019 Volkswagen Tiguan S 2WD 14 Turbo ("Vehicle") at \$16,300.00 as of filing. Doc. #52. The Vehicle is encumbered by a nonpurchase money security interest loan held by Pentagon Federal Credit Union ("Creditor"). *Id.* The Certificate of Service reflects that the motion was properly served on one of Creditor's officers. Doc. #51.

This motion was filed and served pursuant to Local Rule of Practice ("LBR") 9014-1(f)(2) and will proceed as scheduled. Although the motion and notice were filed 28 days prior to the hearing date, Debtors' Notice incorrectly identifies it as being brought pursuant to the 14-days' notice procedures set forth in LBR 9014-1(f)(2). Because this matter is inextricably linked to the Trustee's pending motion to dismiss this case (*See Item #1, above*), the court elects to overlook the procedural defect and treat this motion as one brought under LBR 9014-1(f)(2) rather than LBR 9014-1(f)(1).

Accordingly, no written opposition was required to be filed prior to the hearing date, and opposition may be presented at that time.

Unless such opposition is presented at the hearing, the court intends to enter the respondents' defaults and GRANT the motion at least in part. 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.

11 U.S.C. § 506(a)(1) limits a secured creditor's claim "to the extent of the value of such creditor's interest in the estate's interest in such property . . . and is an unsecured claim to the extent that the value of such creditor's interest . . . is less than the amount of such allowed claim." "Replacement value" means "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.

11 U.S.C. § 1325(a) (*) (the hanging paragraph) states that 11 U.S.C. § 506 is not applicable to claims described in that paragraph if (1) the creditor has a purchase money security interest securing the debt that is the subject of the claim, (2) the debt was incurred within 910 days preceding the filing of the petition, and (3) the collateral is a motor vehicle acquired for the personal use of the debtor.

According to the moving papers, the Vehicle was purchased in October of 2020, which is more than 910 days prior to the December 1, 2023, filing date. Doc. #54. The Debtors have refinanced the Vehicle since then, but that does not bring it back within the ambit of the hanging paragraph. *Id.* Accordingly, § 506 applies.

In its proof of claim, Creditor asserts that the value of the Vehicle is \$18,500.00 POC #18-1. The Debtors have submitted a Declaration in which they aver that the value of the Vehicle is \$16,300.00. Doc. #54. Debtors are competent to testify as to the value of the Vehicle, and in the absence of contrary evidence, the debtor's opinion of value may be conclusive. *Enewally v. Wash. Mut. Bank (In re Enewally)*, 368 F.3d 1165, 1173 (9th Cir. 2004). The total amount of the secured lien is \$21,616.98, and Creditor concedes that it is unsecured at least up to \$\$3,316.98. POC #18-1.

If this matter is not resolved prior to the hearing date, the court will consider the factual dispute raised by the Creditor and Debtors' opposing valuations and any evidence they bring in support of their respective valuations. Notably, Creditor's proof of claim contains an evaluation, and it is signed by a "Bankruptcy Specialist" in Creditor's employ. Since Creditor provides no evidence as to the qualifications of the person who opined on the value, the current state of the record does not support Creditor's valuation. Given Creditor's concession that the value of the Vehicle is no higher than \$18,500.00, the court is inclined to GRANT the motion.

The proposed order shall specifically identify the collateral, and if applicable, the proof of claim to which it relates. The order will be effective upon confirmation of the chapter 13 plan.

4. [23-12715](#)-B-13 **IN RE: VICTOR ISLAS-ZAVALA AND LORENA
GONZALEZ
[TCS-3](#)**

CONTINUED MOTION TO VALUE COLLATERAL OF WESTLAKE
2-23-2024 [\[43\]](#)

LORENA GONZALEZ/MV
TIMOTHY SPRINGER/ATTY. FOR DBT.

This matter was continued from March 13, 2024. Below is the pre-hearing disposition posted before the March 13, 2024 hearing.

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 will submit a proposed order after hearing.

This motion was filed and served pursuant to 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.

Victor Islas-Zavala and Lorena Gonzales ("Debtors") ask this court for an order valuing a 2017 Jeep Patriot with 110,878 miles ("Vehicle") at \$8,559.00. Doc. #43. The Vehicle secures a debt owed to Westlake - C/O Peritus Portfolio Services II, LLC ("Creditor").

This motion will be GRANTED. 11 U.S.C. § 506(a)(1) limits a secured creditor's claim "to the extent of the value of such creditor's interest in the estate's interest in such property . . . and is an unsecured claim to the extent that the value of such creditor's interest . . . is less than the amount of such allowed claim."

11 U.S.C. § 1325(a)(*) (the hanging paragraph) states that 11 U.S.C. § 506 is not applicable to claims described in that paragraph if (1) the creditor has a purchase money security interest securing the debt that is the subject of the claim, (2) the debt was incurred within 910 days preceding the filing of the petition, and (3) the collateral is a motor vehicle acquired for the personal use of the debtor.

According to the moving papers, the Debtors purchased the Vehicle on January 10, 2021, which is more than 910 days preceding the petition December 5, 2023, filing date. Docs. ## 45, 46. The elements of § 1325(a)(*) are not met and § 506 is applicable.

In its proof of claim, Creditor asserts that the value of the Vehicle is \$11,300.00. POC #5-1. The Debtors have submitted a Declaration in which they aver that the value of the Vehicle is

\$8,559.00. Doc. #43. Debtors are competent to testify as to the value of the Vehicle, and in the absence of contrary evidence, the debtor's opinion of value may be conclusive. *Enewally v. Wash. Mut. Bank (In re Enewally)*, 368 F.3d 1165, 1173 (9th Cir. 2004). The total amount of the secured lien is \$13,505.53, and Creditor concedes in the proof of claim that it is unsecured at least up to \$2,205.53. POC #5-1.

If this matter is not resolved prior to the hearing date, the court will consider the factual dispute raised by the Creditor and Debtors' opposing valuations and any evidence they bring in support of their respective valuations. The proof of claim is signed by a "Senior Bankruptcy Analyst." Attached to the claim is a market report from J.D. Power. Though the J.D. Power report may not be excluded hearsay (FRE 802 (17)), no foundation is provided by claimant as to the "Senior Bankruptcy Analyst's" knowledge of the quotation. But even if the court accepted the quotation, it does not carry more weight than the Debtor's valuation without additional contrary evidence. Given Creditor's concession that the value of the Vehicle is no higher than \$13,505.53, the court is inclined to GRANT the motion.

The proposed order shall specifically identify the collateral, and if applicable, the proof of claim to which it relates. The order will be effective upon confirmation of the chapter 13 plan.

5. [19-13422](#)-B-13 **IN RE: LINNEY WADE**
[MAZ-5](#)

CONTINUED MOTION TO INCUR DEBT
2-27-2024 [\[110\]](#)

LINNEY WADE/MV
MARK ZIMMERMAN/ATTY. FOR DBT.

This matter was continued from March 13, 2024. Below is the pre-hearing disposition posted before the March 13, 2024 hearing.

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 will submit a proposed order after hearing.

Linney Wade ("Debtor") brings this motion to incur new debt for the purchase of real property. Doc. 110. Specifically, Debtor requests approval to purchase real property located at 630 West Cherry Court, Visalia, California 393277 ("the Property") for \$631,500.00 with an estimated monthly payment of \$4,805.00 payable to Golden Empire Mortgage Inc. ("the Mortgagee"). *Id.*

This motion was filed and served pursuant to 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.

This motion was filed in accordance with an order shortening time ("OST") to reduce the period of notice to permit the hearing to take place on March 13, 2024. Doc. #118. The order required Debtor to give notice to all parties on or before March 5, 2024. *Id.* Debtor appears to have complied with the OST by serving notice on all requisite parties on February 27, 2024. Docs. ##116,117.

If there is no opposition, the court is inclined to GRANT this motion.

Debtor asks the court for permission to borrow \$631,500.00 from Mortgagee at a rate of 6.750% to purchase the Property" under a 30-year mortgage. The loan will be secured by the Property under the terms outlined above. Debtor avers that he is current on all Chapter 13 plan payments, that he has recently completed all of his plan payments and is awaiting only the Chapter 13 Trustee's audit before discharge, that he has recently married, and that his wife's income will contribute to his monthly household expenses. Docs. ##110,112, 113. Debtor has also filed an amended *Schedule I-J* which includes his spouse's income in the determination of net monthly income and which shows that he can afford this monthly mortgage payment.

LBR 3015-1(h)(B) allows the debtor, with court approval, to finance the purchase of a residence if written consent of the chapter 13 trustee is filed with or as part of the motion. The trustee's approval is a certification to the court that: (i) all chapter 13 plan payments are current; (ii) the chapter 13 plan is not in default; (iii) the debtor has demonstrated an ability to pay all future plan payments, projected living expenses, and the new debt; (iv) the new debt is a single loan incurred to purchase a residence that is reasonably necessary for the maintenance or support of the debtor; (v) the only security for the new debt will be the residence purchased by debtor; and (vi) the monthly payment (the principal and interest payment on account of a the new debt plus all impounds, taxes, insurance, association fees, and bonds and other assessments) will not exceed the greater of the debtor's current such monthly payment or rental payment or \$2,500.00. LBR 3015-1(b)(1)(B).

If the trustee will not give consent, the debtors may still seek court approval under LBR 3015-1(h)(E) by filing and serving a motion on the notice required by Fed. R. Bankr. P. 2002 and LBR 9014-1. Since Debtors loan offer is only valid until April 29, 2024 (see Doc. #113 ("GEM Loan Approval"), Debtors filed a motion for an order shortening time to file this motion to incur debt on less than the 21 days' notice required by Fed. R. Bankr. P. 2002. Doc. #114. The court granted Debtors' request for an order shortening time, and Debtor appears to have complied with all the terms of that order in giving notice to parties in interest. Docs. ##116-18.

After review of the attached evidence, the court finds that Debtor will be able to make the monthly payment for the Property. Debtor is authorized, but not required, to incur further debt to purchase real property and a home located at 630 West Cherry Court, Visalia, California 393277 for \$631,500.00 with an estimated monthly payment of \$4,805.00.

Should the Debtors' budget prevent maintenance of current plan payment, Debtor shall continue making plan payments to the extent they are or will become due until the plan is modified.

6. [23-12260](#)-B-13 **IN RE: NAYELI LUNA**

CONTINUED ORDER TO SHOW CAUSE - FAILURE TO PAY FEES
2-13-2024 [[44](#)]

MARK ZIMMERMAN/ATTY. FOR DBT.

This matter was continued from March 13, 2024. Since the original hearing date, the court has modified its intended ruling on this matter.

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

DISPOSITION: The OSC will be vacated.

ORDER: The court will issue an order.

The record shows that the installment fees now due have been paid. Accordingly, the order to show cause will be VACATED.

7. [21-12561](#)-B-13 **IN RE: AMANDA GROAH**
[LGT-1](#)

CONTINUED MOTION TO DISMISS CASE
1-22-2024 [[91](#)]

LILIAN TSANG/MV
ROBERT WILLIAMS/ATTY. FOR DBT.
LILIAN TSANG/ATTY. FOR MV.

This matter was continued from March 13, 2024. Below is the pre-hearing disposition posted before the March 13, 2024 hearing.

TENTATIVE RULING: This matter will be called as scheduled.

DISPOSITION: Granted or denied without prejudice.

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

Chapter 13 trustee Lilian G. Tsang ("Trustee") moves to dismiss this case for cause under 11 U.S.C. § 1307(c)(1) and (c)(6) for

unreasonable delay by the debtor that is prejudicial to creditors and failure to make all payments due under the plan. Doc. #91. As of January 22, 2024, Amanda Roselle Groah ("Debtor") has failed to make all payments due under the plan and Debtor is delinquent \$2,367.00. Doc. #93. Before the hearing on this motion, an additional payment of \$2,369.00 will become due on February 25, 2024 for a total of \$4,736.00 due before the hearing.

Debtor timely filed written opposition. Doc. #97. Debtor states a payment in the amount of \$1,000.00 was made on February 21, 2024, and she will be able to catch up by April 2024. *Id.* Debtor claims she missed her Plan payments because she was caring for an ill relative, and she had to reduce her overtime hours. *Id.* The relative is "better now" and Debtor claims she can resume overtime. *Id.*

This matter will be called as scheduled to inquire whether Debtor has cured the delinquency. If so, this motion may be DENIED WITHOUT PREJUDICE. Otherwise, the motion may be GRANTED, and the case dismissed.

This motion was set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1) and will proceed as scheduled. The failure of the creditors, the U.S. Trustee, or any other party in interest except Debtor 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 except Debtor are entered. Upon default, factual allegations will be taken as true (except those relating to amounts of damages). *Televideo Sys, Inc. v. Heidenthal*, 826 F.2d 915, 917 (9th Cir. 1987).

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) and (c)(6) for unreasonable delay that is prejudicial to creditors and failure to make all payments due under the plan.

Trustee has reviewed the schedules and determined that this case has a liquidation value of \$2,807.72 after trustee compensation. Doc. #93. This value consists of the non-exempt equity in Debtor's 2013 Ford Fusion. Since a *de minimis* amount of proceeds could be realized for the benefit of unsecured claims, dismissal, rather than conversion, better serves the interests of creditors and the estate.

As noted above, Debtor made payment in the amount of \$1,000.00 on February 21, 2024, and should be able to cure the remaining delinquency by April 2024.

This matter will be called as scheduled to inquire whether Debtor has cured the delinquency. If so, this motion may be DENIED WITHOUT PREJUDICE. Otherwise, the Motion may be GRANTED, and the case dismissed.

8. [23-12271](#)-B-13 **IN RE: RODNEY TIMMONS**
[LGT-1](#)

CONTINUED MOTION TO DISMISS CASE
1-9-2024 [\[61\]](#)

LILIAN TSANG/MV
ADELE SCHNEIDEREIT/ATTY. FOR DBT.
LILIAN TSANG/ATTY. FOR MV.

This matter was continued from March 13, 2024. The original pre-hearing disposition in this matter has been modified.

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Continued to a date determined at the hearing.

ORDER: The court will issue an order.

The Chapter 13 Trustee moves to dismiss this case for cause on the following grounds:

1. Unreasonable delay by the debtor that is prejudicial to creditors.
2. Failure to confirm a Chapter 13 Plan.
3. Debtor has failed to make payments due under the plan. As of January 09, 2024, payments are delinquent in the amount of \$1,096.00. While this motion has been pending, further payments will come due. In addition to the delinquency amount, Debtor must also make monthly plan payments of \$806.00 commencing on January 25, 2024.

This matter was originally set to be heard on February 14, 2024, but the court continued it so that it could be heard in conjunction with the Debtor's *Motion for Confirmation* which purports to resolve the issues which gave rise the instant motion. The court denied that *Motion for Confirmation* on procedural grounds. Doc. #93. The court is inclined to continue the instant matter until April, but the court thinks it would be prudent to hear from the Trustee and Debtor about whether the changes proposed by Debtor will resolve the Trustee's concerns if the procedural defects can be cured.

9. [23-12478](#)-B-13 **IN RE: ZACARE BURRIS AND AMY RABAGO-BURRIS**
[FDA-1](#)

CONTINUED MOTION TO APPROVE STIPULATION FOR RELIEF FROM THE
AUTOMATIC STAY
2-21-2024 [\[57\]](#)

JOHN SOMERS/MV
STEPHEN LABIAK/ATTY. FOR DBT.
JOHN WASTE/ATTY. FOR MV.

This matter was continued from March 13, 2024. Below is the pre-hearing disposition posted before the March 13, 2024 hearing.

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 with the stipulation attached as an exhibit and shall separately file the stipulation and docket it as a stipulation.

Creditor John Somers ("Movant") requests an order approving a joint stipulation ("Stipulation") entered into with Zacare Burris and Amy Rebecca Rabago-Burris ("Debtors") under Fed. R. Bankr. P. ("Rule") 4001(d). Doc. #57. The Stipulation also provides for waiver of the 14-day stay of Rule 4001(a)(3).

Written opposition was not required and may be presented at the hearing. In the absence of opposition, this motion will be GRANTED.

This motion was filed and served pursuant to 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.

The following facts are outlined in the Joint Stipulation and the Declaration accompanying the instant motion. Docs. ##57, 63. See also Doc. #60 (*Exhib. B*). Movant is Debtors' landlord pursuant to a commercial lease entered into on or about April 17, 2023, for an office/warehouse space located at 1635 South "O" Street, Suite A, Tulare, California, 93274 ("the Property"). *Id.* The lease term was for two (2) years with rent at \$1,300.00 per month, and the Debtors sought to use the space as a gymnasium for their personal training business. *Id.* The Debtors have no desire to continue the lease and have abandoned the Property since the Petition Date. *Id.* Movant seeks the return of the keys to the Property from Debtors and wishes to lease the now-abandoned Property to new tenants, to which Debtors consent. *Id.*

As a result, Movant and Debtors executed this Stipulation, which was filed as an Exhibit to this motion and also separately on the docket. See Doc. #60 (*Exhib. B*) and Doc. 63. Under the terms of the Stipulation, Movant and Debtors agree that Movant shall have relief from the automatic stay to acquire the keys to the Property and to rent the Property to a new prospective tenant. *ID.* Movant now requests approval of the Stipulation. Doc. #57.

Under Rule 4001(d) (1) (A) (iii), a party may file a motion for approval of an agreement to modify or terminate the stay provided in § 362. The motion contains the required contents outlined in Rule 4001(d) (1) (B) and was properly served on all creditors as required by Rule 4001(d) (1) (C). Pursuant to Rule 4001(d) (1), (2), and (3), a hearing was set on at least seven days' notice and the parties required to be served were given at least 14 days to file objections or may appear to object at the hearing.

Written opposition was not required and may be presented at the hearing. In the absence of opposition, this motion will be GRANTED, and the Stipulation approved. The court will also order the 14-day stay of Rule 4001(a) (3) waived because the parties have consented to stay relief.

10. [18-14481](#)-B-13 **IN RE: BETTY OCHOA**
[LGT-1](#)

CONTINUED MOTION TO DISMISS CASE
2-8-2024 [69]

LILIAN TSANG/MV
GLEN GATES/ATTY. FOR DBT.
LILIAN TSANG/ATTY. FOR MV.

This matter was continued from March 13, 2024. Below is the pre-hearing disposition posted before the March 13, 2024 hearing.

TENTATIVE RULING: This matter will be called as scheduled.

DISPOSITION: Granted or denied without prejudice.

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

Chapter 13 trustee Lilian G. Tsang ("Trustee") moves to dismiss this case for cause under 11 U.S.C. § 1307(c) (1), (c) (6) for unreasonable delay by the debtor that is prejudicial to creditors and failure to make all payments due under the plan and termination of a confirmed plan by reason of the occurrence of a condition specified in the plan other than completion of payments under the plan 11 U.S.C. § 1307(c) (8). Doc. #69. As of February 8, 2024, Betty Carmen Ochoa ("Debtor") has failed to make all payments due under the plan and Debtor is delinquent \$504.61, with additional payments accruing. Doc. #71.

Debtor timely filed written opposition in which she proposes that, in lieu of dismissal, she be permitted to continuing making her ongoing monthly payments with a lump sum payment to cover any deficiency remaining at the time of plan completion. Doc. #76. In the court's view, such a proposal could only be affected through a modification of the plan, which Debtor has not sought.

This matter will be called as scheduled to inquire whether Debtor has cured the delinquency. If so, this motion may be DENIED WITHOUT PREJUDICE. Otherwise, the motion may be GRANTED, and the case dismissed.

This motion was set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1) and will proceed as scheduled. The failure of the creditors, the U.S. Trustee, or any other party in interest except Debtor 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 except Debtor are entered. Upon default, factual allegations will be taken as true (except those relating to amounts of damages). *Televideo Sys, Inc. v. Heidenthal*, 826 F.2d 915, 917 (9th Cir. 1987).

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) and (c)(6) for unreasonable delay that is prejudicial to creditors and failure to make all payments due under the plan.

Trustee has reviewed the schedules and determined that Debtor has no equity in any of her real property, vehicles, or significant assets, all of which are over-encumbered or exempt. Doc. #69. Accordingly, in the Trustee's view, dismissal, rather than conversion, better serves the interests of creditors and the estate. *Id.*