



UNITED STATES BANKRUPTCY COURT
Eastern District of California
Honorable René Lastreto II
Department B – Courtroom #13
Fresno, California
Hearing Date: Wednesday, July 17, 2024

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

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

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

Please also note the following:

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

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

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

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

INSTRUCTIONS FOR PRE-HEARING DISPOSITIONS

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

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

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

Final Ruling: Unless otherwise ordered, there will be no hearing on these matters. The final disposition of the matter is set forth in the ruling and it will appear in the minutes. The final ruling may or may not finally adjudicate the matter. If it is finally adjudicated, the minutes constitute the court's findings and conclusions.

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

Post-Publication Changes: The court endeavors to publish its rulings as soon as possible. However, calendar preparation is ongoing, and these rulings may be revised or updated at any time prior to 4:00 p.m. the day before the scheduled hearings. Please check at that time for any possible updates.

9:30 AM

1. [24-11035](#)-B-13 **IN RE: MANUEL GOMEZ**
[NSV-1](#)

MOTION TO CONFIRM PLAN
5-23-2024 [[25](#)]

MANUEL GOMEZ/MV
NIMA VOKSHORI/ATTY. FOR DBT.

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

DISPOSITION: Denied without prejudice.

ORDER: The court will issue an order.

This motion will be DENIED WITHOUT PREJUDICE for failure to comply with the Local Rules of Practice ("LBR").

LBR 9004-2(a)(6), (b)(5), (b)(6), (e)(3), LBR 9014-1(c), and (e)(3) are the rules about Docket Control Numbers ("DCN"). These rules require a DCN to be in the caption page on all documents filed in every matter with the court and each new motion requires a new DCN. The DCN shall consist of not more than three letters, which may be the initials of the attorney for the moving party (e.g., first, middle, and last name) or the first three initials of the law firm for the moving party, and the number that is one number higher than the number of motions previously filed by said attorney or law firm in connection with that specific bankruptcy case. Each separate matter must have a unique DCN linking it to all other related pleadings.

Here, Manuel Gomez ("Debtor") filed a Motion/Application to Extend Deadline to File Schedules on May 8, 2024, and it was entered with the DCN NSV-1. Doc. #13. On May 23, 2024, Debtor filed the instant Motion/Application to Confirm/Modify Plan, but the motion used the same DCN, NSV-1. Therefore, the instant motion does not comply with the local rules. Each separate matter filed with the court must have a different DCN.

For the above reason, this motion will be DENIED WITHOUT PREJUDICE.

2. [19-12843](#)-B-13 **IN RE: DONNIE EASON**
[FW-5](#)

MOTION FOR COMPENSATION BY THE LAW OFFICE OF FEAR WADDELL,
P.C. FOR GABRIEL J. WADDELL, DEBTORS ATTORNEY(S)
6-12-2024 [\[103\]](#)

GABRIEL WADDELL/ATTY. FOR DBT.

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

DISPOSITION: Granted.

ORDER: The Moving Party shall submit a proposed order in
conformance with the ruling below.

Fear Waddell, P.C. ("Applicant"), attorney for Donnie L. Eason ("Debtor"), requests final compensation in the sum of **\$4,057.10** under 11 U.S.C. § 330. Doc. #103. This amount consists of **\$3,923.50** in fees and **\$133.60** in expenses from January 1, 2023, to June 4, 2024. *Id.* Applicant also requests that the fees and costs previously approved on an interim basis be approved on a final basis. *Id.*

Debtor executed a statement of consent dated June 10, 2024 indicating that Debtor has read the fee application and approves the same. Doc. #106 (*Exhibit E*).

No party in interest timely filed written opposition. This motion will be GRANTED.

This motion was set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1) and Fed. R. Bankr. P. ("Rule") 2002(a)(6). The failure of the creditors, the chapter 13 trustee, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. *See Boone v. Burk (In re Eliapo)*, 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument. Upon default, factual allegations will be taken as true (except those relating to amounts of damages). *Televideo Sys. Inc. v. Heidenthal*, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires that a plaintiff make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

Applicant serves as replacement counsel in this case which was originally filed by attorney David R. Jenkins ("Jenkins"). Doc. #1. Applicant was substituted for Jenkins by an order of this court dated April 25, 2022. Doc. #38.

Section 3.05 of the first confirmed *Chapter 13 Plan* ("the Jenkins Plan") dated July 1, 2019, confirmed September 16, 2019, states that

Jenkins was paid \$2,000.00 prior to case filing and \$3,000.00 through the plan. Docs. ##3, 22. On March 17, 2022, the court entered an order approving a \$3,000.00 fee award to Jenkins on a final basis under § 330. Doc. #35. Approximately one month later, Jenkins filed his motion for substitution which was granted three days later. Docs. ##37, 38.

Section 3.05 of the *Second Modified Chapter 13 Plan* ("the Waddell Plan") dated September 30, 2022, confirmed December 6, 2022, indicates that Applicant was paid \$2,000.00 prior to filing the case (which raises questions for the court since Applicant did not become counsel of record until two and a half years after the case was filed) and, subject to court approval, additional fees of \$10,500.00 shall be paid through the plan upon court approval by filing and serving a motion in accordance with 11 U.S.C. §§ 329 and 330, and Rules 2002, 2016-17. Docs. #67, #84. The Waddell Plan also contains the following Nonstandard Provisions:

7.05. Attorneys' fees have been paid the aggregate amount of \$2,916.55 through month 38. The attorney's fee dividend is \$1,062.61 per month effective month 39.

7.06. The following section of the plan is modified and or expanded by the provisions set forth below:
Administrative Expenses Section 3.05 & 3.06 and
Distribution of Plan Payments Section 5.02:

a. Pursuant to 11 U.S.C. Sec. 1322(a)(2), debtor and debtor's attorney agree that debtor's attorney fees and costs remaining unpaid upon completion of the case shall be paid directly by the debtor to counsel for the debtor before and/or after entry of the discharge. Additional, pursuant to *In re Johnson*, 344 B.R. 104 (BAP 9TH Cir.2006), said fees shall not be deemed discharged if, and only if, all of the following conditions are satisfied at the completion of the case: (1) debtor's attorney fees and costs are approved by the bankruptcy court pursuant to 11 U.S.C. Sec. 330, (2) based on the circumstances of the case, the court determines said fees and costs should be non-dischargeable, and (3) prior to submitting a fee application in which counsel is requesting that certain fees be non-dischargeable, counsel shall meet in person with the debtor to explain what fees are anticipated to be paid through the plan and what fees are anticipated to be paid following discharge.

b. Upon payment in full of the estimated amount stated in 3.05 (\$10,500.00), the Trustee will cease paying attorney fees in the order of distribution stated in 5.02 and will pay attorney fees in excess of the estimated amount in 3.05 after payments to general unsecured claims, to the extent funds are available. Any remaining attorney fees approved over and above the estimated amount that result in the

plan not funding by month 60 shall be paid direct by the debtor as agreed upon in writing by the debtor.

Doc. #67 ("Nonstandard Provisions").

This is Applicant's second and final fee application. Doc. #103. In addition to the \$3,000.00 awarded to Jenkins, Applicant was previously awarded \$5,271.50 in fees and \$297.21 in costs on March 15, 2023, for services and expenses from December 21, 2021, to December 31, 2022. Docs. ##85, 90.

Applicant's firm provided **17.90** billable hours at the following rates, totaling **\$3,923.50** in fees:

Professional	Rate	Billed	Total
Gabriel Waddell 2023	\$360.00	3.10	\$1,116.00
Gabriel Waddell 2024	\$380.00	5.10	\$1,672.00
Gabriel Waddell 2024 (estimated)	\$380.00	2.50	\$0.00
Katie Waddell 2023	\$260.00	0.20	\$52.00
Kayla Schlaak 2023	\$140.00	1.60	\$224.00
Kayla Schlaak 2024	\$160.00	5.30	\$848.00
Laurel Guenther 2023	\$115.00	0.10	\$11.50
Total		17.9	\$3,923.50

Docs. ##103, 106. Applicant also incurred **\$133.60** in expenses:

Postage	61.39
Reproduction	\$71.81
Other: PACER	\$0.40
Total	\$133.60

Id. These combined fees and expenses total **\$4,057.10**.

11 U.S.C. § 330(a)(1)(A) & (B) permits approval of "reasonable compensation for actual necessary services rendered by . . . [a] professional person" and "reimbursement for actual, necessary expenses." In determining the amount of reasonable compensation to be awarded to a professional person, the court shall consider the nature, extent, and value of such services, considering all relevant factors, including those enumerated in subsections (a)(3)(A) through (E). § 330(a)(3).

Applicant's services here included, without limitation: claim administration and claim objections; second amended or modified plan, motions, objections; fee applications; discharge and case closing; case administration. Docs. ##103, 106.

The court finds these services and expenses reasonable, actual, and necessary. No party in interest timely filed written opposition and Debtor has consented to payment of the proposed fees. Doc. #106

Accordingly, this motion will be GRANTED. Applicant shall be awarded **\$3,923.50** in fees as reasonable compensation for services rendered and **\$133.60** in reimbursement of actual, necessary expenses on a final basis under 11 U.S.C. § 330. The chapter 13 trustee will be authorized to pay Applicant **\$4,057.10** through the confirmed plan for services and expenses from January 1, 2023, to June 4, 2024.

Additionally, the court will approve on a final basis the **\$5,568.71** in compensation and costs awarded on an interim basis on March 15, 2021. The total fees paid to Applicant in this case will be **\$9,195.00**.

3. [24-10860](#)-B-13 **IN RE: JESUS MONTES-DENIZ**
[LGT-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY TRUSTEE LILIAN G. TSANG
6-18-2024 [\[14\]](#)

JOEL WINTER/ATTY. FOR DBT.

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

DISPOSITION: Continued to August 14, 2024, at 9:30 a.m.

ORDER: The court will issue an order.

Chapter 13 trustee Lilian G. Tsang ("Trustee") objects to confirmation of the *Chapter 13 Plan* filed by Jesus Montes-Deniz ("Debtor") on April 03, 2024, on the following basis:

1. Debtor has failed to comply with provisions of Chapter 13 and other provisions of the Bankruptcy Code. Specifically, Debtor has failed to provide to Trustee an updated *Authorization to Release Information* form as required by LBR 3015-1(b) (6). Debtor has failed to provide his March 2024 payment advices. Debtor has failed to provide Trustee with a Class 1 Checkless for Class 1 Claimant Arvest Bank as required by LBR 3015-1(b) (6).
2. The plan calls for payments for a period longer than five years. The proposed plan payment is \$1,993.87. Trustee calculates that the plan payment will need to increase to at least \$2,096.20 per month. Schedule J does not support this increase.

Doc. #14.

This objection will be CONTINUED to **August 14, 2024, at 9:30 a.m.** Unless this case is voluntarily converted to chapter 7, dismissed, or the objection to confirmation is withdrawn, the Debtor shall file and serve a written response to the Objection not later than **14 days before the hearing**. The response shall specifically address each issue raised in the objection to confirmation, state whether the issue is disputed or undisputed, and include admissible evidence to support the Debtors' position. Any reply shall be served no later than **7 days before the hearing**.

If the Debtor elects to withdraw the plan and file a modified plan in lieu of filing a response, then a confirmable, modified plan shall be filed, served, and set for hearing not later than **7 days before the hearing**. If the Debtor does not timely file a modified plan or a written response, this objection will be sustained on the grounds stated in the objection without further hearing.

4. [24-10373](#)-B-13 **IN RE: MARIA RAMIREZ**
[DMG-1](#)

CONTINUED MOTION TO CONFIRM PLAN
5-21-2024 [\[28\]](#)

MARIA RAMIREZ/MV
D. GARDNER/ATTY. FOR DBT.
RESPONSIVE PLEADING WITHDRAWN,

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

DISPOSITION: Granted.

ORDER: The Moving Party shall submit a proposed order in conformance with the ruling below.

Maria Ramirez ("Debtor") seeks an order confirming the *Second Modified Chapter 13 Plan* (erroneously identified as *First Modified Plan* in the body of the motion) dated May 21, 2024. Docs. ##28,31. The Trustee filed an opposition on May 23, 2024, which she subsequently withdrew. Docs. ##39,56. No plan has been confirmed so far. The 60-month plan proposes the following terms:

1. Debtor's monthly payment will be \$2,153 per month.
2. Outstanding Attorney's fees in the amount of \$7,000.00 to be paid through the plan.
3. Secured creditors to be sorted into appropriate Classes and paid as follows:
 - a. Pen Fed (Class 2A, secured by a PMSI on a 2019 Nissan Rogue). \$7,219.00 at 4.00% to be paid at \$800.00 per month.
 - b. Direct payments by Debtor under Class 4 to Solar Mosaic (for solar panels) and Hillcrest (for a burial lot).
4. A dividend of 100% to unsecured creditors.

Doc. #31.

This motion was set for hearing on 35 days' notice as required by Local Rule of Practice ("LBR") 3015-1(d)(1). The failure of the creditors, the chapter 13 trustee, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See *Boone v. Burk (In re Eliapo)*,

468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument. Upon default, factual allegations will be taken as true (except those relating to amounts of damages). *Televideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires that a plaintiff make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

This motion will be GRANTED. The confirmation order shall include the docket control number of the motion and reference the plan by the date it was filed.

5. [23-11981](#)-B-13 **IN RE: SHIMEKA CONWAY**
[TCS-3](#)

CONTINUED MOTION TO INCUR DEBT
6-6-2024 [\[81\]](#)

SHIMEKA CONWAY/MV
TIMOTHY SPRINGER/ATTY. FOR DBT.

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

DISPOSITION: Granted.

ORDER: The Moving Party will submit a proposed order after hearing.

This matter was originally heard on June 20, 2024.

Shimeka Conway ("Debtor") moves for an order authorizing her to incur new debt in an amount not to exceed \$25,000.00 to be paid over 54 months at an interest rate of 23.99% to buyout the lease on her 2020 Mercedes-Benz GLC ("the Vehicle"). Doc. #81. According to Section 4.02 the confirmed plan, Debtor currently pays \$578.81 per month to Mercedes-Benz Financial Services ("MBFS"). Doc. #62.

The motion erroneously states that "the lease was in Class 6," which is for "designated nonpriority unsecured claims," but there are no Nonstandard Provisions which address this claim as is required under Section 3.13 of the Plan. *Id.* That said, unexpired leases under the plan were to be paid directly by the Debtor, and this new loan, if approved, will also be paid outside the plan, so granting this motion will not otherwise affect plan distributions. *Compare* Doc. #81 and #62.

Debtor declares that this motion is necessary because the lease is not being renewed and the only way to retain the Vehicle is to finance a buyout of the lease. Doc. #83. Debtor declares that she has been approved for a loan of up to \$21,400.00 for 54 months at 23.99% interest with \$3,000.00 down (which she has saved). *Id.* Debtor further declares that the new monthly payment will be \$675.15 per month, which is less than the \$727.00 per month she is currently paying on the lease. *Id.*

As noted, the confirmed plan states that the monthly lease payment has been \$578.61. Doc. #62. However, in both the moving papers and in Debtor's *Schedule I&J* dated December 7, 2023, the monthly lease payment is listed as \$727.00. Doc. #81 *et seq.*; Doc. #56. The most recent *Schedule I&J* dated June 6, 2024, lists a monthly payment of \$675.00. Doc. #79.

This motion was filed and served pursuant to Local Rule of Practice ("LBR") 9014-1(f)(2) and was heard on June 20, 2024. At that time, the Trustee was on hand to present an objection to the motion. However, on July 11, 2024, the Trustee withdrew her objection and stated that she no longer opposed the motion. Doc. #93. No other party in interest appeared at the hearing, and the defaults of all nonresponding parties in interest are entered.

LBR 3015-1(h)(A) allows the debtor, with court approval, to finance the purchase of a motor vehicle if written consent of the chapter 13 trustee is filed with or as part of the motion. The trustee's approval is a certification to the court that: (i) all chapter 13 plan payments are current; (ii) the chapter 13 plan is not in default; (iii) the debtor has demonstrated an ability to pay all future plan payments, projected living expenses, and the new debt; (iv) the new debt is a single loan incurred to purchase a vehicle that is reasonably necessary for the maintenance or support of the debtor, or necessary for the continuation, preservation, and operation of the debtor's business; (v) the only security for the new debt will be the vehicle purchased by debtor; and (vi) the new debt does not exceed \$20,000.00.

If the trustee will not give consent, the debtors may still seek court approval under LBR 3015-1(h)(E) by filing and serving a motion on the notice required by Fed. R. Bankr. P. 2002 and LBR 9014-1. Here, the motion is not accompanied by a certificate of Trustee approval.

The gravamen of Trustee's objection at the hearing was her interpretation of LBR 3015-1(h)(1)(A) to mean that \$20,000.00 was a general cap for new vehicle loans during the life of the plan. In her filing withdrawing her objection, Trustee stated her agreement with the court's observation at the hearing that LBR 3015-1(h)(A) is only a cap when the motion to incur debt is filed *ex parte*. It does not bar debtors from seeking to purchase a vehicle in excess of \$20,000.00 when presented as a motion with proper notice and a hearing and subject to the court's review.

After review of the attached evidence the court finds that Debtor will be able to make the monthly payment for the Vehicle, as the monthly car note payment is less than Debtor is currently paying under the lease. Accordingly, this motion will be GRANTED. Debtor is authorized, but not required, to incur further debt in order to buy out her lease with MBFS and purchase the vehicle outright. Should the Debtor's budget prevent maintenance of current plan payment, Debtor shall continue making plan payments until the plan is modified.

6. [23-12585](#)-B-13 **IN RE: RONALD BARHAM**
[JDD-3](#)

MOTION TO CONFIRM PLAN
6-6-2024 [\[65\]](#)

RONALD BARHAM/MV
JONATHAN DOAN/ATTY. FOR DBT.
RESPONSIVE PLEADING

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

DISPOSITION: Continued to August 14, 2024, at 9:30 a.m.

ORDER: The court will issue an order.

Ronald Barham ("Debtor") moves for an order confirming the *Fourth Modified Chapter 13 Plan* dated May 31, 2024. Docs. ##51, 64. No plan has been confirmed so far. Chapter 13 trustee Lilian G. Tsang ("Trustee") timely objected to confirmation of the plan for the following reason(s):

1. The plan calls for payments in excess of five years. Trustee calculates that the monthly payment will need to increase to \$8,324.00 for months 7-60 in order for the plan to be feasible. Debtor's Schedule J does not support such an increase.
2. Debtor has failed to file his 2021-2022 federal taxes. He has also failed to file his 2021-2022 California Franchise Tax.

Doc. #69.

This motion to confirm plan will be CONTINUED to **August 14, 2024, at 9:30 a.m.** Unless this case is voluntarily converted to chapter 7, dismissed, or all objections to confirmation are withdrawn, the Debtor shall file and serve a written response to the objections no later than fourteen (14) days before the continued hearing date. The response shall specifically address each issue raised in the objection(s) to confirmation, state whether each issue is disputed or undisputed, and include admissible evidence to support the Debtor's position. Any replies shall be filed and served no later than seven (7) days prior to the hearing date.

If the Debtor elects to withdraw the plan and file a modified plan in lieu of filing a response, then a confirmable, modified plan shall be filed, served, and set for hearing not later than seven (7) days before the continued hearing date. If the Debtor does not timely file a modified plan or a written response, the objection will be sustained on the grounds stated, and the motion will be denied without further hearing.

7. [19-13899](#)-B-13 **IN RE: JULIO TADEO**
[JDR-1](#)

MOTION TO MODIFY PLAN
6-11-2024 [\[53\]](#)

JULIO TADEO/MV
JEFFREY ROWE/ATTY. FOR DBT.

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

DISPOSITION: Granted.

ORDER: The Moving Party shall submit a proposed order in
conformance with the ruling below.

Julio Tadeo ("Debtor") moves for an order confirming Debtors' *First Modified Chapter 13 Plan* dated June 11, 2024. Docs. #53, 55.

This motion was set for hearing on 35 days' notice as required by Local Rule of Practice ("LBR") 3015-1(d)(1). The failure of any party in interest, including but not limited to creditors, the U.S. Trustee, and the case Trustee, to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Therefore, the defaults of the above-mentioned parties in interest are entered. Upon default, factual allegations will be taken as true (except those relating to amounts of damages). *Televideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917 (9th Cir. 1987).

No party has timely objected, and the defaults of all nonresponding parties in interest are entered.

The motion requests that the confirmed 58-month plan be modified as follows:

1. The plan payment was originally \$1,510.67 per month for 58 months. In the modified plan, Debtor will have paid an aggregate of \$83,783.79 through month 56. The plan payment for month 57 will be \$1,200.00. The plan payment for month 58 will be \$1,000.00.
2. The attorney's fees to be paid through the plan will be reduced from \$10,000.00 to \$8,500.00, with the \$1,500.00 difference used to fund plan payments.
3. For the Class 1 arrearage distribution to The Money Source, trustee shall pay \$0.00 for month 57 and \$1,373.42 in month 58, which Debtor avers is the remaining amount still owed to this creditor.
4. Debtor will continue to pay a 0% dividend to general unsecured creditors.

Docs. #53, 55.

Debtor avers that this modification is necessary because Debtor fell behind due to loss of employment and health reasons. This is

confirmed by Debtor's *Amended Schedule I & J*, which reflects a monthly net income of \$1,250.00, down from \$1,515.00 which was his monthly net income as calculated in Debtor's petition documents. *Compare* Doc. #1 and Doc. #51.

No party has objected, and so, this motion is GRANTED. The order shall include the docket control number of the motion, shall reference the plan by the date it was filed, and shall be approved as to form by Trustee.

8. [19-13899](#)-B-13 **IN RE: JULIO TADEO**
[JDR-2](#)

MOTION FOR COMPENSATION FOR JEFFREY D. ROWE, DEBTORS
ATTORNEY(S)
6-19-2024 [\[61\]](#)

JEFFREY ROWE/ATTY. FOR DBT.

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

DISPOSITION: Granted.

ORDER: The Moving Party shall submit a proposed order in conformance with the ruling below.

Jeffrey Rowe ("Applicant"), attorney for Julio Tadeo ("Debtor"), requests final compensation in the sum of **\$8,500.00** under 11 U.S.C. § 330. Doc. #61. This amount consists of **\$8,500.00** in fees and **\$0.00** in expenses from September 9, 2019, through August 11, 2024. *Id.* This is Applicant's first and final fee application.

Debtor executed a statement of consent dated June 18, 2024, indicating that Debtor has read the fee application and approves the same. *Id.* § 9(7).

No party in interest timely filed written opposition. This motion will be GRANTED.

This motion was set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1) and Fed. R. Bankr. P. ("Rule") 2002(a)(6). The failure of the creditors, the chapter 13 trustee, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. *See Boone v. Burk (In re Eliapo)*, 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument. Upon default, factual allegations will be taken as true (except those relating to amounts of damages). *Televideo Sys. Inc. v. Heidenthal*, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires that a plaintiff make a *prima facie* showing that

they are entitled to the relief sought, which the movant has done here.

Section 3.05 of the *Chapter 13 Plan* dated June 11, 2024, confirmed July 17, 2024 (see *Item 7, above*), indicates that Applicant was paid \$700.00 prior to filing the case and, subject to court approval, additional fees of \$10,000.00 shall be paid through the plan upon court approval by filing and serving a motion in accordance with 11 U.S.C. §§ 329 and 330, and Rules 2002, 2016-17. Doc. #55. Notwithstanding the language of Section 3.05, however, the plan also contains the following Additional Provision which states: "Trustee has on hand Attorney's fees in the amount of \$10,000.00. The amended plan provides for \$8,500.00 in attorneys' fees instead of \$10,000.00. The difference of \$1,500.00 shall be applied to pay current claims." Doc. #55 (*Additional Provisions*).

Applicant's firm provided **39.7** billable hours at the following rates, totaling **\$11,795.00** in fees:

Professional	Rate	Billed	Total
Jeffrey D. Rowe	\$350.00	31.30	\$10,955.00
Mandy Dabb	\$100.00	8.40	\$840.00
Total Hours & Fees		39.7	\$11,795.00

Doc. #65 (*Exhibit B*). Applicant does not seek expense reimbursement in this Application.

11 U.S.C. § 330(a)(1)(A) & (B) permits approval of "reasonable compensation for actual necessary services rendered by . . . [a] professional person" and "reimbursement for actual, necessary expenses." In determining the amount of reasonable compensation to be awarded to a professional person, the court shall consider the nature, extent, and value of such services, considering all relevant factors, including those enumerated in subsections (a)(3)(A) through (E). § 330(a)(3).

Applicant's services here included, without limitation: prepetition consultation and fact gathering; preparation of voluntary petition, Schedules, and Form 22C; original plan, hearings, objections; 341 preparation and attendance; 1st amended or modified plan, motions, objections; claim administration and claim objections; motions to dismiss; and discharge and case closing. Docs. ##61, 65.

The court finds these services and expenses reasonable, actual, and necessary. No party in interest timely filed written opposition and Debtor has consented to payment of the proposed fees. Doc. #61. No further fees are authorized since it appears Applicant is waiving any difference between the total fees incurred, \$11,795.00 and \$8,500.00.

Accordingly, this motion will be GRANTED. Applicant shall be awarded **\$8,500.00** in fees as reasonable compensation for services rendered and **\$0.00** in reimbursement of actual, necessary expenses on a final

basis under 11 U.S.C. § 330. The chapter 13 trustee will be authorized to pay Applicant **\$8,500.00** through the confirmed plan for services and expenses from September 9, 2019, through August 11, 2024.

11:00 AM

1. [19-15103](#)-B-7 **IN RE: NATHAN/AMY PERRY**
[20-1017](#)

CONTINUED PRE-TRIAL CONFERENCE RE: COMPLAINT
3-15-2020 [\[1\]](#)

RICHNER ET AL V. PERRY
RICHARD FREEMAN/ATTY. FOR PL.

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

DISPOSITION: Continued to September 18, 2024, at 11:00 am.

ORDER: The court will issue the order.

On July 12, 2024, Plaintiff's counsel submitted a status report (Doc. #120) stating he had a conflict with another trial on July 17, 2024, and requested a 60-day continuance. The court will grant the continuance since the only parties primarily prejudiced by the continuance are the Plaintiffs.

Plaintiff's counsel to file a status report on or before September 11, 2024.

2. [19-13631](#)-B-7 **IN RE: CHRISTINA RUELAS**
[24-1012](#) [CAE-1](#)

STATUS CONFERENCE RE: COMPLAINT
5-16-2024 [\[1\]](#)

ROBERTS V. RUELAS
GREGG ROBERTS/ATTY. FOR PL.
RESPONSIVE PLEADING

NO RULING.

3. [23-11332](#)-B-11 **IN RE: TWILIGHT HAVEN, A CALIFORNIA**
NON-PROFIT CORPORATION
[23-1037](#) [CAE-1](#)

CONTINUED STATUS CONFERENCE RE: NOTICE OF REMOVAL
9-18-2023 [\[1\]](#)

CASTELLANOS V. TWILIGHT HAVEN
MEGHAN HIGDAY/ATTY. FOR PL.
DISMISSED 6/21/24

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

DISPOSITION: Dropped from the calendar.

No order is required.

On June 21, 2024, a Stipulation dismissing this adversary proceeding was entered. Doc. #55. On July 10, 2024, an entry was made in the docket stating that this adversary was closed. *See Docket generally.* On July 10, 2024, counsel for Twilight Haven, Debtor-Defendant in this matter, filed a Status Report confirming that the case is dismissed and requesting that this matter be dropped from the calendar.

Accordingly, this status conference is concluded. This matter will be DROPPED from the calendar.

4. [18-11651](#)-B-11 **IN RE: GREGORY TE VELDE**
[23-1012](#) [CAE-1](#)

CONTINUED STATUS CONFERENCE RE: COMPLAINT
2-9-2023 [\[1\]](#)

SUGARMAN V. UNITED STATES
TRUSTEE PROGRAM, BY AND
RILEY WALTER/ATTY. FOR PL.

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

DISPOSITION: Dropped from the calendar.

No order is required.

On July 8, 2024, a Stipulation dismissing this adversary proceeding was entered. Doc. #55. Accordingly, this status conference is concluded and will be DROPPED from the calendar.

5. [21-10523](#)-B-7 **IN RE: ZARINA ROSENFELD**
[23-1018](#) [CAE-1](#)

STATUS CONFERENCE RE: COMPLAINT
2-17-2023 [[1](#)]

EDMONDS V. ROSENFELD ET AL
PETER SAUER/ATTY. FOR PL.

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

DISPOSITION: Continued to August 14, 2024, at 11:00 a.m.

ORDER: The court will issue the order.

On July 11, 2024, the court conducted a hearing on the *Motion to Approve Settlement* in this matter and tentatively approved the settlement agreement pending filing of said settlement with the court as a Stipulation so that it can be formally granted. Accordingly, this Status Conference is hereby CONTINUED to August 14, 2024, at 11:00 a.m. to give the parties time to finalize the settlement and dismissal of this adversary proceeding.

If the case is not dismissed before then, Plaintiff, is to file and serve a status report on or before August 7, 2024.