

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

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

**PRE-HEARING DISPOSITIONS**

**DAY:** WEDNESDAY

**DATE:** MAY 9, 2018

**CALENDAR:** 9:00 A.M. CHAPTERS 13 AND 12 CASES

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

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

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

**Final Ruling:** Unless otherwise ordered, there will be no hearing on these matters. The final disposition of the matter is set forth in the ruling and it will appear in the minutes. The final ruling may or may not finally adjudicate the matter. If it is finally adjudicated, the minutes constitute the court's findings and conclusions. If the parties stipulate to continue the hearing on the matter or agree to resolve the matter in a way inconsistent with the final ruling, then the court will consider vacating the final ruling only if the moving party notifies chambers before 4:00 pm at least one business day before the hearing date: Department A-Kathy Torres (559)499-5860; Department B-Jennifer Dauer (559)499-5870. If a party has grounds to contest a final ruling because of the court's error under FRCP 60 (a) (FRBP 9024) ["a clerical mistake (by the court) or a mistake arising from (the court's) oversight or omission"] the party shall notify chambers (contact information above) and any other party affected by the final ruling by 4:00 pm one business day before the hearing.

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

1. [15-10004](#)-A-13     **IN RE: LARRY VALENCIA**  
[TCS-7](#)

MOTION TO VACATE DISMISSAL OF CASE  
4-23-2018    [[118](#)]

LARRY VALENCIA/MV  
TIMOTHY SPRINGER  
DISMISSED

**No Ruling**

2. [18-10105](#)-A-13     **IN RE: SCOTT MARSH**  
[MHM-3](#)

OBJECTION TO CONFIRMATION OF PLAN BY TRUSTEE MICHAEL H.  
MEYER  
4-19-2018    [[38](#)]

JERRY LOWE

**Final Ruling**

The objection having been withdrawn, the matter is deemed voluntarily dismissed. The court drops the matter from calendar.

3. [18-10218](#)-A-13     **IN RE: ENOC GUTIERREZ AND KAREN RIVAS**  
[MHM-3](#)

OBJECTION TO CONFIRMATION OF PLAN BY TRUSTEE MICHAEL H.  
MEYER  
4-19-2018    [[41](#)]

THOMAS GILLIS

**Final Ruling**

The objection having been withdrawn, the matter is deemed voluntarily dismissed. The court drops the matter from calendar.

4. [14-11820](#)-A-13     **IN RE: TONY/CARMEN BAIZA**  
[MHM-3](#)

OBJECTION TO CLAIM OF CITIFINANCIAL SERVICING LLC, CLAIM  
NUMBER 1  
3-21-2018    [[99](#)]

MICHAEL MEYER/MV  
SCOTT LYONS

### **Final Ruling**

**Objection:** Objection to Claim [Based on Waiver of the Right to the Remaining Balance]

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

**Disposition:** Sustained

**Order:** Civil minute order

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).

### **LEGAL STANDARDS**

#### Deemed Allowance under § 502(a)

Section 502(a) provides that "[a] claim or interest, proof of which is filed under section 501 of this title, is deemed allowed, unless a party in interest . . . objects." 11 U.S.C. § 502(a). If properly executed and filed under the rules along with all supporting documentation that may be required, *see, e.g.*, Fed. R. Bankr. P. 3001(c), the proof of claim is given an evidentiary presumption of validity. *See* Fed. R. Bankr. P. 3001(f); *Diamant*, 165 F.3d at 1247-48.

#### State Law on Waiver

With limited exceptions, § 502(b)(1) of the Bankruptcy Code means that "any defense to a claim that is available outside of the bankruptcy context is also available in bankruptcy." *Travelers Cas. & Sur. Co. of Am. v. Pac. Gas & Elec. Co.*, 549 U.S. 443, 450 (2007).

Under California state law, waiver can be asserted as a defense to a claim. "California courts will find waiver when a party intentionally relinquishes a right, or when that party's acts are so inconsistent with an intent to enforce the right as to induce a reasonable belief that such right has been relinquished." *Intel Corp. v. Hartford Acc. & Indem. Co.*, 952 F.2d 1551, 1559 (9th Cir. 1991) (citation omitted).

## **DISCUSSION**

The respondent and claimant Citifinancial Servicing, LLC, has returned funds received from the trustee and/or has communicated to the trustee in writing, returning funds and forgiving the balance of any debt owed. But until an objection to the claim is brought, the claim remains allowed. And the trustee must continue to pay all allowed claims consistent with the plan. § 502(a).

By its return of funds and/or written statements, the claimant has waived its right to receipt of any further amounts on its claim. These acts are highly inconsistent with an intent to enforce the right to any unpaid balance of the claim. This also creates an impossibility for the trustee to pay the allowed claim consistent with the trustee's duties.

Given the claimant's waiver of its right to receive any balance of its claim, the court will liquidate the amount of the claim at the amount paid by the trustee to the claimant.

The claim is disallowed in its entirety.

## **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 chapter 13 trustee's objection to claim has been presented to the court. Having entered the default of the respondent for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the objection,

IT IS ORDERED that the objection to Claim No. 1 is sustained. The claim is disallowed in its entirety.

5. [13-12631](#)-A-13     **IN RE: MARK/FABIOLA BUTCHER**  
[MHM-2](#)

OBJECTION TO CLAIM OF JPMORGAN CHASE BANK, N.A., CLAIM  
NUMBER 6  
3-21-2018    [[226](#)]

MICHAEL MEYER/MV  
PATRICK KAVANAGH  
RESPONSIVE PLEADING

### **Final Ruling**

**Objection:** Objection to Claim [Based on Waiver of the Right to the Remaining Balance]

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

**Disposition:** Continued to May 31, 2018, at 9:00 a.m.

**Order:** Civil minute order

### **CLAIM OBJECTION**

The trustee has objected to the proof of claim filed by respondent creditor JPMorgan Chase Bank N.A. (JPMorgan). JPMorgan's claim was modified by the stipulation entered between the debtor and JPMorgan on August 20, 2013. The objection to claim based on JPMorgan's waiver of the right to the remaining balance of its claim and its failure to amend its claim by filing a notice of lien satisfaction.

### **ADDITIONAL TIME**

The respondent creditor has requested additional time to file documents amending its proof of claim and giving notice of satisfaction of its lien. The court continues the hearing on this matter to May 31, 2018, at 9:00 a.m.

At the continued hearing, the court will sustain the objection unless the respondent creditor has amended its proof of claim to the correct amount as shown in the trustee's objection, which amount reflects payments JPMorgan has received and accepted on both its secured and unsecured claims, no later than May 23, 2018.

If respondent creditor files documents resolving this matter to the trustee's satisfaction before the hearing date, the trustee shall notify the court of the resolution by withdrawing the objection.

### **CIVIL MINUTE ORDER**

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

IT IS ORDERED that the hearing on the objection is continued to May 31, 2018, at 9:00 a.m. No later than May 23, 2018, the respondent claimant must file all necessary documentation to amend its claim to the amount indicated in the trustee's objection for its secured and unsecured claim. If this matter is resolved by the respondent's

filing of appropriate documents, the trustee shall withdraw the objection.

6. [18-10435](#)-A-13     **IN RE: SERENA VALDEZ**  
[MHM-2](#)

MOTION TO DISMISS CASE  
4-4-2018    [[20](#)]

MICHAEL MEYER/MV  
HAROUT BOULDOUKIAN  
RESPONSIVE PLEADING  
WITHDRAWN

**Final Ruling**

The motion withdrawn, the matter is dropped as moot.

7. [18-11439](#)-A-13     **IN RE: BRANDON/LESLIE SMART**  
[TCS-1](#)

MOTION TO EXTEND AUTOMATIC STAY  
4-19-2018    [[9](#)]

BRANDON SMART/MV  
TIMOTHY SPRINGER

**Tentative Ruling**

**Motion:** Extend the Automatic Stay

**Notice:** LBR 9014-1(f)(2); no 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). 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).

**EXTENSION OF THE STAY**

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.

#### **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 present motion to extend the automatic stay has been presented to the court. Having considered the motion, oppositions, responses and replies, if any, and having heard oral argument presented at the hearing,

IT IS ORDERED that the motion is granted, and the automatic stay of § 362(a) is extended in this case. The automatic stay shall remain in effect to the extent provided by the Bankruptcy Code.

8. [16-13343](#)-A-13     **IN RE: AIDE/JAMES BLANCO**  
[MHM-2](#)

MOTION TO DISMISS CASE  
4-6-2018    [[166](#)]

MICHAEL MEYER/MV  
PATRICK KAVANAGH  
WITHDRAWN

#### **Final Ruling**

The motion withdrawn, the matter is dropped as moot.

9. [18-10147](#)-A-13     **IN RE: RENEE RILEY**  
[SFR-2](#)

MOTION TO CONFIRM PLAN  
3-26-2018    [\[37\]](#)

RENEE RILEY/MV  
SHARLENE ROBERTS-CAUDLE  
RESPONSIVE PLEADING

### **Final 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 shows that several (at least six) creditors or parties in interest have not received notice or have not received notice at the correct address.

There are reasons that the court prefers the use of the court's matrix as the standard list of creditors and parties in interest to whom a Rule 2002(a) notice is transmitted. Creditors and parties in interest, other than the debtor, are added to this matrix if they (i) are included in the Master Address List at the outset of the case by the debtor, (ii) are added to an amended Master Address List filed with the court, (iii) file a proof of claim in the case, (iv) file a request for special notice or a notice of appearance containing a request for special notice under Fed. R. Bankr. P. 2002(g), (v) file a request with the Clerk's office to be added to the mailing list, (vi) file a global request under Rule 2002(g)(4) and 11 U.S.C. § 342(f) (assuming that they are originally identified as a creditor in the Master Address List by the debtor), or (vii) file a designation under Rule 5003(e). The court's matrix thus updates virtually automatically whenever a creditor or party in interest files a proof of claim, requests special notice, or files a global notice request under § 342(f). See 11 U.S.C. § 342(e), (f)(1)-(2); see also Fed. R. Bankr. P. 2002(g)(1), (2).

It would be cumbersome and impracticable for an attorney to ensure proper notice is given by monitoring each filing of a proof of claim, request for special notice, designation pursuant to Rule 5003(e), and global request made potentially with a different bankruptcy court. Therefore, the court prefers its mailing matrix for notice purposes because parties relying on their own self-constructed list for notice tend to miss at least one or more creditors or transmit notice to incorrect addresses for creditors and parties in interest.



10. [18-11049](#)-A-13     **IN RE: ELIZABETH HAGAN**  
[FW-1](#)

MOTION TO VALUE COLLATERAL OF SANTANDER CONSUMER USA  
4-10-2018    [\[12\]](#)

ELIZABETH HAGAN/MV  
GABRIEL WADDELL

### **Final Ruling**

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

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

**Disposition:** Granted

**Order:** Civil minute order

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

### **VALUATION OF COLLATERAL**

Chapter 13 debtors may value collateral by noticed motion. Fed. R. Bankr. P. 3012. Section 506(a) of the Bankruptcy Code provides, "An allowed claim of a creditor secured by a lien on property in which the estate has an interest . . . is a secured claim to the extent of the value of such creditor's interest in the estate's interest in such property" and is unsecured as to the remainder. 11 U.S.C. § 506(a). For personal property, value is defined as "replacement value" on the date of the petition. *Id.* § 506(a)(2). For "property acquired for personal, family, or household purposes, replacement value shall mean the price a retail merchant would charge for property of that kind considering the age and condition of the property at the time value is determined." *Id.* The costs of sale or marketing may not be deducted. *Id.*

A debtor's ability to value collateral consisting of a motor vehicle is limited by the terms of the hanging paragraph of § 1325(a). See 11 U.S.C. § 1325(a) (hanging paragraph). Under this statute, a lien secured by a motor vehicle cannot be stripped down to the collateral's value if: (i) the lien securing the claim is a purchase money security interest, (ii) the debt was incurred within the 910-day period preceding the date of the petition, and (iii) the motor vehicle was acquired for the debtor's personal use. 11 U.S.C. § 1325(a) (hanging paragraph).

In this case, the debtor seeks to value collateral consisting of a motor vehicle described as a 2008 BMW 3 Series 328i Sedan 4D. The debt secured by the vehicle was not incurred within the 910-day period preceding the date of the petition. The court values the vehicle at \$9,047.

## **CIVIL MINUTE ORDER**

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

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

The debtor's motion to value collateral consisting of a motor vehicle has been presented to the court. Having entered the default of respondent for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the motion,

IT IS ORDERED that the motion is granted. The personal property collateral described as a 2008 BMW 3 Series 328i Sedan 4D has a value of \$9,047. No senior liens on the collateral have been identified. The respondent has a secured claim in the amount of \$9,047 equal to the value of the collateral that is unencumbered by senior liens. The respondent has a general unsecured claim for the balance of the claim.

11. [16-13250](#)-A-13     **IN RE: SONYA SIDHU**  
[TCS-2](#)

MOTION TO VACATE DISMISSAL OF CASE  
4-24-2018    [[75](#)]

SONYA SIDHU/MV  
TIMOTHY SPRINGER  
DISMISSED

**No Ruling**

12. [14-12959](#)-A-13     **IN RE: LUZ/DIANA ARMENTA**  
[MHM-2](#)

OBJECTION TO CLAIM OF CITIFINANCIAL SERVICING, LLC, CLAIM  
NUMBER 11  
3-21-2018    [\[33\]](#)

MICHAEL MEYER/MV  
PETER BUNTING

### **Final Ruling**

**Objection:** Objection to Claim [Based on Waiver of the Right to the Remaining Balance]

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

**Disposition:** Sustained

**Order:** Civil minute order

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).

### **LEGAL STANDARDS**

#### Deemed Allowance under § 502(a)

Section 502(a) provides that "[a] claim or interest, proof of which is filed under section 501 of this title, is deemed allowed, unless a party in interest . . . objects." 11 U.S.C. § 502(a). If properly executed and filed under the rules along with all supporting documentation that may be required, *see, e.g.,* Fed. R. Bankr. P. 3001(c), the proof of claim is given an evidentiary presumption of validity. *See* Fed. R. Bankr. P. 3001(f); *Diamant*, 165 F.3d at 1247-48.

#### State Law on Waiver

With limited exceptions, § 502(b)(1) of the Bankruptcy Code means that "any defense to a claim that is available outside of the bankruptcy context is also available in bankruptcy." *Travelers Cas. & Sur. Co. of Am. v. Pac. Gas & Elec. Co.*, 549 U.S. 443, 450 (2007).

Under California state law, waiver can be asserted as a defense to a claim. "California courts will find waiver when a party intentionally relinquishes a right, or when that party's acts are so inconsistent with an intent to enforce the right as to induce a reasonable belief that such right has been relinquished." *Intel Corp. v. Hartford Acc. & Indem. Co.*, 952 F.2d 1551, 1559 (9th Cir. 1991) (citation omitted).

## **DISCUSSION**

The respondent and claimant Citifinancial Servicing, LLC, has returned funds received from the trustee and/or has communicated to the trustee in writing, releasing its lien and forgiving any amount due. But until an objection to the claim is brought, the claim remains allowed. And the trustee must continue to pay all allowed claims consistent with the plan. § 502(a).

By its return of funds and/or written statements, the claimant has waived its right to receipt of any further amounts on its claim. These acts are highly inconsistent with an intent to enforce the right to any unpaid balance of the claim. This also creates an impossibility for the trustee to pay the allowed claim consistent with the trustee's duties.

Given the claimant's waiver of its right to receive any balance of its claim, the court will liquidate the amount of the claim at the amount paid by the trustee to the claimant.

The claim is disallowed in its entirety.

## **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 chapter 13 trustee's objection to claim has been presented to the court. Having entered the default of the respondent for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the objection,

IT IS ORDERED that the objection to Claim No. 11 is sustained. The claim is disallowed in its entirety.

13. [18-10761](#)-A-13     **IN RE: EMILY MARTIN**  
[TGM-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY U.S. BANK NATIONAL  
ASSOCIATION  
4-5-2018    [[20](#)]

U.S. BANK NATIONAL  
ASSOCIATION/MV  
ROBERT WILLIAMS  
TYNEIA MERRITT/ATTY. FOR MV.

### **Tentative Ruling**

**Objection:** Creditor's Objection to Confirmation of Plan

**Notice:** LBR 3015-1(c)(4), 9014-1(f)(2); no written opposition  
required

**Disposition:** Overruled

**Order:** Civil minute order

No responding party is required to file written opposition to the motion; opposition may be presented at the hearing. LBR 9014-1(f)(2)(C). If opposition is presented at the hearing, the court may rule on the merits or set a briefing schedule. Absent such opposition, the court will adopt this tentative ruling.

Section 3.02 of the plan provides that the proof of claim, not the plan, controls the amount and classification of the creditor's claim unless the claim amount or classification is otherwise altered by the court after ruling on one of the three types of matters listed in the section. This means that the plan's understatement of the pre-petition arrears on a Class 1 claim does not reduce the amount of the arrears reflected in a filed proof of claim.

The objection will be overruled because any understatement of the prepetition arrears in the plan does not alter or affect the creditor's rights.

### **CIVIL MINUTE ORDER**

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

Having considered the present objection to confirmation together with papers filed in support and opposition to it, and having heard the arguments of counsel, if any, and good cause appearing,

IT IS ORDERED that the objection is overruled.

14. [15-12666](#)-A-13     **IN RE: JEFFREY MOOSOLIAN**  
[FW-2](#)

MOTION FOR COMPENSATION BY THE LAW OFFICE OF FEAR WADDELL,  
P.C. DEBTORS ATTORNEY(S)  
4-6-2018    [[61](#)]

PETER FEAR

### **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, Fear Waddell, P.C. has applied for an allowance of final compensation and reimbursement of expenses. The applicant requests that the court allow compensation in the amount of \$2,700.50 and reimbursement of expenses in the amount of \$44.01. 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.

Fear Waddell, P.C.'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 \$2,700.50 and reimbursement of expenses in the amount of \$44.01. The aggregate allowed amount equals \$2,744.51. As of the date of the application, the applicant held a retainer in the amount of \$0.00. The amount of \$2,744.51 shall be allowed as an administrative expense to be paid directly by the debtor. 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.

15. [13-16468](#)-A-13     **IN RE: SAM/DONNA BOGDANOVICH**  
[FW-2](#)

MOTION FOR COMPENSATION BY THE LAW OFFICE OF FEAR WADDELL,  
P.C. FOR GABRIEL J. WADDELL, DEBTORS ATTORNEY(S)  
4-5-2018    [\[47\]](#)

PETER FEAR

### **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, Fear Waddell, P.C. has applied for an allowance of final compensation and reimbursement of expenses. The applicant requests that the court allow compensation in the amount of \$3,337.50 and reimbursement of expenses in the amount of \$480.15.

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.

#### **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.

Fear Waddell, P.C.'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 \$3,337.50 and reimbursement of expenses in the amount of \$480.15. The aggregate allowed amount equals \$3,817.65. As of the date of the application, the applicant held a retainer in the amount of \$0.00. The amount of \$3,817.65 shall be allowed as an administrative expense to be paid through the plan.

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.

16. [13-10672](#)-A-13     **IN RE: SAMUEL/PAMELA FRAIJO**  
[MHM-2](#)

MOTION TO DISMISS CASE  
4-6-2018    [[41](#)]

MICHAEL MEYER/MV  
JOSEPH ARNOLD  
WITHDRAWN

#### **Final Ruling**

The motion withdrawn, the matter is dropped as moot.



17. [17-12677](#)-A-12     **IN RE: ANTONIO/MARIA TEIXEIRA**

CONTINUED STATUS CONFERENCE RE: CHAPTER 12 VOLUNTARY  
PETITION  
7-13-2017    [[1](#)]

PETER FEAR

**Final Ruling**

The case dismissed, the status conference is concluded.

18. [17-12677](#)-A-12     **IN RE: ANTONIO/MARIA TEIXEIRA**  
[MHM-1](#)

MOTION TO DISMISS CASE  
4-9-2018    [[98](#)]

MICHAEL MEYER/MV  
PETER FEAR

**Final Ruling**

**Motion:** Dismiss Case

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

**Disposition:** Granted

**Order:** Civil minute order

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

**CASE DISMISSAL**

The trustee moves to dismiss this chapter 12 case. For the reasons stated in the motion, cause exists under § 1208(c)(1) to dismiss the case. The debtor has failed to confirm a plan within a reasonable time. The case has been pending for approximately 10 months, yet a plan has not been confirmed. This constitutes unreasonable delay by the debtor that is prejudicial to creditors. The court will dismiss the case.

**CIVIL MINUTE ORDER**

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

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

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

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

19. [18-10487](#)-A-13     **IN RE: MARIA MIRANDA**  
[MHM-2](#)

MOTION TO DISMISS CASE  
4-4-2018    [[25](#)]

MICHAEL MEYER/MV  
SCOTT LYONS  
WITHDRAWN

**Final Ruling**

The motion withdrawn, the matter is dropped as moot.

20. [18-10494](#)-A-13     **IN RE: HECTOR VASQUEZ**  
[MHM-2](#)

MOTION TO DISMISS CASE  
4-4-2018    [[18](#)]

MICHAEL MEYER/MV  
THOMAS GILLIS  
WITHDRAWN

**Final Ruling**

The motion withdrawn, the matter is dropped as moot.

21. [17-14598](#)-A-13     **IN RE: ALEJANDRO TAPIA AND MAYRA IBARRA**  
[TOG-5](#)

MOTION TO VALUE COLLATERAL OF CHRYSLER CAPITAL  
3-28-2018    [[66](#)]

ALEJANDRO TAPIA/MV  
THOMAS GILLIS  
ORDER GRANTING

### **Final Ruling**

This matter is dropped from calendar. An order has already been entered granting this motion.