

**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 20, 2020

**CALENDAR:** 3:00 P.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.

**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. [20-10100](#)-A-12     **IN RE: TRANQUILITY PISTACHIO, LLC**

CONTINUED STATUS CONFERENCE RE: CHAPTER 12 VOLUNTARY  
PETITION

1-13-2020    [[1](#)]

NOEL KNIGHT/ATTY. FOR DBT.

**No Ruling**

2. [20-10100](#)-A-12     **IN RE: TRANQUILITY PISTACHIO, LLC**  
[FRB-4](#)

MOTION TO COMPEL

5-6-2020    [[171](#)]

FARM CREDIT SERVICES OF  
AMERICA, PCA/MV

NOEL KNIGHT/ATTY. FOR DBT.

MICHAEL GOMEZ/ATTY. FOR MV.

**No Ruling**

3. [20-10100](#)-A-12     **IN RE: TRANQUILITY PISTACHIO, LLC**  
[MAS-1](#)

MOTION TO APPROVE STIPULATION FOR RELIEF FROM THE AUTOMATIC  
STAY

4-24-2020    [[145](#)]

DEERE & COMPANY/MV

NOEL KNIGHT/ATTY. FOR DBT.

MARK SERLIN/ATTY. FOR MV.

**No Ruling**

4. [15-12205](#)-A-13     **IN RE: STEVEN/JOANNA GOSSETT**  
[MHM-1](#)

MOTION TO DETERMINE FINAL CURE AND MORTGAGE PAYMENT RULE  
3002.1  
4-15-2020    [[70](#)]

MICHAEL MEYER/MV  
RAYMOND ISLEIB/ATTY. FOR DBT.

### **Final Ruling**

**Motion:** Determination of Final Cure and Payment of Required  
Postpetition Amounts under Rule 3002.1(h)

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

**Disposition:** Granted

**Order:** Prepared by moving party

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

Federal Rule of Bankruptcy Procedure 3002.1(h) provides that the debtor or trustee may file a motion to "determine whether the debtor has cured the default and paid all required postpetition amounts" due on a claim in a chapter 13 case that is "(1) secured by a security interest in the debtor's principal residence, and (2) provided for under § 1322(b)(5) of the Code in the debtor's plan." Fed. R. Bankr. P. 3002.1.

Rule 3002.1(f) and (g) describe procedures that must be followed before the motion may be filed. These procedures begin with the trustee's filing and serving "a notice stating that the debtor has paid in full the amount required to cure any default on the claim" and "inform[ing] the holder of its obligation to file and serve a response." Fed. R. Bankr. P. 3002.1(f). This notice is called the Notice of Final Cure. The debtor may file this notice if the trustee does not do so. *Id.*

Next, the holder of the claim has a limited time to file a response to this notice. See Fed. R. Bankr. P. 3002.1(g) (the holder must serve and file its response statement within 21 days after service of the Notice of Final Cure). The response statement permits the holder of the claim to dispute (or agree) that the debtor has paid in full the amount required to cure the default on the claim or whether the debtor is otherwise current on all payments under § 1322(b)(5).

A motion for a determination of final cure and payment must be filed within 21 days after service of the claimholder's response statement under subdivision (g) of Rule 3002.1. Fed. R. Bankr. P. 3002.1(h).

If the movant complies with these procedures, then "the court shall, after notice and hearing, determine whether the debtor has cured the default and paid all required postpetition amounts." *Id.*

If, however, the holder of the claim fails to provide a response statement under subdivision (g) of Rule 3002.1, then the court may both (1) preclude the holder from presenting the omitted information, in any form, as evidence in any contested matter or adversary proceeding in the case, or (2) award other appropriate relief. Fed. R. Bank. P. 3002.1(i).

For the reasons stated in the motion and supporting papers, the court will grant the relief sought by the motion. It will also award the "other appropriate relief" described in Rule 3002.1(i)(2) by determining that the debtor has cured the default and paid all postpetition amounts due on the secured claim described in the motion as of the date indicated in the motion.

5. [18-14905](#)-A-13     **IN RE: TRACEY PRITCHETT**  
[TCS-5](#)

MOTION TO MODIFY PLAN  
4-16-2020    [[80](#)]

TRACEY PRITCHETT/MV  
TIMOTHY SPRINGER/ATTY. FOR DBT.

**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 modification 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. "[T]he only limits on modification are those set forth in the language of the Code itself, coupled with the bankruptcy judge's discretion and good judgment in reviewing the motion to modify." *In re Powers*, 202 B.R. 618, 622 (B.A.P. 9th Cir. 1996).

Chapter 13 debtors seeking plan modification have the burden of proving that all requirements of § 1322(a) and (b) and § 1325(a) have been met. See 11 U.S.C. §§ 1322(a)-(b), 1325(a), 1329(b)(1);

see also *In re Powers*, 202 B.R. at 622 ("[Section] 1329(b)(1) protects the parties from unwarranted modification motions by ensuring that the proposed modifications satisfy the same standards as required of the initial plan."); see also *In re Barnes*, 32 F.3d 405, 407 (9th Cir. 1994); *In re Andrews*, 49 F.3d 1404, 1408 (9th Cir. 1995).

The court finds that the debtor has sustained this burden of proof. The court will grant the motion and approve the modification.

6. [20-10206](#)-A-13     **IN RE: DIEGO/RAQUELA ROMO**  
[MHM-2](#)

MOTION TO DISMISS CASE  
4-6-2020    [[21](#)]

MICHAEL MEYER/MV  
THOMAS MOORE/ATTY. FOR DBT.

**No Ruling**

7. [19-15207](#)-A-13     **IN RE: SUKETU VAIDYA**  
[JDM-1](#)

OBJECTION TO CLAIM OF LENDING CLUB CORPORATION, CLAIM NUMBER  
19  
3-25-2020    [[46](#)]

SUKETU VAIDYA/MV  
JAMES MILLER/ATTY. FOR DBT.

**Final Ruling**

This case having been dismissed, the Objection is dropped as moot.

8. [19-15207](#)-A-13     **IN RE: SUKETU VAIDYA**  
[JDM-10](#)

OBJECTION TO CLAIM OF LVNV FUNDING, LLC, CLAIM NUMBER 6  
3-25-2020    [[91](#)]

SUKETU VAIDYA/MV  
JAMES MILLER/ATTY. FOR DBT.

**Final Ruling**

This case having been dismissed, the Objection is dropped as moot.

9. [19-15207](#)-A-13     **IN RE: SUKETU VAIDYA**  
[JDM-11](#)

OBJECTION TO CLAIM OF CAPITAL ONE BANK, N.A., CLAIM NUMBER 2  
3-25-2020    [[96](#)]

SUKETU VAIDYA/MV  
JAMES MILLER/ATTY. FOR DBT.

**Final Ruling**

This case having been dismissed, the Objection is dropped as moot.

10. [19-15207](#)-A-13     **IN RE: SUKETU VAIDYA**  
[JDM-12](#)

OBJECTION TO CLAIM OF HSBC BANK USA, NA, CLAIM NUMBER 18  
3-25-2020    [[101](#)]

SUKETU VAIDYA/MV  
JAMES MILLER/ATTY. FOR DBT.

**Final Ruling**

This case having been dismissed, the Objection is dropped as moot.

11. [19-15207](#)-A-13     **IN RE: SUKETU VAIDYA**  
[JDM-13](#)

MOTION TO CONFIRM PLAN  
4-6-2020    [[111](#)]

SUKETU VAIDYA/MV  
JAMES MILLER/ATTY. FOR DBT.  
RESPONSIVE PLEADING

**Final Ruling**

This case having been dismissed, the court will drop this matter from the calendar as moot.

12. [19-15207](#)-A-13     **IN RE: SUKETU VAIDYA**  
[JDM-2](#)

OBJECTION TO CLAIM OF WELLS FARGO BANK, N.A., CLAIM NUMBER  
17  
3-25-2020    [[51](#)]

SUKETU VAIDYA/MV  
JAMES MILLER/ATTY. FOR DBT.

**Final Ruling**

This case having been dismissed, the Objection is dropped as moot.

13. [19-15207](#)-A-13     **IN RE: SUKETU VAIDYA**  
[JDM-3](#)

OBJECTION TO CLAIM OF CAESARS ENTERTAINMENT CORPORATION,  
CLAIM NUMBER 16  
3-25-2020    [[61](#)]

SUKETU VAIDYA/MV  
JAMES MILLER/ATTY. FOR DBT.

**Final Ruling**

This case having been dismissed, the Objection is dropped as moot.

14. [19-15207](#)-A-13     **IN RE: SUKETU VAIDYA**  
[JDM-4](#)

OBJECTION TO CLAIM OF MIDLAND CREDIT MANAGEMENT, INC., CLAIM  
NUMBER 13  
3-25-2020    [[71](#)]

SUKETU VAIDYA/MV  
JAMES MILLER/ATTY. FOR DBT.  
WITHDRAWN

**Final Ruling**

The Objection having been withdrawn, the matter is dropped as moot.

15. [19-15207](#)-A-13     **IN RE: SUKETU VAIDYA**  
[JDM-5](#)

OBJECTION TO CLAIM OF QUANTUM 3 GROUP LLC, CLAIM NUMBER 11  
3-25-2020    [[56](#)]

SUKETU VAIDYA/MV  
JAMES MILLER/ATTY. FOR DBT.

**Final Ruling**

This case having been dismissed, the Objection is dropped as moot.

16. [19-15207](#)-A-13     **IN RE: SUKETU VAIDYA**  
[JDM-6](#)

OBJECTION TO CLAIM OF BANK OF AMERICA, N.A., CLAIM NUMBER 10  
3-25-2020    [[76](#)]

SUKETU VAIDYA/MV  
JAMES MILLER/ATTY. FOR DBT.

**Final Ruling**

This case having been dismissed, the Objection is dropped as moot.

17. [19-15207](#)-A-13     **IN RE: SUKETU VAIDYA**  
[JDM-7](#)

OBJECTION TO CLAIM OF MARINA DISTRICT DEVELOPMENT CO., LLC,  
CLAIM NUMBER 9  
3-25-2020    [[66](#)]

SUKETU VAIDYA/MV  
JAMES MILLER/ATTY. FOR DBT.  
WITHDRAWN

**Final Ruling**

The Objection having been withdrawn, the matter is dropped as moot.



18. [19-15207](#)-A-13     **IN RE: SUKETU VAIDYA**  
[JDM-8](#)

OBJECTION TO CLAIM OF AC OCEAN WALK, LLC, CLAIM NUMBER 8  
3-25-2020    [[81](#)]

SUKETU VAIDYA/MV  
JAMES MILLER/ATTY. FOR DBT.  
WITHDRAWN

**Final Ruling**

The Objection having been withdrawn, the matter is dropped as moot.

19. [19-15207](#)-A-13     **IN RE: SUKETU VAIDYA**  
[JDM-9](#)

OBJECTION TO CLAIM OF CBAC BORROWER, LLC, CLAIM NUMBER 7  
3-25-2020    [[86](#)]

SUKETU VAIDYA/MV  
JAMES MILLER/ATTY. FOR DBT.

**Final Ruling**

This case having been dismissed, the Objection is dropped as moot.

20. [19-15207](#)-A-13     **IN RE: SUKETU VAIDYA**  
[MHM-3](#)

MOTION TO DISMISS CASE  
4-15-2020    [[120](#)]

MICHAEL MEYER/MV  
JAMES MILLER/ATTY. FOR DBT.

**Final Ruling**

This case having been dismissed, the court will drop this matter from the calendar as moot.

21. [20-10608](#)-A-13     **IN RE: TRISHALL WASHINGTON**  
[TCS-2](#)

MOTION TO VALUE COLLATERAL OF AMERICAN FINANCIAL SERVICES,  
INC.

4-10-2020    [\[21\]](#)

TRISHALL WASHINGTON/MV  
TIMOTHY SPRINGER/ATTY. FOR DBT.

### **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 2013 Chevrolet Sonic LS. 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 \$4,561.00.

#### **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 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 2013 Chevrolet Sonic LS has a value of \$4,561.00. No senior liens on the collateral have been identified. The respondent has a secured claim in the amount of \$4,561.00 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.

22. [16-14612](#)-A-13     **IN RE: JOSE GARCIA**  
[MHM-2](#)

MOTION TO DISMISS CASE  
4-16-2020    [[30](#)]

MICHAEL MEYER/MV  
MARK HANNON/ATTY. FOR DBT.  
RESPONSIVE PLEADING

#### **No Ruling**

23. [20-11216](#)-A-13     **IN RE: MARSHA FLORES**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES  
5-1-2020    [[23](#)]

#### **Tentative Ruling**

If the filing fee has not been paid in full by the time of the hearing, the case may be dismissed without further notice or hearing.

24. [20-10318](#)-A-13      **IN RE: JOSE GONZALEZ AND ITALIA DE LOZA**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES  
5-4-2020    [[39](#)]

MARK HANNON/ATTY. FOR DBT.  
\$80.00 INSTALLMENT PAYMENT ON 5/4/20

**Final Ruling**

The installment having been paid, the order to show cause is discharged. The case will remain pending.

25. [20-11021](#)-A-13      **IN RE: RUDOLPH/KEISHA BERRY**  
[USA-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY UNITED STATES INTERNAL  
REVENUE SERVICE  
4-28-2020    [[22](#)]

UNITED STATES INTERNAL REVENUE  
SERVICE/MV  
TIMOTHY SPRINGER/ATTY. FOR DBT.  
JEFFREY LODGE/ATTY. FOR MV.

**No Ruling**

26. [19-15123](#)-A-13      **IN RE: THIESEN HERNANDEZ**  
[MHM-3](#)

MOTION TO DISMISS CASE  
4-16-2020    [[54](#)]

MICHAEL MEYER/MV  
SCOTT LYONS/ATTY. FOR DBT.

**Final Ruling**

**Motion:** Dismiss Case

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

**Disposition:** Granted

**Order:** Civil minute order

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

## CASE DISMISSAL

The trustee moves to dismiss this chapter 13 case. For the reasons stated in the motion, cause exists under § 1307(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 6 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.

27. [19-15138](#)-A-13     **IN RE: JULIO/VIOLENA CELAYA**  
[PBB-1](#)

CONTINUED MOTION TO VALUE COLLATERAL OF CTF ASSEST  
MANAGEMENT, LLC  
2-21-2020    [[30](#)]

JULIO CELAYA/MV  
PETER BUNTING/ATTY. FOR DBT.  
RESPONSIVE PLEADING

## Final Ruling

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

**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

Individual Chapter 11 debtors may strip off a wholly unsecured junior lien encumbering the debtor's principal residence. See 11 U.S.C. §§ 506(a), 1123(b)(5). Courts in this circuit have interpreted § 1322(b)(2), a provision with the same antimodification language as § 1123(b)(5), and held that the provision is inapplicable to wholly unsecured claims. See *In re Lam*, 211 B.R. 36, 40-42 (B.A.P. 9th Cir. 1997); *In re Zimmer*, 313 F.3d 1220, 1222-26 (9th Cir. 2002).

A motion to value the debtor's principal residence should be granted upon a threefold showing by the moving party. First, the moving party must proceed by noticed motion. Fed. R. Bankr. P. 3012. Second, the motion must be served on the holder of the secured claim. Fed. R. Bankr. P. 3012, 9014(a). Third, the moving party must prove by admissible evidence that the debt secured by liens senior to the respondent's claim exceeds the value of the principal residence. See 11 U.S.C. § 506(a); *Lam*, 211 B.R. at 40-42; *Zimmer*, 313 F.3d at 1222-25. "In the absence of contrary evidence, an owner's opinion of property value may be conclusive." *Enewally v. Wash. Mut. Bank (In re Enewally)*, 368 F.3d 1165, 1173 (9th Cir. 2004).

The debtor requests that the court value real property collateral. The collateral is the debtor's principal residence located at 4660 West Amherst Ave, Fresno, CA.

The court values the collateral at \$280,000.00. The debt secured by liens senior to the respondent's lien exceeds the value of the collateral. Because the amount owed to senior lienholders exceeds the collateral's value, the respondent's claim is wholly unsecured and no portion will be allowed as a secured claim. See 11 U.S.C. § 506(a).

## CIVIL MINUTE ORDER

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

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

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

IT IS ORDERED that the motion is granted. The real property collateral located at 4660 West Amherst Ave, Fresno, CA has a value of \$280,000.00. The collateral is encumbered by senior liens securing debt that exceeds the collateral's value. The respondent has a secured claim in the amount of \$0.00 and a general unsecured claim for the balance of the claim.

28. [19-15138](#)-A-13     **IN RE: JULIO/VIOLENA CELAYA**  
[RDW-1](#)

CONTINUED OBJECTION TO CONFIRMATION OF PLAN BY CTF ASSET  
MANAGEMENT, LLC  
2-3-2020    [[15](#)]

CTF ASSET MANAGEMENT, LLC/MV  
PETER BUNTING/ATTY. FOR DBT.  
REILLY WILKINSON/ATTY. FOR MV.

#### **Final Ruling**

This objection having been withdrawn, the court will drop this matter from the calendar as moot.

29. [20-11242](#)-A-13     **IN RE: KHALID CHAOUI**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES  
5-4-2020    [[23](#)]

#### **Tentative Ruling**

If the filing fee has not been paid in full by the time of the hearing, the case may be dismissed without further notice or hearing.

30. [16-14344](#)-A-13     **IN RE: JESS/BELINDA PADILLA**  
[TCS-1](#)

MOTION TO AVOID LIEN OF FINANCIAL CREDIT NETWORK, INC.  
4-14-2020    [[30](#)]

JESS PADILLA/MV  
TIMOTHY SPRINGER/ATTY. FOR DBT.

#### **Final Ruling**

**Motion:** Avoid Lien that Impairs Exemption

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

**Disposition:** Granted

**Order:** Prepared by moving party

**Subject property:** 2083 W. Bristol Lane Hanford, CA 93230

**Value:** \$285,016.00

**Lien:** \$1,462.48

**All other liens:** \$375,578.00

**Exemption claimed:** \$1.00

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).

Section 522(f) of the Bankruptcy Code authorizes the court to avoid a lien "on an interest of the debtor in property to the extent that such lien impairs an exemption to which the debtor would have been entitled." 11 U.S.C. § 522(f)(1). There are four elements to avoidance of a lien that impairs an exemption: (1) there must be an exemption to which the debtor would have been entitled; (2) the property must be listed on the schedules and claimed as exempt; (3) the lien must impair the exemption claimed; and (4) the lien must be a judicial lien or nonpossessory, nonpurchase-money security interest in property described in § 522(f)(1)(B). *Goswami v. MTC Distrib. (In re Goswami)*, 304 B.R. 386, 390-91 (B.A.P. 9th Cir. 2003). Impairment is statutorily defined: a lien impairs an exemption "to the extent that the sum of - (i) the lien; (ii) all other liens on the property; and (iii) the amount of the exemption that the debtor could claim if there were no liens on the property; exceeds the value that the debtor's interest in the property would have in the absence of any liens." 11 U.S.C. § 522(f)(2)(A).

The responding party's judicial lien, all other liens, and the exemption amount together exceed the property's value by an amount greater than or equal to the judicial lien. As a result, the responding party's judicial lien will be avoided entirely.

31. [20-10945](#)-A-12     **IN RE: AJITPAL SINGH AND JATINDERJEET SIHOTA**

CONTINUED STATUS CONFERENCE RE: CHAPTER 12 VOLUNTARY  
PETITION  
3-12-2020    [[1](#)]

DAVID JENKINS/ATTY. FOR DBT.

**No Ruling**



32. [20-11046](#)-A-13     **IN RE: GERMANO AVILA**  
[TCS-1](#)

MOTION TO VALUE COLLATERAL OF COMENITY BANK/KAY JEWELERS  
4-14-2020    [\[16\]](#)

GERMANO AVILA/MV  
TIMOTHY SPRINGER/ATTY. FOR DBT.

### **Final Ruling**

**Motion:** Value Collateral [Personal Property; Non-vehicular]

**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.*

The right to value non-vehicular, personal property collateral in which the creditor has a purchase money security interest is limited to such collateral securing a debt that was incurred more than one year before the date of the petition. 11 U.S.C. §1325(a) (hanging paragraph).

In this case, the debtor seeks to value collateral consisting of personal property described as ring accent. The debt secured by such property was not incurred within the 1-year period preceding the date of the petition. The court values the collateral at \$1,000.00.

## 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 debtor's motion to value non-vehicular, personal property collateral has been presented to the court. Having entered the default of respondent for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the motion,

IT IS ORDERED that the motion is granted. The personal property collateral described as a ring accent has a value of \$1,000.00. No senior liens on the collateral have been identified. The respondent has a secured claim in the amount of \$1,000.00 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.

33. [19-13053](#)-A-13     **IN RE: BLANCA MARTINEZ**  
[FW-2](#)

MOTION FOR COMPENSATION BY THE LAW OFFICE OF FEAR WADDELL,  
P.C. FOR GABRIEL J. WADDELL, DEBTORS ATTORNEY(S)  
4-13-2020    [\[40\]](#)

GABRIEL WADDELL/ATTY. FOR DBT.

### Final Ruling

**Application:** Allowance of Interim 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 interim compensation and reimbursement of expenses. The application requests that the court allow compensation in the amount of \$2,154.00 and reimbursement of expenses in the amount of \$748.35.

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 an interim basis. Such amounts shall be perfected, and may be adjusted, by a final application for compensation and expenses, which shall be filed prior to case closure.

#### **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 interim 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 an interim basis. The court allows interim compensation in the amount of \$2,154.00 and reimbursement of expenses in the amount of \$748.35. The aggregate allowed amount equals \$2,902.35. As of the date of the application, the applicant held a retainer in the amount of \$0.00. The amount of \$2,902.35 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.

IT IS FURTHER ORDERED that the fees and costs are allowed pursuant to 11 U.S.C. § 331 as interim fees and costs, subject to final review and allowance pursuant to 11 U.S.C. § 330. Such allowed amounts shall be perfected, and may be adjusted, by a final application for allowance of compensation and reimbursement of expenses, which shall be filed prior to case closure.

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.

34. [20-11455](#)-A-13     **IN RE: JUAN/MABEL LOPEZ**  
[FAT-1](#)

MOTION TO EXTEND AUTOMATIC STAY  
4-22-2020    [[8](#)]

JUAN LOPEZ/MV  
FLOR DE MARIA TATAJE/ATTY. FOR DBT.

**No Ruling**

35. [20-10865](#)-A-13     **IN RE: ARTURO MONTEJANO MELGOZA AND LIDUVINA**  
SEVILLA DE MONTEJANO  
[MHM-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY TRUSTEE MICHAEL H.  
MEYER  
4-27-2020    [[28](#)]

ERIC ESCAMILLA/ATTY. FOR DBT.

**No Ruling**

36. [20-10569](#)-A-12     **IN RE: BHAJAN SINGH AND BALVINDER KAUR**

CONTINUED STATUS CONFERENCE RE: CHAPTER 12 VOLUNTARY  
PETITION  
2-18-2020    [[1](#)]

DAVID JENKINS/ATTY. FOR DBT.

**No Ruling**

37. [20-10575](#)-A-13     **IN RE: JUDY BURDEN**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES  
4-24-2020    [[30](#)]

BENNY BARCO/ATTY. FOR DBT.

**Final Ruling**

The final installment having been paid, the order to show cause is discharged. The case will remain pending.

38. [17-10578](#)-A-13     **IN RE: OSCAR/NATALIE VILLAGOMEZ-LEMUS**  
[TCS-4](#)

MOTION TO SELL  
5-4-2020    [[93](#)]

OSCAR VILLAGOMEZ-LEMUS/MV  
TIMOTHY SPRINGER/ATTY. FOR DBT.

### **Tentative Ruling**

**Motion:** Sell Property [Real Property]

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

**Disposition:** Granted

**Order:** Prepared by moving party pursuant to the instructions below and approved as to form and content by the Chapter 13 trustee

**Property:** 785 Bay Oak Pl. Porterville, CA 93257

**Buyer:** Charles Loftin and Jorgina Martinez

**Sale Price:** \$265,000.00

**Sale Type:** Private sale subject to overbid opportunity

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).

Confirmation of a Chapter 13 plan revests property of the estate in the debtor unless the plan or order confirming the plan provides otherwise. 11 U.S.C. § 1327(b); *see also In re Tome*, 113 B.R. 626, 632 (Bankr. C.D. Cal. 1990).

Here, the subject property is property of the estate because the debtor's confirmed plan provides that property of the estate will not revert in debtors upon confirmation. Section 363(b)(1) of Title 11 authorizes sales of property of the estate "other than in the ordinary course of business." 11 U.S.C. § 363(b)(1); *see also In re Lionel Corp.*, 722 F.2d 1063, 1071 (2d Cir. 1983) (requiring business justification). A Chapter 13 debtor has the rights and powers given to a trustee under § 363(b). 11 U.S.C. § 1303. Based on the motion and supporting papers, the court finds a proper reorganization purpose for this sale. The stay of the order provided by Federal Rule of Bankruptcy Procedure 6004(h) will be waived.

The order shall be approved by the Chapter 13 trustee as to form and content. Additionally, the order shall contain language requiring the Chapter 13 trustee to approve the escrow instructions for the sale.

39. [20-10286](#)-A-13     **IN RE: DONALD/JEANNIE SA**  
[MHM-2](#)

MOTION TO DISMISS CASE  
4-6-2020    [[26](#)]

MICHAEL MEYER/MV  
TIMOTHY SPRINGER/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 debtor has failed to provide the trustee with required or requested documents. See 11 U.S.C. § 521(a)(3)-(4). The debtor failed to list any clothing on Schedule A/B.

For the reasons stated in the motion, cause exists to dismiss the case. *Id.* § 1307(c)(1).

### **CIVIL MINUTE ORDER**

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

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

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

IT IS ORDERED that the motion is granted for unreasonable delay by the debtor that is prejudicial to creditors. The court hereby dismisses this case.

40. [20-11190](#)-A-13     **IN RE: SAMUEL/KERI CASTILLO**  
[SAH-1](#)

MOTION TO VALUE COLLATERAL OF US BANK  
4-10-2020    [[20](#)]

SAMUEL CASTILLO/MV  
SUSAN HEMB/ATTY. FOR DBT.  
RESPONSIVE PLEADING

#### **No Ruling**

41. [20-11190](#)-A-13     **IN RE: SAMUEL/KERI CASTILLO**  
[SAH-2](#)

MOTION TO VALUE COLLATERAL OF WELL FARGO DEALER SERVICES  
4-10-2020    [[24](#)]

SAMUEL CASTILLO/MV  
SUSAN HEMB/ATTY. FOR DBT.

#### **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 2016 Chevrolet Silverado. 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 \$13,571.00.

#### **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 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 2016 Chevrolet Silverado has a value of \$13,571.00. No senior liens on the collateral have been identified. The respondent has a secured claim in the amount of \$13,571.00 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.

42. [20-10188](#)-A-12     **IN RE: MIKE WEBER**  
      [DRJ-6](#)

MOTION TO EXTEND TIME TO CONFIRM CHAPTER 12 PLAN  
5-7-2020    [\[57\]](#)

MIKE WEBER/MV  
DAVID JENKINS/ATTY. FOR DBT.  
OST 5/8/20

**No Ruling**