

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

Honorable Fredrick E. Clement  
Bankruptcy Judge

2500 Tulare Street  
Department A, Courtroom 11  
Fresno, California

**THURSDAY**

**JUNE 25, 2015**

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

**PRE-HEARING DISPOSITIONS**

**GENERAL DESIGNATIONS**

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

**MATTERS RESOLVED BEFORE HEARING**

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

**ERRORS IN FINAL RULINGS**

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

1. [15-10005](#)-A-13 DOLORES LOPEZ MOTION TO DISMISS CASE  
MHM-1 5-12-15 [[24](#)]  
MICHAEL MEYER/MV  
JANINE ESQUIVEL/Atty. for dbt.

**Final Ruling**

**Motion:** Dismiss Case

**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).

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 \$3405.00.

2. [11-14917](#)-A-13 LARRY/DIANA LOGUE MOTION FOR CONSENT TO ENTER  
CJO-1 INTO LOAN MODIFICATION  
GREEN TREE SERVICING LLC/MV AGREEMENT  
6-8-15 [[130](#)]  
M. ENMARK/Atty. for dbt.  
CHRISTINA O/Atty. for mv.

**No tentative ruling.**

3. [15-10017](#)-A-13 JAMES CULVER CONTINUED MOTION FOR RELIEF  
CH-1 FROM AUTOMATIC STAY  
EXPRESSLOAN.COM, INC./MV 5-8-15 [[81](#)]  
DAVID JENKINS/Atty. for dbt.  
COBY HALAVASIS/Atty. for mv.  
RESPONSIVE PLEADING

**Final Ruling**

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

4. [15-10017](#)-A-13 JAMES CULVER CONTINUED MOTION TO CONFIRM  
DRJ-2 PLAN  
JAMES CULVER/MV 3-25-15 [[49](#)]  
DAVID JENKINS/Atty. for dbt.  
RESPONSIVE PLEADING

**Final Ruling**

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

5. [15-10017](#)-A-13 JAMES CULVER MOTION TO DISMISS CASE  
MHM-2 5-5-15 [[75](#)]  
MICHAEL MEYER/MV  
DAVID JENKINS/Atty. for dbt.

**Final Ruling**

**Motion:** Dismiss Case

**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).

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 \$2723.

6. [15-10935](#)-A-13 JOSEPH DIAZ MOTION TO CONFIRM PLAN  
MR-2 5-24-15 [[74](#)]  
JOSEPH DIAZ/MV  
MATIN RAJABOV/Atty. for dbt.  
RESPONSIVE PLEADING

**Final Ruling**

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

**Disposition:** Denied without prejudice

**Order:** Civil minute order

The moving party did not provide a sufficient period of notice of the hearing on the motion or the time fixed for filing objections. Federal Rule of Bankruptcy Procedure 2002(b) requires not less than 28 days' notice of the time fixed for filing objections and the hearing to consider confirmation of a chapter 13 plan. To comply with both Federal Rule of Bankruptcy Procedure 2002(b) and Local Bankruptcy Rule 9014-1(f)(1), creditors and parties in interest must be given at least

42 days' notice of the motion. LBR 3015-1(d). Creditors and parties in interest received less than 28 days' notice of the time fixed for filing objections, and the motion and notice of hearing were filed and served less than 42 days before the hearing.

Additionally, 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 creditors or parties in interest have not received notice or have not received notice at the correct address.

For matters requiring notice to all creditors and parties in interest, the court prefers that a current copy of the ECF master mailing list, accessible through PACER, be attached to the certificate of service to indicate that notice has been transmitted to all creditors and parties in interest. The copy of the master mailing list should indicate a date near in time to the date of service of the notice. In addition, governmental creditors must be noticed at the address provided on the Roster of Governmental Agencies, Form EDC 2-785, so the master address list and schedule of creditors must be completed using the correct addresses shown on such roster. See Fed. R. Bankr. P. 2002(j), 5003(e); LBR 2002-1.

#### **75-DAY PERIOD FOR CONFIRMATION**

This case was filed on March 11, 2015. A plan has yet to be confirmed. A Chapter 13 plan must be confirmed no later than the first hearing date available after the 75-day period that commences on the date of this hearing. If a Chapter 13 plan has not been confirmed by such date, the court may dismiss the case on the trustee's motion. See 11 U.S.C. § 1307(c)(1).

#### **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 for confirmation of a chapter 13 plan has been presented to the court. Having determined that notice of the motion was not sufficient,

IT IS ORDERED that the motion is denied without prejudice.

IT IS FURTHER ORDERED that a Chapter 13 plan must be confirmed no later than the first hearing date available after the 75-day period that commences on the date of this hearing. If a Chapter 13 plan has not been confirmed by such date, the court may dismiss the case on the trustee's motion.

7. [15-10043](#)-A-13 JON/KATHLEEN QUIJADA  
APN-1  
SANTANDER CONSUMER USA INC./MV  
NEIL SCHWARTZ/Atty. for dbt.  
AUSTIN NAGEL/Atty. for mv.
- CONTINUED OBJECTION TO  
CONFIRMATION OF PLAN BY  
SANTANDER CONSUMER USA INC.  
4-22-15 [[37](#)]

**Final Ruling**

The court overrules the objection as untimely as stated in the court's civil minutes from the hearing dated June 3, 2015. But even if the objection were considered, it would be overruled as moot given the resolution of this matter by stipulation.

8. [15-10043](#)-A-13 JON/KATHLEEN QUIJADA  
NES-2  
JON QUIJADA/MV  
NEIL SCHWARTZ/Atty. for dbt.  
RESPONSIVE PLEADING
- CONTINUED MOTION TO VALUE  
COLLATERAL OF SANTANDER  
CONSUMER USA, INC  
4-13-15 [[27](#)]

**Final Ruling**

The parties have resolved the matter by stipulation. The matter will be dropped from calendar as moot.

9. [15-11245](#)-A-13 WILLIAM O'BRIEN AND JILL  
ALVARADO-O'BRIEN  
MARK SIEGEL/Atty. for dbt.  
\$77.00 INSTALLMENT FEE PAID
- ORDER TO SHOW CAUSE - FAILURE  
TO PAY FEES  
6-4-15 [[30](#)]

**Final Ruling**

The fee paid in full, the order to show cause is discharged.

10. [15-11845](#)-A-13 ROBERT DOUGLAS  
JGB-1  
ROBERT DOUGLAS/MV  
JAMES BEIRNE/Atty. for dbt.
- MOTION TO VALUE COLLATERAL OF  
GREENLIGHT FINANCIAL  
SERVICES/NATIONSTAR MORTGAGE  
LLC  
5-14-15 [[16](#)]

**Tentative Ruling**

**Motion:** Value Collateral

**Disposition:** Denied without prejudice

**Order:** Civil minute order

## **INSUFFICIENT SERVICE**

Pursuant to a motion to value collateral, chapter 13 debtors may strip off a wholly unsecured junior lien encumbering the debtor's principal residence. See 11 U.S.C. § 1322(b)(2); *In re Lam*, 211 B.R. 36, 40-42 (B.A.P. 9th Cir. 1997); *In re Zimmer*, 313 F.3d 1220, 1222-25 (9th Cir. 2002). Because a motion to value collateral substantially alters creditors' property rights, it thereby implicates heightened due process requirements. *In re Millspaugh*, 302 B.R. 90, 99 (Bankr. D. Idaho 2003). Given the impact on property interests of the creditor affected, the motion is treated as a contested matter. *Id.* at 101-02 & n.23.

As a contested matter, a motion to value collateral is governed by Federal Rule of Bankruptcy Procedure 9014. Fed. R. Bankr. P. 9014(a). Rule 9014 requires Rule 7004 service of motions in contested matters. Fed. R. Bankr. P. 9014(b). Under Rule 7004, service on corporations and other business entities must be made by first class mail addressed "to the attention of an officer, a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process." Fed. R. Bankr. P. 7004(b)(3). "Thus, to meet the requirements of the Rules and comply with considerations of due process, a Rule 3012 motion (either with or without a plan) must be served on the affected creditors in accord with Rule 7004." *Millspaugh*, 302 B.R. at 102 (emphasis added); see also *In re Pereira*, 394 B.R. 501, 506-07 (Bankr. S.D. Cal. 2008) (Chapter 13 plan containing lien stripping proposal must be served on the affected creditor pursuant to Rule 7004). Rule 3012 notice alone will not suffice for the motion. See *Pereira*, 394 B.R. at 506.

Service of the motion was insufficient. The proof of service does not indicate that the motion was mailed to the attention of an officer, managing or general agent, or other agent authorized to accept service on behalf of one of the responding parties, Greenlight Financial Services. The motion states that Nationstar Mortgage LLC is the parent company of Greenlight Financial Services. The motion names both as respondents. But because both appear to be separate entities, they must both be served as the motion names both as respondents and potentially affects the rights of both.

## **PREPARATION OF DOCUMENTS**

The motion is barely legible. The court prefers clearly legible writing in the motions submitted for the court's review.

In addition, exhibits do not comply with the court's guidelines for the preparation of documents. LBR 9004-1(a). Exhibits must be filed as separate documents from the documents to which they relate. And the exhibits must include an index as the first page.

11. [14-11059](#)-A-13 JORGE VELAZQUEZ-JARACUARO AND ADRIANA OROPEZA  
ALG-2 JORGE VELAZQUEZ-JARACUARO/MV  
JANINE ESQUIVEL/Atty. for dbt.
- OBJECTION TO CLAIM OF INTERNAL  
REVENUE SERVICE, CLAIM NUMBER  
10  
4-27-15 [[66](#)]

**Final Ruling**

**Objection:** Objection to Claim  
**Disposition:** Overruled without prejudice  
**Order:** Civil minute order

The claim objection has not been noticed as provided in Local Rule 2002-1(c). The Department of Justice, Civil Trial Section does not appear on the proof of service. Nor does the United States Attorney appear on the proof of service at the applicable address shown in Local Rule 2002-1(a) as required by Local Rule 2002-1(c).

12. [14-13562](#)-A-13 JAMES/MARGARET CHARLES  
TCS-3 JAMES CHARLES/MV  
TIMOTHY SPRINGER/Atty. for dbt.
- OBJECTION TO CLAIM OF CHECK  
INTO CASH OF CALIFORNIA, CLAIM  
NUMBER 19  
5-11-15 [[46](#)]

**Final Ruling**

**Objection:** Objection to Claim  
**Notice:** LBR 3007-1(b)(1); written opposition required  
**Disposition:** Sustained  
**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 motion. 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).

Ordinarily, late-filed claims are to be disallowed if an objection is made to the claim. 11 U.S.C. § 502(b)(9). The only exceptions to this rule are tardily filed claims permitted under § 726(a) or under the Federal Rules of Bankruptcy Procedure. *See id.*; Fed. R. Bankr. P. 3002(c)(1)-(6).

Federal Rule of Bankruptcy Procedure 9006(b)(3) provides that "[t]he court may enlarge the time for taking action under [certain rules] only to the extent and under the conditions stated in those rules." Fed. R. Bankr. P. 9006(b)(3) (emphasis added). Rule 3002(c) is identified in Rule 9006(b)(3) as a rule for which the court cannot enlarge time except to the extent and under the conditions stated in the rule. *Id.*

Further, Ninth Circuit precedent makes clear that the court does not have discretion under Rule 9006 to enlarge the time for filing a proof of claim except as provided in Rule 3002(c). See *In re Gardenhire*, 209 F.3d 1145, 1148-49 (9th Cir. 2000); *In re Coastal Alaska Lines, Inc.*, 920 F.2d 1428, 1432-33 (9th Cir. 1990) (holding that court cannot enlarge time for filing a proof of claim unless one of the six grounds in Rule 3002(c) exists); see also Fed. R. Civ. P. 9006(b)(3). Equitable tolling cannot be applied to enlarge the time to file proofs of claim other than pursuant to the exceptions in Rule 3002(c). See *Gardenhire*, 209 F.3d at 1148.

Here, the responding party has not opposed the sustaining of the objection and asserted that any of the grounds for extending time to file a proof of claim under Rule 3002(c) are applicable. Fed. R. Bankr. P. 3002(c)(1)-(6). The responding party's claim was filed after the deadline for filing proofs of claim, so the claim will be disallowed. Fed. R. Bankr. P. 3002(c).

13. [13-15375](#)-A-13 ROSEMARY GARCIA  
MHM-2  
MICHAEL MEYER/MV  
FRANK RUGGIER/Atty. for dbt.

CONTINUED MOTION TO DISMISS  
CASE  
4-7-15 [[40](#)]

#### **Tentative Ruling**

**Motion:** Dismiss Case

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

**Disposition:** Granted

**Order:** Civil minute order

At the initial hearing on this motion on May 21, 2015, the court continued the hearing to determine whether a modified plan would be confirmed by the continued hearing date. Specifically, the court's civil minutes from the initial hearing reflect the following tentative ruling: "The debtor has failed to make all payments due under the confirmed plan. Payments are delinquent in the amount of \$1552. A modified plan has been filed and noticed for a hearing on June 25, 2015. The debtor has filed a motion to confirm this plan. The court will continue the hearing on this motion to dismiss to June 25, 2015. If the modified plan is not confirmed on June 25, 2015, the court may grant this motion."

The modified plan set for hearing on June 25, 2015, is not confirmable on its face. Accordingly, the court is inclined to dismiss this case.



14. [13-15375](#)-A-13 ROSEMARY GARCIA  
PLG-1  
ROSEMARY GARCIA/MV  
FRANK RUGGIER/Atty. for dbt.

MOTION TO MODIFY PLAN  
5-18-15 [[50](#)]

### **Tentative Ruling**

**Motion:** Modify Chapter 13 Plan

**Notice:** LBR 3015-1(d)(2), 9014-1(f)(1); written opposition filed by the trustee

**Disposition:** Denied

**Order:** Civil minute order

### **MODIFICATION**

The motion requests court approval of a modification of the Chapter 13 plan in this case. See 11 U.S.C. §§ 1322, 1325, 1329; Fed. R. Bankr. P. 2002(b); LBR 3015-1(d)(2). The Chapter 13 trustee opposes the motion, objecting to the modification on two grounds.

The court takes judicial notice of the docket and specifically amended Schedules I and J filed on May 18, 2015. The court takes notice only that such schedules appear on the docket and notice that the Schedules' contents includes information about income and expenses of Rosemary Garcia. No objection to the schedules' authenticity has been raised or that they were not filed by the debtor.

The modified plan contains a plan payment of \$746.50 per month for months 24 continuing to the end of the plan. Amended Schedules I and J, which constitute the admissions of the debtor, show that the debtor has only \$15.40 per month to devote to plan payments. The plan is not feasible, and the court cannot confirm it. See § 1325(a)(6).

### **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 for approval of a modification of the confirmed chapter 13 plan in this case has been presented to the court. Having considered the motion, the plan, amended Schedules I and J filed by the debtor, the trustee's opposition, the responses and replies, if any, and having heard oral argument presented at the hearing,

IT IS ORDERED that the motion is denied.

15. [14-15479](#)-A-13 FRANK/MELISSA WOODLEY CONTINUED MOTION TO DISMISS  
MHM-1 CASE  
MICHAEL MEYER/MV 4-10-15 [[19](#)]  
TIMOTHY SPRINGER/Atty. for dbt.  
RESPONSIVE PLEADING

**Tentative Ruling**

**Matter:** Dismiss Chapter 13 Case

**Notice:** LBR 9014-1(f)(1) / continued hearing date; written response filed

**Disposition:** Continued to June 25, 2015, at 9:00 a.m.

**Order:** Civil minute order if appropriate

At the initial hearing, the court considered the trustee's motion to dismiss this case for failure to make all payments due under the plan. Payments are delinquent in the amount of \$2,243.64.

In the civil minutes from the initial hearing on this motion, the court continued the hearing to coincide with a modified plan. The court's civil minutes at the initial hearing were as follows:

"The debtors admit their delinquency under the confirmed plan. But a modified plan has been filed and a hearing on confirmation of such plan is set for June 25, 2015, at 9:00 a.m. The debtors state that the confirmation of the modified plan will cure all delinquencies.

The court will continue the hearing on this matter to June 25, 2015. If a modified plan is not confirmed by June 25, 2015, then the court may dismiss this case."

At the continued hearing, the court will consider the debtor's modified plan and the trustee's opposition. After ruling on the modification motion, the court will rule on this motion.

16. [14-15479](#)-A-13 FRANK/MELISSA WOODLEY MOTION TO MODIFY PLAN  
TCS-1 5-19-15 [[25](#)]  
FRANK WOODLEY/MV  
TIMOTHY SPRINGER/Atty. for dbt.  
RESPONSIVE PLEADING

**Tentative Ruling**

**Motion:** Modify Chapter 13 Plan

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

**Disposition:** Pending

**Order:** Pending

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

Without the benefit of a reply, the court cannot determine whether the grounds for the trustee's opposition are disputed or undisputed. As a

result, the court does not consider the matter to be ripe for a decision in advance of the hearing.

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

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

17. [15-11284](#)-A-13 ORA HOWARD  
ALG-3  
ORA HOWARD/MV

MOTION TO VALUE COLLATERAL OF  
WINDSOR NORTH OWNERS  
ASSOCIATION  
5-20-15 [[35](#)]

JANINE ESQUIVEL/Atty. for dbt.

### **Tentative 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**

Chapter 13 debtors may strip off a wholly unsecured junior lien encumbering the debtor's principal residence. 11 U.S.C. §§ 506(a), 1322(b)(2); *In re Lam*, 211 B.R. 36, 40-42 (B.A.P. 9th Cir. 1997); *In re Zimmer*, 313 F.3d 1220, 1222-25 (9th Cir. 2002) (holding that the trial court erred in deciding that a wholly unsecured lien was within the scope of the antimodification clause of § 1322(b)(2) of the Bankruptcy Code). A motion to value the debtor's principal residence should be granted upon a threefold showing by the moving party. First, the moving party must proceed by noticed motion. Fed. R. Bankr. P. 3012. Second, the motion must be served on the holder of the secured claim. Fed. R. Bankr. P. 3012, 9014(a); LBR 3015-1(j). Third, the moving party must prove by admissible evidence that the debt secured by liens senior to the respondent's claim exceeds the value of the principal residence. 11 U.S.C. § 506(a); *Lam*, 211 B.R. at 40-42; *Zimmer*, 313 F.3d at 1222-25. "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 1903 W. Santa Ana, Fresno, CA.

The court values the collateral at \$163,491. 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 1903 W. Santa Ana, Fresno, CA, has a value of \$163,491. 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.

18. [11-11595](#)-A-13 BRETT/MELISSA DADIAN  
FLG-4

MOTION FOR COMPENSATION BY THE  
LAW OFFICE OF FEAR LAW GROUP,  
P.C. FOR PETER L. FEAR, DEBTORS  
ATTORNEY(S)  
5-28-15 [[80](#)]

PETER FEAR/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, the Fear Law Group, 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 \$2650.00 and reimbursement of expenses in the amount of \$332.39.

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.

The Fear Law Group, 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 \$2650.00 and reimbursement of expenses in the amount of \$332.39. The aggregate allowed amount equals \$2982.39, and this allowed amount is in addition to the \$3500 fee that debtor's counsel was paid as part of plan confirmation. As of the date of the application, the applicant held a retainer in the amount of \$0.00. The amount of \$2982.39 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.

19. [13-16197](#)-A-13 CYD SIMIONE  
CJY-1  
CYD SIMIONE/MV  
CHRISTIAN YOUNGER/Atty. for dbt.

MOTION TO APPROVE LOAN  
MODIFICATION  
6-12-15 [[41](#)]

## Final Ruling

The motion renoticed for hearing on July 17, 2015, at 9:00 a.m., this matter is dropped as moot.

20. [14-13899](#)-A-13 MIGUEL FLOREZ  
TCS-3  
MIGUEL FLOREZ/MV  
TIMOTHY SPRINGER/Atty. for dbt.

MOTION TO APPROVE LOAN  
MODIFICATION  
6-6-15 [[64](#)]

### **Tentative Ruling**

**Motion:** Approval of Mortgage Loan Modification

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

**Disposition:** Granted

**Order:** Prepared by moving party according to the instructions below

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

The motion seeks approval of a loan modification agreement. A copy of the loan modification agreement accompanies the motion. See Fed. R. Bankr. 4001(c). The court will grant the motion to authorize the debtor and the secured lender to enter into the loan modification agreement subject to the parties' right to reinstatement of the original terms of the loan documents in the event conditions precedent to the loan modification agreement are not satisfied. 11 U.S.C. § 364(d); Fed. R. Bankr. P. 4001(c). To the extent the modification is inconsistent with the confirmed plan, the debtor shall continue to perform the plan as confirmed until it is modified.

By granting this motion, the court is not approving the terms of any loan modification agreement. The order shall state only that the parties are authorized to enter into the loan modification agreement subject to the parties' right to reinstate the agreement if all conditions precedent are not satisfied. The order shall not recite the terms of the loan modification agreement or state that the court approves the terms of the agreement.

21. [15-12157](#)-A-13 ALFONSO JURADO GONZALES  
SL-1  
ALFONSO JURADO GONZALES/MV  
SCOTT LYONS/Atty. for dbt.

MOTION TO EXTEND AUTOMATIC STAY  
6-18-15 [[8](#)]

### **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.