

**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: MARCH 31, 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. [15-10406](#)-A-13 ANGELITA CAMPA
ALS-3
FARMERS INSURANCE GROUP
FEDERAL CREDIT UNION/MV
TIMOTHY SPRINGER/Atty. for dbt.
A. SIMON/Atty. for mv.
- MOTION FOR RELIEF FROM
AUTOMATIC STAY
2-25-16 [[82](#)]

No tentative ruling.

2. [15-14410](#)-A-13 JESSE LOPEZ
MHM-2
MICHAEL MEYER/MV
JOEL WINTER/Atty. for dbt.
- MOTION TO DISMISS CASE
1-29-16 [[36](#)]

[This matter will be called subsequent to item # 47, debtor's motion to confirm plan.]

No tentative ruling.

3. [11-12714](#)-A-13 EARL/SHERRY ABSHER
LKW-6
- MOTION FOR COMPENSATION FOR
LEONARD K. WELSH, DEBTORS
ATTORNEY(S)
2-23-16 [[102](#)]
- LEONARD WELSH/Atty. for dbt.

Final Ruling

Application: Allowance of Final Compensation and Expense Reimbursement

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

Disposition: Approved

Order: Civil minute order

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

COMPENSATION AND EXPENSES

In this Chapter 13 case, Leonard K. Welsh, attorney for the debtors, has applied for an allowance of final compensation and reimbursement of expenses. The applicant requests that the court allow compensation in the amount of \$6,342.50 and reimbursement of expenses in the amount of \$188.20. The applicant also asks that the court allow on a final basis all prior applications for fees and costs that the court has previously allowed on an interim basis.

Section 330(a) of the Bankruptcy Code authorizes "reasonable compensation for actual, necessary services" rendered by a debtor's attorney in a Chapter 13 case and "reimbursement for actual, necessary expenses." 11 U.S.C. § 330(a)(1), (4)(B). Reasonable compensation is determined by considering all relevant factors. See *id.* § 330(a)(3).

The court finds that the compensation and expenses sought are reasonable, and the court will approve the application on a final basis. The court also approves on a final basis all prior applications for interim fees and costs that the court has allowed under § 331 on an interim basis.

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.

Leonard K. Welsh'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 \$6,342.50 and reimbursement of expenses in the amount of \$188.20. The aggregate allowed amount equals \$6,530.07. As of the date of the application, the applicant held a retainer in the amount of \$0.00. The amount of \$6,530.07 shall be allowed as an administrative expense to be paid through the plan, and the remainder of the allowed amounts, if any, shall be paid from the retainer held by the applicant. The applicant is authorized to draw on any retainer held. The court also approves on a final basis all prior applications for interim fees and costs that the court has allowed under § 331 on an interim basis.

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

4. [16-10314](#)-A-13 SOLOMON OLIVAS

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
3-11-16 [[18](#)]

MARK ZIMMERMAN/Atty. for dbt.

Tentative Ruling

If the installment fee due March 7, 2016, in the sum of \$79 has not been paid by the time of the hearing, the case will be dismissed without further notice or hearing.

5. [15-14415](#)-A-13 ROGELIO ALFARO
MHM-1
MICHAEL MEYER/MV
JERRY LOWE/Atty. for dbt.

MOTION TO DISMISS CASE
1-28-16 [[41](#)]

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).

For the reasons stated in the motion, cause exists under § 1307(c)(1) and (4) to dismiss the case. The debtor has failed to make all payments due under the confirmed plan. Payments are delinquent in the amount of \$1,778.20.

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. The debtor has failed to make all payments due under the confirmed chapter 13 plan in this case. Payments are delinquent in the amount of \$1,778.20. This delinquency constitutes cause to dismiss this case. 11 U.S.C. § 1307(c)(1), (4). The court hereby dismisses this case.

6. [15-14720](#)-A-13 JOSEPH MCDERMOTT
MHM-1
MICHAEL MEYER/MV
JERRY LOWE/Atty. for dbt.
WITHDRAWN

MOTION TO DISMISS CASE
2-29-16 [[30](#)]

Final Ruling

The motion withdrawn, the matter is dropped as moot.

7. [15-14121](#)-A-13 JONATHAN MEEKER
MHM-2

CONTINUED OBJECTION TO
CONFIRMATION OF PLAN BY TRUSTEE
MICHAEL H. MEYER
1-29-16 [[28](#)]

DAVID JENKINS/Atty. for dbt.

No tentative ruling.

8. [15-10123](#)-A-13 CURTIS ALLEN AND
VRP-2 CHARLOTTE JACKSON
CURTIS ALLEN/MV
VARDUHI PETROSYAN/Atty. for dbt.
RESPONSIVE PLEADING,
OPPOSITION WITHDRAWN

MOTION TO MODIFY PLAN
2-11-16 [[40](#)]

Final Ruling

Motion: Modify Chapter 13 Plan

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

Disposition: Granted

Order: Prepared by the 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. The court will grant the motion and approve the modification of the plan.

9. [16-10323](#)-A-13 JOHN/DESIREE STUHAAN

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
3-11-16 [[28](#)]

SCOTT LYONS/Atty. for dbt.
\$310.00 FILING FEE PAID
3/22/16

Final Ruling

The fee paid in full, the order to show cause is discharged and the case shall remain pending.

10. [13-14824](#)-A-13 ALBERT/DEE ANNA KNAUER MOTION FOR ADMINISTRATIVE
BMJ-2 EXPENSES
COMM 2006-C8 SHAW AVENUE 3-14-16 [[34](#)]
CLOVIS/MV
TIMOTHY SPRINGER/Atty. for dbt.
JOHN MICHAEL/Atty. for mv.

Final Ruling

This matter is continued to May 17, 2016, at 9:00 a.m. Not later than April 6, 2016, moving party shall serve the motion, and all supporting documents, as well as a notice of continued hearing, on the debtors, all creditors and all other parties in interest. Fed. R. Bankr. 9013(b) (authorizing the court to specify the parties upon whom notice shall be given where the rules fail to specify to whom notice should be given). The notice shall specify that written opposition, if any, must be filed no later than May 3, 2016. Also not later than April 6, 2016, the movant shall file a Certificate of Service.

11. [15-14924](#)-A-13 PATRICIA CARLSON CONTINUED OBJECTION TO
HAR-1 CONFIRMATION OF PLAN BY KURT W.
HERBERT A. CARLSON TRUST/MV CARLSON, MARK CARLSON, HERBERT
A. CARLSON TRUST
2-2-16 [[15](#)]

DAVID JENKINS/Atty. for dbt.
HILTON RYDER/Atty. for mv.
STIPULATED ORDER, ECF NO. 32

[This matter will be called subsequent to Chapter 13 trustee Michael H. Meyer's Objection to Confirmation, MHM-2, Item #13.]

No tentative ruling.

12. [15-14924](#)-A-13 PATRICIA CARLSON MOTION TO DISMISS CASE
MHM-1 2-23-16 [[27](#)]
MICHAEL MEYER/MV
DAVID JENKINS/Atty. for dbt.
WITHDRAWN

Final Ruling

The motion withdrawn, the matter is dropped as moot.

13. [15-14924](#)-A-13 PATRICIA CARLSON
MHM-2
OBJECTION TO CONFIRMATION OF
PLAN BY TRUSTEE MICHAEL H.
MEYER
3-11-16 [[34](#)]

DAVID JENKINS/Atty. for dbt.

[This matter will be the first of all motions pertaining to Patricia Carlson to be called.]

No tentative ruling.

14. [11-16726](#)-A-13 PAUL/KAREN WYNN
MHM-1
MOTION TO DISMISS CASE
2-3-16 [[67](#)]
MICHAEL MEYER/MV
DAVID JENKINS/Atty. for dbt.
WITHDRAWN

Final Ruling

The motion withdrawn, the matter is dropped as moot.

15. [14-13427](#)-A-13 RAY/ORALIA QUINTERO
MHM-1
MOTION TO DISMISS CASE
2-3-16 [[20](#)]
MICHAEL MEYER/MV
SCOTT LYONS/Atty. for dbt.
WITHDRAWN

Final Ruling

The motion withdrawn, the matter is dropped as moot.

16. [11-19929](#)-A-13 JOHN/NORMA PINEDO
MHM-6
MOTION TO DISMISS CASE
2-10-16 [[132](#)]
MICHAEL MEYER/MV
PETER FEAR/Atty. for dbt.
RESPONSIVE PLEADING
WITHDRAWN

Final Ruling

The motion withdrawn, the matter is dropped as moot.

17. [13-10033](#)-A-13 JAMES/JESSICA SILVA
FW-7
JAMES SILVA/MV
PETER FEAR/Atty. for dbt.
VACATED BY ORDER 3/1/16
- OBJECTION TO NOTICE OF MORTGAGE
PAYMENT CHANGE
2-22-16 [[70](#)]

Final Ruling

The hearing vacated by Order, ECF #78, the matter is dropped as moot.

18. [15-13935](#)-A-13 RANDALL/SHARI WARKENTIN
JRL-1
RANDALL WARKENTIN/MV
- OBJECTION TO CLAIM OF MIDLAND
CREDIT MANAGEMENT, INC., CLAIM
NUMBER 9
2-22-16 [[54](#)]
- JERRY LOWE/Atty. for dbt.

Final Ruling

This matter is continued to April 28, 2016, at 9:00 a.m. Not later than (1) April 7, 2016, the movant shall give notice to the respondent of the continued hearing date; and (2) April 14, 2016, the movant shall augment the record consistent with the concerns outlined herein. the court will issue a civil minute order consistent herewith.

The debtor has failed to make a prima facie showing of entitlement to relief. As one source noted, "The statute of limitations applicable to the common counts is either two or four years, depending on whether the underlying debt was incurred orally or in writing. If the action is founded upon a contract or other writing (e.g., "book account" (¶3:398), "account stated" (¶3:400), or money lent on a note), the statute of limitations is generally four years from the date of the last item in the account. [CCP § 337(1), (2); *Armstrong Petroleum Corp. v. Tri-Valley Oil & Gas Co.* (2004) 116 CA4th 1375, 1395, 11 CR3d 412, 428, fn. 9; *Gardner v. Rutherford* (1943) 57 CA2d 874, 883, 136 P2d 48, 52] (Otherwise, the statute of limitations is two years; CCP § 339.)• [3:406.1] The statute of limitations on an action against guarantors of an open book account commenced when the last pertinent entry showing a balance due was entered, the debtor failed to pay that amount and no further credit was extended. [*R.N.C., Inc. v. Tsegeletos* (1991) 231 CA3d 967, 973, 283 CR 48, 50-51]• [3:406.2] An attorney's action for payment for services rendered years earlier was not time-barred because all entries were regarded as a single open book account and the statute of limitations did not commence until the last entry date. [*Egan v. Bishop* (1935) 8 CA2d 119, 123, 47 P2d 500, 502-503; *In re Roberts Farms, Inc.* (9th Cir. 1992) 980 F2d 1248, 1253 (same)]." Ahart, *California Practice Guide: Enforcing Judgments and Debts*, Prelawsuit Considerations 3:406-406.2 (Rutter Group 2015). (emphasis added).

Here, the debtor has only declared, "It has been over five years since I last incurred any credit card charges associated with Claim No. 9 filed by Midland Credit management Inc. . . ." Warkentin decl. ¶ 4, filed February 22, 2016, ECF #57. But this does not adequately account for other entries on the account, e.g. payments. For this reason, the debtor has not made a prima facie showing.

19. [15-13935](#)-A-13 RANDALL/SHARI WARKENTIN OBJECTION TO CLAIM OF MIDLAND
JRL-2 CREDIT MANAGEMENT, INC., CLAIM
RANDALL WARKENTIN/MV NUMBER 10
2-22-16 [[58](#)]

JERRY LOWE/Atty. for dbt.

Final Ruling

This matter is continued to April 28, 2016, at 9:00 a.m. Not later than (1) April 7, 2016, the movant shall give notice to the respondent of the continued hearing date; and (2) April 14, 2016, the movant shall augment the record consistent with the concerns outlined herein. the court will issue a civil minute order consistent herewith.

The debtor has failed to make a prima facie showing of entitlement to relief. As one source noted, "The statute of limitations applicable to the common counts is either two or four years, depending on whether the underlying debt was incurred orally or in writing. If the action is founded upon a contract or other writing (e.g., "book account" (¶3:398), "account stated" (¶3:400), or money lent on a note), the statute of limitations is generally four years from the date of the last item in the account. [CCP § 337(1), (2); *Armstrong Petroleum Corp. v. Tri-Valley Oil & Gas Co.* (2004) 116 CA4th 1375, 1395, 11 CR3d 412, 428, fn. 9; *Gardner v. Rutherford* (1943) 57 CA2d 874, 883, 136 P2d 48, 52] (Otherwise, the statute of limitations is two years; CCP § 339.)• [3:406.1] The statute of limitations on an action against guarantors of an open book account commenced when the last pertinent entry showing a balance due was entered, the debtor failed to pay that amount and no further credit was extended. [*R.N.C., Inc. v. Tsegeletos* (1991) 231 CA3d 967, 973, 283 CR 48, 50-51]• [3:406.2] An attorney's action for payment for services rendered years earlier was not time-barred because all entries were regarded as a single open book account and the statute of limitations did not commence until the last entry date. [*Egan v. Bishop* (1935) 8 CA2d 119, 123, 47 P2d 500, 502-503; *In re Roberts Farms, Inc.* (9th Cir. 1992) 980 F2d 1248, 1253 (same)]." Ahart, *California Practice Guide: Enforcing Judgments and Debts*, Prelawsuit Considerations 3:406-406.2 (Rutter Group 2015). (emphasis added).

Here, the debtor has only declared, "It has been over five years since I last incurred any credit card charges associated with Claim No. 10 filed by Midland Credit management Inc. . . ." Warkentin decl. ¶ 4, filed February 22, 2016, ECF #61. But this does not adequately account for other entries on the account, e.g. payments. For this reason, the debtor has not made a prima facie showing.

20. [15-13935](#)-A-13 RANDALL/SHARI WARKENTIN OBJECTION TO CLAIM OF ATLAS
JRL-3 ACQUISITIONS LLC, CLAIM NUMBER
RANDALL WARKENTIN/MV 12
2-22-16 [[62](#)]

JERRY LOWE/Atty. for dbt.

Final Ruling

This matter is continued to April 28, 2016, at 9:00 a.m. Not later than (1) April 7, 2016, the movant shall give notice to the respondent

of the continued hearing date; and (2) April 14, 2016, the movant shall augment the record consistent with the concerns outlined herein. the court will issue a civil minute order consistent herewith.

The debtor has failed to make a prima facie showing of entitlement to relief. As one source noted, "The statute of limitations applicable to the common counts is either two or four years, depending on whether the underlying debt was incurred orally or in writing. If the action is founded upon a contract or other writing (e.g., "book account" (¶3:398), "account stated" (¶3:400), or money lent on a note), the statute of limitations is generally four years from the date of the last item in the account. [CCP § 337(1), (2); *Armstrong Petroleum Corp. v. Tri-Valley Oil & Gas Co.* (2004) 116 CA4th 1375, 1395, 11 CR3d 412, 428, fn. 9; *Gardner v. Rutherford* (1943) 57 CA2d 874, 883, 136 P2d 48, 52] (Otherwise, the statute of limitations is two years; CCP § 339.)• [3:406.1] The statute of limitations on an action against guarantors of an open book account commenced when the last pertinent entry showing a balance due was entered, the debtor failed to pay that amount and no further credit was extended. [*R.N.C., Inc. v. Tsegeletos* (1991) 231 CA3d 967, 973, 283 CR 48, 50-51]• [3:406.2] An attorney's action for payment for services rendered years earlier was not time-barred because all entries were regarded as a single open book account and the statute of limitations did not commence until the last entry date. [*Egan v. Bishop* (1935) 8 CA2d 119, 123, 47 P2d 500, 502-503; *In re Roberts Farms, Inc.* (9th Cir. 1992) 980 F2d 1248, 1253 (same)]." Ahart, *California Practice Guide: Enforcing Judgments and Debts*, Prelawsuit Considerations 3:406-406.2 (Rutter Group 2015). (emphasis added).

Here, the debtor has only declared, "It has been over five years since I last incurred any credit card charges associated with Claim No. 12 filed by Atlas Acquisitions. . . ." Warkentin decl. ¶ 4, filed February 22, 2016, ECF #65. But this does not adequately account for other entries on the account, e.g. payments. For this reason, the debtor has not made a prima facie showing.

21. [15-14335](#)-A-13 LETICIA BAEZA
MHM-1
MICHAEL MEYER/MV
TIMOTHY SPRINGER/Atty. for dbt.

MOTION TO DISMISS CASE
1-28-16 [[21](#)]

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 confirmed chapter 13 plan. For the reasons stated in the motion, cause exists under § 1307(c)(1), (c)(4) to dismiss the case. Payments under the confirmed plan are delinquent in the amount of \$710.00.

CIVIL MINUTE ORDER

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

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

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

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

22. [14-15736](#)-A-13 OMAR MARTINEZ AND JUDIT MOTION TO DISMISS CASE
MHM-3 LOPEZ 2-3-16 [[75](#)]
MICHAEL MEYER/MV
GLEN GATES/Atty. for dbt.
WITHDRAWN

Final Ruling

The motion withdrawn, the matter is dropped as moot.

23. [10-62939](#)-A-13 JEFFREY/BRANDI RAUEN CONTINUED MOTION TO DETERMINE
MHM-3 FINAL CURE AND MORTGAGE PAYMENT
MICHAEL MEYER/MV RULE 3002.1
1-13-16 [[73](#)]
SCOTT LYONS/Atty. for dbt.
MICHAEL MEYER/Atty. for mv.
RESPONSIVE PLEADING

Final Ruling

The motion withdrawn by The Joint Status Report, ECF #95, the matter is dropped as moot.

24. [12-14743](#)-A-13 DAVID LARSON AND TINA
THA-6 MEDEIROS-LARSON
DAVID LARSON/MV

MOTION TO COMPROMISE
CONTROVERSY/APPROVE SETTLEMENT
AGREEMENT WITH DEYOUNG REALTY,
INC. AND/OR MOTION FOR
COMPENSATION BY THE LAW OFFICE
OF FOWLER HELSEL VOGT FOR JOHN
C. FOWLER, SPECIAL COUNSEL(S)
3-3-16 [[102](#)]

THOMAS ARMSTRONG/Atty. for dbt.

Tentative Ruling

Matter: (1) Motion to Approve Compromise; and (2) Application for Allowance of Compensation and Expense Reimbursement

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

Disposition: (1) Motion to approve compromise granted; and (2) Application for compensation and expense reimbursement approved

Order: Civil minute order

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion and application 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).

COMPROMISE

In determining whether to approve a compromise under Federal Rule of Bankruptcy Procedure 9019, the court determines whether the compromise was negotiated in good faith and whether the party proposing the compromise reasonably believes that the compromise is the best that can be negotiated under the facts. *In re A & C Props.*, 784 F.2d 1377, 1381 (9th Cir. 1982). More than mere good faith negotiation of a compromise is required. The court must also find that the compromise is fair and equitable. *Id.* "Fair and equitable" involves a consideration of four factors: (i) the probability of success in the litigation; (ii) the difficulties to be encountered in collection; (iii) the complexity of the litigation, and expense, delay and inconvenience necessarily attendant to litigation; and (iv) the paramount interest of creditors and a proper deference to the creditors' expressed wishes, if any. *Id.* The party proposing the compromise bears the burden of persuading the court that the compromise is fair and equitable and should be approved. *Id.*

The movant requests approval of a compromise that settles with DeYoung Realty. The compromise is reflected in the settlement agreement attached to the motion, i.e. DeYoung Realty to pay \$59,720.47. Based on the motion and supporting papers, the court finds that the compromise presented for the court's approval is fair and equitable considering the relevant *A & C Properties* factors. The compromise or settlement will be approved.

COMPENSATION AND EXPENSES

In this Chapter 13 case, Fowler, Helsel, Vogt, special counsel for the debtor, has applied for an allowance of final compensation and reimbursement of expenses. The compensation and expenses requested are based on a contingent fee approved pursuant to § 327(e) of the Bankruptcy Code. The applicant requests that the court allow compensation in the amount of \$9,060.00 (less credits of \$2,000.00) and reimbursement of expenses in the amount of \$0.00.

The court finds that the compensation and expenses sought are reasonable, and the court will approve the application on a final basis.

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.

Fowler, Helsel, Vogt's motion to approve the present compromise and application for allowance of final compensation and reimbursement of expenses have 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 motion is granted. The court hereby approves the compromise with DeYoung Realty in the amount of \$59,720.47.

IT IS FURTHER ORDERED that the application for compensation and reimbursement of expenses is approved on a final basis. The court allows final compensation in the amount of \$ of \$9,060.00 (less credits of \$2,000.00) and reimbursement of expenses in the amount of \$0.00.

25. [14-14444](#)-A-13 IAN/JENNIFER STRACHAN
MHM-1
MICHAEL MEYER/MV
PETER BUNTING/Atty. for dbt.
WITHDRAWN

MOTION TO DISMISS CASE
2-3-16 [[32](#)]

Final Ruling

The motion withdrawn, the matter is dropped as moot.

26. [14-12645](#)-A-13 NANCY ADINOLFI
MHM-2

OBJECTION TO CONFIRMATION OF
PLAN BY TRUSTEE MICHAEL H.
MEYER
10-30-14 [[27](#)]

DAVID JENKINS/Atty. for dbt.
RESPONSIVE PLEADING

Final Ruling

The plan confirmed, the objection is dropped as moot.

27. [12-12146](#)-A-13 MANUEL/EDUVIJES INONG
MHM-2

MOTION TO DISMISS CASE
2-3-16 [[94](#)]

MICHAEL MEYER/MV
STEPHEN LABIAK/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 confirmed chapter 13 plan. For the reasons stated in the motion, cause exists under § 1307(c)(1), (c)(6). Payments under the confirmed plan are delinquent in the amount of \$1,193.00.

CIVIL MINUTE ORDER

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

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

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

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

28. [11-13649](#)-A-13 IGNACIO/TERESA CRUZ
MHM-2
MICHAEL MEYER/MV
JANINE ESQUIVEL/Atty. for dbt.

MOTION TO DISMISS CASE
2-10-16 [[99](#)]

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 confirmed chapter 13 plan. For the reasons stated in the motion, cause exists under § 1307(c)(1), (c)(6). Payments under the confirmed plan are delinquent in the amount of \$4,106.90.

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 confirmed chapter 13 plan in this case. The court hereby dismisses this case.

29. [15-11055](#)-A-13 CHERYL JACQUEZ
JRL-6
CHERYL JACQUEZ/MV

JERRY LOWE/Atty. for dbt.
WITHDRAWN

CONTINUED OBJECTION TO CLAIM OF
FRANCHISE TAX BOARD, CLAIM
NUMBER 8
1-27-16 [[80](#)]

Final Ruling

The objection withdrawn, the matter is dropped as moot.

30. [15-13361](#)-A-13 ALTON/SUSAN CUMMINGS
PBB-8
ALTON CUMMINGS/MV

OBJECTION TO CLAIM OF CENTRAL
VALLEY CANCER CENTER, INC.,
CLAIM NUMBER 2
2-12-16 [[76](#)]

PETER BUNTING/Atty. for dbt.

Final Ruling

Objection: Objection to Claim

Notice: LBR 3007-1(b) (1); written opposition required

Disposition: Sustained in part and the claim will be allowed as a general unsecured claim

Order: Prepared by objecting party

Unopposed objections are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c); LBR 9001-1(d), (n) (contested matters include objections). Written opposition to the sustaining of this objection was required not less than 14 days before the hearing on this objection. 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).

A proof of claim is "deemed allowed, unless a party in interest . . . objects." 11 U.S.C. § 502(a). Federal Rule of Bankruptcy Procedure 3001(f) creates an evidentiary presumption of validity for "[a] proof of claim executed and filed in accordance with [the] rules." Fed. R. Bankr. P. 3001(f); *see also Litton Loan Servicing, LP v. Garvida (In re Garvida)*, 347 B.R. 697, 706-07 (B.A.P. 9th Cir. 2006). This presumption is rebuttable. *See Litton Loan Servicing*, 347 B.R. at 706. "The proof of claim is more than some evidence; it is, unless rebutted, prima facie evidence. One rebuts evidence with counter-evidence." *Id.* at 707 (citation omitted) (internal quotation marks omitted).

"A creditor who files a proof of claim that lacks sufficient support under Rule 3001(c) and (f) does so at its own risk. That proof of claim will lack prima facie validity, so any objection that raises a legal or factual ground to disallow the claim will likely prevail absent an adequate response by the creditor." *Campbell v. Verizon Wireless S-CA (In re Campbell)*, 336 B.R. 430, 436 (B.A.P. 9th Cir. 2005).

Furthermore, "[a] claim that is not regular on its face does not qualify as having been 'executed and filed in accordance with these rules.'" *Litton Loan Servicing*, 347 B.R. at 707 n.7 (quoting Fed. R. Bankr. P. 3001(f)). Such a claim lacks prima facie validity.

The claim is defective on its face in that the claim contends entitlement to priority under 11 U.S.C. § 507(a)(7) (rental). But the attachments offered in support of the claim show the debt was of goods and services. As a consequence, the creditor is not entitled to priority under 11 U.S.C. § 507(a)(7).

For the reasons stated in the objection and supporting papers, the court will sustain the objection. The court will disallow the claim as a priority claim, and allow the claim as a general unsecured claim.

31. [11-17662](#)-A-13 FABIAN/JAN SANCHEZ MOTION TO DISMISS CASE
MHM-3 2-3-16 [[111](#)]
MICHAEL MEYER/MV
JOSEPH ARNOLD/Atty. for dbt.
WITHDRAWN

Final Ruling

The motion withdrawn, the matter is dropped as moot.

32. [15-12767](#)-A-13 CRYSTAL REED AND JASSEN MOTION TO DISMISS CASE
MHM-2 CHUTE 2-3-16 [[46](#)]
MICHAEL MEYER/MV
BENNY BARCO/Atty. for dbt.
WITHDRAWN

Final Ruling

The motion withdrawn, the matter is dropped as moot.

33. [13-17268](#)-A-13 CHRISTOPHER/NORMA ABLES MOTION TO DISMISS CASE
MHM-2 2-3-16 [[77](#)]
MICHAEL MEYER/MV
JERRY LOWE/Atty. for dbt.
WITHDRAWN

Final Ruling

The motion withdrawn, the matter is dropped as moot.

34. [16-10269](#)-A-13 ROBERT/JENNIFER SALAS OBJECTION TO CONFIRMATION OF
APN-1 PLAN BY WELLS FARGO BANK, N.A.
WELLS FARGO BANK, N.A./MV 2-17-16 [[12](#)]
SUSAN HEMB/Atty. for dbt.
AUSTIN NAGEL/Atty. for mv.
RESPONSIVE PLEADING

No tentative ruling.

35. [15-14575](#)-A-13 HECTOR ZAVALZA
BN-1
THE GOLDEN 1 CREDIT UNION/MV
ERIC ESCAMILLA/Atty. for dbt.
VALERIE PEO/Atty. for mv.
DISMISSED

MOTION FOR RELIEF FROM
AUTOMATIC STAY
3-3-16 [[43](#)]

Final Ruling

The case dismissed and the motion withdrawn, the matter is dropped as moot.

36. [10-63277](#)-A-12 DELVIN/DEBORAH GEORGESON
HAR-6

MOTION FOR COMPENSATION BY THE
LAW OFFICE OF MCCORMICK,
BARSTOW, SHEPPARD, WAYTE &
CARRUTH LLP FOR HILTON A.
RYDER, DEBTORS ATTORNEY(S)
3-1-16 [[103](#)]

HILTON RYDER/Atty. for dbt.
DISMISSED

Final Ruling

Application: Allowance of Final Compensation and Expense Reimbursement

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

Disposition: Approved

Order: Civil minute order

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

COMPENSATION AND EXPENSES

In this Chapter 12 case, McCormick Barstow has applied for an allowance of final compensation and reimbursement of expenses. The applicant requests that the court allow compensation in the amount of \$3,787.00 and reimbursement of expenses in the amount of \$31.18. The applicant also asks that the court allow on a final basis all prior applications for fees and costs that the court has previously allowed on an interim basis.

Section 330(a) of the Bankruptcy Code authorizes "reasonable compensation for actual, necessary services" rendered by a debtor's attorney in a Chapter 12 case and "reimbursement for actual, necessary expenses." 11 U.S.C. § 330(a)(1), (4)(B). Reasonable compensation is determined by considering all relevant factors. See *id.* § 330(a)(3).

The court finds that the compensation and expenses sought are reasonable, and the court will approve the application on a final basis. The court also approves on a final basis all prior applications for interim fees and costs that the court has allowed

under § 331 on an interim basis.

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.

McCormick Barstow'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 \$3,787.00 and reimbursement of expenses in the amount of \$31.18. The aggregate allowed amount equals \$3,818.18. As of the date of the application, the applicant held a retainer in the amount of \$0.00. The amount of \$3,818.18 shall be allowed as an administrative expense to be paid through the plan, and the remainder of the allowed amounts, if any, shall be paid from the retainer held by the applicant. The applicant is authorized to draw on any retainer held. The court also approves on a final basis all prior applications for interim fees and costs that the court has allowed under § 331 on an interim basis.

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

37. [15-13077](#)-A-13 ANTONIO/MARIA ROMERO
SL-1
ANTONIO ROMERO/MV
SCOTT LYONS/Atty. for dbt.
ORDER 10/29/15
WITHDRAWN BY ORDER 2/16/16
- PRETRIAL CONFERENCE RE: AMENDED
MOTION TO VALUE COLLATERAL OF
THE CITY OF CORCORAN
9-25-15 [[20](#)]

Final Ruling

The motion withdrawn by Order, ECF #44, the pretrial conference is concluded.

38. [14-14681](#)-A-13 GERALD RISENHOOVER
MHM-2
MICHAEL MEYER/MV
STEVEN ALPERT/Atty. for dbt.
WITHDRAWN
- MOTION TO DISMISS CASE
2-3-16 [[42](#)]

Final Ruling

The motion withdrawn, the matter is dropped as moot.

39. [15-13083](#)-A-13 ROJELIO/JOANDREW ORTIZ MOTION TO DISMISS CASE
MHM-1 2-3-16 [[29](#)]
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).

For the reasons stated in the motion, cause exists under § 1307(c)(1) and (6) to dismiss the case. The debtor has failed to make all payments due under the confirmed plan. Payments are delinquent in the amount of \$4,000.00.

CIVIL MINUTE ORDER

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

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

The trustee's motion to dismiss 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. The debtor has failed to make all payments due under the confirmed chapter 13 plan in this case. Payments are delinquent in the amount of \$4,000.00. This delinquency constitutes cause to dismiss this case. 11 U.S.C. § 1307(c)(1), (6). The court hereby dismisses this case.

40. [15-13184](#)-A-13 DEBBY RENNA MOTION TO DISMISS CASE
MHM-1 1-28-16 [[61](#)]
MICHAEL MEYER/MV
F. GIST/Atty. for dbt.

No tentative ruling.

41. [11-61987](#)-A-13 JOSE/LETICIA CERDA
MHM-4
MICHAEL MEYER/MV
ADRIAN WILLIAMS/Atty. for dbt.
WITHDRAWN

MOTION TO DISMISS CASE
2-10-16 [[90](#)]

Final Ruling

The motion withdrawn, the matter is dropped as moot.

42. [15-13890](#)-A-13 REBECCA STANLEY-HARRIS
MHM-2
MICHAEL MEYER/MV
PETER BUNTING/Atty. for dbt.

MOTION TO DISMISS CASE
1-28-16 [[24](#)]

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 \$3,000.00.

CIVIL MINUTE ORDER

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

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

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

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

43. [14-14193](#)-A-13 TINA MCCOMB
MHM-2
MICHAEL MEYER/MV
DAVID JENKINS/Atty. for dbt.

MOTION TO DISMISS CASE
2-3-16 [[47](#)]

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).

For the reasons stated in the motion, cause exists under § 1307(c)(1) and (6) to dismiss the case. The debtor has failed to make all payments due under the confirmed plan. Payments are delinquent in the amount of \$597.00.

CIVIL MINUTE ORDER

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

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

The trustee's motion to dismiss 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. The debtor has failed to make all payments due under the confirmed chapter 13 plan in this case. Payments are delinquent in the amount of \$597.00. This delinquency constitutes cause to dismiss this case. 11 U.S.C. § 1307(c)(1), (6). The court hereby dismisses this case.

44. [16-10194](#)-A-13 RAFAEL BRIBISCA AND
MHM-1 MIRIAM PERALTA

OBJECTION TO CONFIRMATION OF
PLAN BY TRUSTEE MICHAEL H.
MEYER
3-11-16 [[13](#)]

THOMAS GILLIS/Atty. for dbt.

No tentative ruling.

45. [15-11296](#)-A-13 BILL KEENEY MOTION TO DISMISS CASE
MHM-1 2-3-16 [[23](#)]
MICHAEL MEYER/MV
MARK ZIMMERMAN/Atty. for dbt.
WITHDRAWN

Final Ruling

The motion withdrawn, the matter is dropped as moot.

46. [15-14296](#)-A-13 LAO CHA MOTION TO CONFIRM PLAN
DRJ-3 2-9-16 [[42](#)]
LAO CHA/MV
DAVID JENKINS/Atty. for dbt.

Final Ruling

Motion: Confirm Chapter 13 Plan

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

Disposition: Granted

Order: Prepared by the 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)(1), 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, 1325 and by Federal Rule of Bankruptcy Procedure 2002(b) 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 confirmation of the plan.

47. [15-14410](#)-A-13 JESSE LOPEZ CONTINUED MOTION TO CONFIRM
JDW-1 PLAN
JESSE LOPEZ/MV 2-1-16 [[41](#)]
JOEL WINTER/Atty. for dbt.

No tentative ruling.

48. [16-10621](#)-A-13 DAMON/REGINA GUNDERMAN MOTION TO EXTEND AUTOMATIC STAY
DRJ-2 3-16-16 [[8](#)]
DAMON GUNDERMAN/MV
DAVID JENKINS/Atty. for dbt.

Tentative Ruling

Motion: Extend the Automatic Stay

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

Disposition: Granted except as to any creditor without proper notice of this motion

Order: Prepared by moving party pursuant 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).

Upon request of a party in interest, the court may extend the automatic stay where the debtor has had one previous bankruptcy case that was pending within the 1-year period prior to the filing of the current bankruptcy case but was dismissed. See 11 U.S.C. § 362(c)(3)(B). Procedurally, the automatic stay may be extended only "after notice and a hearing *completed* before the expiration of the 30-day period" after the filing of the petition in the later case. *Id.* (emphasis added). To extend the stay, the court must find that the filing of the *later case* is in good faith as to the creditors to be stayed, and the extension of the stay may be made subject to conditions or limitations the court may impose. *Id.*

For the reasons stated in the motion and supporting papers, the court finds that the filing of the current case is in good faith as to the creditors to be stayed. The motion will be granted except as to any creditor without proper notice of this motion.

49. [15-10123](#)-A-13 CURTIS ALLEN AND CONTINUED MOTION TO DISMISS
MHM-1 CHARLOTTE JACKSON CASE
MICHAEL MEYER/MV 11-5-15 [[23](#)]
VARDUHI PETROSYAN/Atty. for dbt.

Final Ruling

A modified plan confirmed, the motion to dismiss is dropped as moot.

50. [16-10644](#)-A-13 JUVY AGCAOILI NOTICE OF INCOMPLETE FILING AND
INTENT TO DISMISS CASE
3-2-16 [[3](#)]

[This matter will be called subsequent to U.S. Bank's motion to confirm termination/absence of the stay, AP-1, item # 51.]

No tentative ruling.

51. [16-10644](#)-A-13 JUVY AGCAOILI MOTION TO CONFIRM TERMINATION
AP-1 OR ABSENCE OF STAY
US BANK NATIONAL 3-17-16 [[15](#)]
ASSOCIATION/MV
JONATHAN CAHILL/Atty. for mv.

[The court intends to rule on this matter before resolving the Notice of Incomplete Filing, item # 50.]

No tentative ruling.

52. [15-13184](#)-A-13 DEBBY RENNA CONTINUED MOTION TO CONFIRM
FJG-2 PLAN
DEBBY RENNA/MV 9-3-15 [[22](#)]
F. GIST/Atty. for dbt.
RESPONSIVE PLEADING

[The court notes that the chapter 13 trustee has filed both a withdrawal of opposition, ECF #66, and a status report re opposition, ECF #72, which conflict with each other.]

No tentative ruling.