

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

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

PRE-HEARING DISPOSITIONS

DAY: THURSDAY
DATE: JULY 28, 2016
CALENDAR: 9:00 A.M. CHAPTERS 13 AND 12 CASES

GENERAL DESIGNATIONS

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

ORAL ARGUMENT

For matters that are called, the court may determine in its discretion whether the resolution of such matter requires oral argument. See *Morrow v. Topping*, 437 F.2d 1155, 1156-57 (9th Cir. 1971); accord LBR 9014-1(h). When the court has published a tentative ruling for a matter that is called, the court shall not accept oral argument from any attorney appearing on such matter who is unfamiliar with such tentative ruling or its grounds.

COURT'S ERRORS IN FINAL RULINGS

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

1. [14-16004](#)-A-13 JUAN/ELIZABETH LECLERE MOTION TO INCUR DEBT
TCS-1 6-30-16 [[36](#)]
JUAN LECLERE/MV
TIMOTHY SPRINGER/Atty. for dbt.

Final Ruling

Motion: Approve New Debt [New Home Loan]

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).

The debtor seeks to incur new debt to finance the purchase of a new home. The interest rate will be approximately 4.5% and the total loan amount will be approximately \$170,848.00. The monthly payment including escrow is \$1235.85. The debtors will presumably no longer be paying rent in the amount of \$900 as the home purchase is for a primary residence.

Amended Schedules I and J have been filed indicating that the debtor can afford both the plan payment and the proposed monthly loan payment of principal and interest that would result from obtaining this financing. The court will grant the motion, and the trustee will approve the order as to form and content.

2. [16-11905](#)-A-13 FRED/MARIA MORENO MOTION TO VALUE COLLATERAL OF
JDM-1 DITECH FINANCIAL, LLC
FRED MORENO/MV 6-6-16 [[10](#)]
JAMES MILLER/Atty. for dbt.

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

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 3735 N. Vineland Ave., Kerman, CA.

The court values the collateral at \$193,000. 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 3735 N. Vineland Ave., Kerman, CA, has a value of \$193,000. 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.

3. [13-17007](#)-A-13 DANNY/LORI CARRELL
MHM-5
MICHAEL MEYER/MV
GEOFFREY ADALIAN/Atty. for dbt.
RESPONSIVE PLEADING

MOTION TO DISMISS CASE
6-16-16 [[120](#)]

No tentative ruling.

4. [16-10107](#)-A-13 SANDRA RAMIREZ
SL-2
SANDRA RAMIREZ/MV
STEPHEN LABIAK/Atty. for dbt.

OBJECTION TO CLAIM OF WITKIN
NEAL, CLAIM NUMBER 7
6-20-16 [[25](#)]

Tentative Ruling

Objection: Objection to Claim

Notice: LBR 3007-1(b) (2); no written opposition required

Disposition: Overruled without prejudice

Order: Civil minute order

Only 38 days' notice was given for this objection. When using the notice procedure of LBR 3007-1(b) (1), 44 days' notice is required. The court will treat the notice as under LBR 3007-1(b) (2).

The debtor objects to the allowance of Claim No. 7 filed by the claimant. The court will overrule the objection for the reasons discussed.

STANDARDS FOR CLAIM OBJECTIONS

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

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

APPLICATION

The debtor's objection fails to rebut the presumption of validity afforded Claim No. 7. The presumptive starting point the claim amount filed by the claimant, WitkinNeal / Coronado Heights HOA, are the accountings attached to the proof of claim, dated July 29, 2015 and

January 19, 2016.

Insufficient evidence has been filed rebutting the claim and accountings filed. The evidence indicates payments were made of \$3,316 toward 2013 homeowner dues and \$1,550 towards 2014 homeowner dues. This evidence does not provide any detail as to when the payments were made, i.e., before or after the accountings dated July 2015 and January 2016.

Moreover, the evidence of the debtor's payments does not specifically show that the total amount shown on the claimant's accountings for 2013 and 2014 has been paid. The amount of \$2156.12 is shown for assessments only for 2013 (but only for about 10 months of 2013, rather than the entire year) and the amount of \$2703.00 is shown for assessments for 2014. Late fees are also indicated. There are also months of 2013 assessments that are not shown as due, and the debtor's payments for 2013 could be applied to these months or to other 2012 amounts owed, depending on when made. In summary, it is unclear how the debtor's payments of \$3360 and \$1550 (totaling \$4910) relate to the amounts shown on the accounting since the amount of the payments do not match the amount due for the respective years. Additionally, late charges are shown as due in significant amounts too.

To prevail, the debtor's evidence should specifically indicate that the amount shown on the accounting for assessments in 2013 and 2014 were paid in full by the debtor's payments and thus are erroneously charged. This would include evidence of when the payments were made.

As a result, this evidence is not probative to show that the fees for 2013 and 2014 shown as due on the claimant's accountings have actually been paid. The court cannot thus conclude that the 2013 and 2014 amounts are erroneously included in the claim.

The remainder of the objection constitutes argument, not evidence. This is insufficient to disallow the claim in this case.

Finally, the argument made in paragraph 1 of the objection must be rejected. The statement sent 7/22/14 (Exhibit B) does not purport to be a statement of the total amount past due, as the debtor contends. Rather, it appears on its face to be only a statement of the amount of only one month's association fees that are due on 8/1/14. The statement cannot form the basis for an inference of the total amount past due or delinquent as of the statement's date—the statement nowhere mentions total past due amounts.

In conclusion, based on the detailed accountings provided by the creditor, the court finds that \$13,731.24 is more consistent with the proper amount of the claim than the amount that the debtor asserts is due, \$2980.78.

Alternatively, the objection is a number of ways is difficult to comprehend. Some examples will be provided. The court cannot understand paragraph 12's argument. Paragraph 3 refers to \$2073 due for 2014, but 2014 shows \$2703.00. The court does not understand how paragraph 17 relates to the claim, as no legal fees appear to be included in the claim—both accountings show \$0.00 of attorney's fees.

CIVIL MINUTE ORDER

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

The debtor's objection to Claim No. 7, filed by WitkinNeal / Coronado Heights HOA has been presented to the court. Having considered the objection together with papers filed in support and opposition to it, and having heard the arguments of counsel, if any, and good cause appearing,

IT IS ORDERED that the objection is overruled without prejudice.

5. [13-12809](#)-A-13 KENNETH/JAMIE SATTESON MOTION TO DISMISS CASE
MHM-1 6-9-16 [[51](#)]
MICHAEL MEYER/MV
PETER BUNTING/Atty. for dbt.
RESPONSIVE PLEADING
WITHDRAWN

Final Ruling

The motion withdrawn, the matter is dropped as moot.

6. [16-11309](#)-A-13 CARMEN HARGETT CONTINUED OBJECTION TO
MHM-1 CONFIRMATION OF PLAN BY TRUSTEE
MICHAEL H. MEYER
5-26-16 [[14](#)]
TIMOTHY SPRINGER/Atty. for dbt.
RESPONSIVE PLEADING

[Of the trio of matters to be called in this case, this matter will be called second.]

No tentative ruling.

7. [16-11309](#)-A-13 CARMEN HARGETT RESCHEDULED HEARING RE:
MHM-2 OBJECTION TO DEBTOR'S CLAIM OF
MICHAEL MEYER/MV EXEMPTIONS
6-10-16 [[19](#)]
TIMOTHY SPRINGER/Atty. for dbt.
ORDER #29, RESPONSIVE
PLEADING

[Of the trio of matters to be called in this case, this matter will be called first.]

No tentative ruling.

8. [16-11309](#)-A-13 CARMEN HARGETT
MHM-4
MICHAEL MEYER/MV
TIMOTHY SPRINGER/Atty. for dbt.

MOTION TO DISMISS CASE
7-14-16 [[46](#)]

[Of the trio of matters to be called in this case, this matter will be called third.]

No tentative ruling.

9. [11-14215](#)-A-13 JOSEPHINE BAKER
MHM-4
MICHAEL MEYER/MV
SCOTT LYONS/Atty. for dbt.

OBJECTION TO CLAIM OF
CITIFINANCIAL, CLAIM NUMBER 1
5-26-16 [[63](#)]

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 objection. None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

The trustee objects to the allowance of Claim No. 1, filed by Citifinancial. The claim was filed in the amount of \$8375.08. An order valuing the collateral securing this claim reduced the secured claim to \$2725 and the remaining balance was to be treated as an unsecured claim.

The claimant has advised the trustee's office that the loan is paid in full and has repeatedly returned funds. The trustee therefore seeks to allow the claim in the amounts previously paid on the claim, \$2365.32 as to the secured claim and \$739.47 as to the unsecured claim. Allowing the claim in this amount is proper because the claimant has waived its right to accept additional payment, and has returned additional payments made. The trustee cannot fulfill a duty to pay this claim in full when the claimant has opted to no longer collect funds on the claim and returns the funds as they are paid.

10. [11-17015](#)-A-13 LARRY/ANNIE ANDERSON MOTION TO DISMISS CASE
MHM-4 6-10-16 [[175](#)]
MICHAEL MEYER/MV
M. ENMARK/Atty. for dbt.
WITHDRAWN

Final Ruling

The motion withdrawn, the matter is dropped as moot.

11. [14-14017](#)-A-13 DAVID BAILEY AND KATHLEEN MOTION FOR CONSENT TO ENTER
PPR-1 PAXTON-BAILEY INTO LOAN MODIFICATION
DAVID BAILEY/MV AGREEMENT
6-28-16 [[44](#)]
CHRISTIAN YOUNGER/Atty. for dbt.

Final Ruling

Motion: Approval of Mortgage Loan Modification

Notice: LBR 9014-1(f)(1); 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). 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).

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.

12. [16-11717](#)-A-13 WILLIAM SEUELL
APN-1
BMW BANK OF NORTH AMERICA/MV

OBJECTION TO CONFIRMATION OF
PLAN BY BMW BANK OF NORTH
AMERICA
6-8-16 [[30](#)]

MARK ZIMMERMAN/Atty. for dbt.
AUSTIN NAGEL/Atty. for mv.

Final Ruling

The matter is resolved by stipulation, Stipulation, filed July 15, 2016, ECF # 43, and the terms of the stipulation shall be included in the order confirming the plan.

13. [16-11717](#)-A-13 WILLIAM SEUELL
MAZ-1
WILLIAM SEUELL/MV

CONTINUED MOTION TO VALUE
COLLATERAL OF BMW FINANCIAL
SERVICES
5-24-16 [[12](#)]

MARK ZIMMERMAN/Atty. for dbt.
ORDER ECF NO. 44

Final Ruling

The motion resolved by Order, ECF #44, the hearing is dropped as moot.

14. [15-10123](#)-A-13 CURTIS ALLEN AND
MHM-3 CHARLOTTE JACKSON
MICHAEL MEYER/MV
VARDUHI PETROSYAN/Atty. for dbt.

MOTION TO DISMISS CASE
6-10-16 [[69](#)]

Final Ruling

Motion: Dismiss Case

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

Disposition: Granted

Order: Civil minute order

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

For the reasons stated in the motion, cause exists under § 1307(c)(1) and (6) to dismiss the case. The debtor has failed to make all payments due under the confirmed plan. Payments are delinquent in the amount of \$5,411.00.

CIVIL MINUTE ORDER

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

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

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

IT IS ORDERED that the motion is granted. The debtor has failed to make all payments due under the confirmed chapter 13 plan in this case. This delinquency constitutes cause to dismiss this case. 11 U.S.C. § 1307(c)(1), (6). The court hereby dismisses this case.

15. [15-14023](#)-A-13 JOYCE LEHR
MHM-1
MICHAEL MEYER/MV
SCOTT LYONS/Atty. for dbt.

MOTION TO DISMISS CASE
6-10-16 [[28](#)]

Final Ruling

Motion: Dismiss Case

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

Disposition: Granted

Order: Civil minute order

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

For the reasons stated in the motion, cause exists under § 1307(c)(1) and (6) to dismiss the case. The debtor has failed to make all payments due under the confirmed plan. Payments are delinquent in the amount of \$2050.

CIVIL MINUTE ORDER

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

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

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

IT IS ORDERED that the motion is granted. The debtor has failed to make all payments due under the confirmed chapter 13 plan in this case. This delinquency constitutes cause to dismiss this case. 11 U.S.C. § 1307(c)(1), (6). The court hereby dismisses this case.

16. [16-11025](#)-A-13 TIM/CHERIE WILKINS
MHM-1
MICHAEL MEYER/MV
PETER FEAR/Atty. for dbt.
WITHDRAWN

MOTION TO DISMISS CASE
5-12-16 [[41](#)]

Final Ruling

The motion withdrawn, the matter is dropped as moot.

17. [11-11026](#)-A-13 JOHN/ISMELDA VASQUEZ
MHM-2
MICHAEL MEYER/MV

GEOFFREY ADALIAN/Atty. for dbt.

OBJECTION TO CLAIM OF
CITIFINANCIAL SERVICES, INC.,
CLAIM NUMBER 20
5-26-16 [[74](#)]

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 objection. None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

The trustee objects to the allowance of Claim No. 20, filed by CitiFinancial Services, Inc. The claim was filed in the amount of \$30,029.48. On July 1, 2011, an order valuing collateral was filed, determining the claim as wholly unsecured. The plan provided for 100% payback to unsecured creditors.

The claimant sent a letter to the trustee's office and returned funds. The claimant represented in the letter that it would no longer be collecting on the balance of its claim. The trustee therefore seeks to allow the claim in the amount previously paid on the claim, \$26,783.22. Allowing the claim in this amount is proper because the claimant has waived its right to accept additional payment, and has returned additional payments made. The trustee cannot fulfill a duty to pay this claim in full when the claimant has opted to no longer collect funds on the claim and returns the funds as they are paid.

18. [16-10626](#)-A-13 RAMON GUTIERREZ AND
MHM-2 MARGARITA AGUILERA
MICHAEL MEYER/MV
THOMAS GILLIS/Atty. for dbt.
RESPONSIVE PLEADING

MOTION TO DISMISS CASE
6-30-16 [[32](#)]

Tentative Ruling

Motion: Dismiss Case

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

Disposition: Continued to September 21, 2016

Order: Civil minute order

CASE DISMISSAL

The co-debtor has failed to provide the trustee with social security verification. See 11 U.S.C. § 521(a)(3)-(4). All debtors must provide personal identifying information that establishes the identity of the debtor if requested by the trustee. 11 U.S.C. § 521(h). Verification of a debtor's identity is a requirement that the court cannot waive. See *id.*

Rule 4002(b) requires a "picture identification issued by a governmental unit, or other personal identifying information that establishes the debtor's identity." Fed. R. Bankr. P. 4002(b)(1). It also requires evidence of a social security number, or a written statement that such documentation does not exist. *Id.* 4002(b)(2).

Furthermore, the *Handbook for Chapter 7 Trustees* states, "If a debtor fails to provide the required forms of identification, the trustee may proceed with the normal questioning at the meeting of creditors, but must continue the meeting to the trustee's next scheduled meeting date for production of the identification. At the trustee's discretion, the trustee may allow the debtor to present the required identification before the next scheduled meeting." See U.S. Tr. Program, U.S. Dep't of Justice, *Handbook for Ch. 7 Panel Trustees* 3-6 (Oct. 1, 2012).

The debtors state that the co-debtor lost her wallet, including social security card, driver's license and green card. The green card or driver's license is needed to obtain the social security card. The court recognizes that this process takes time, and will allow the debtors the 45-day period requested to obtain such information. But if such information is not provided, the court may likely dismiss the case for failure to provide necessary documents to the trustee.

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.

IT IS ORDERED that the motion is continued to September 21, 2016, at 9:00 a.m. to allow the debtors time to obtain a replacement social security card to be used as verification of the co-debtor's identity.

19. [16-11826](#)-A-13 IDA TISCARENO
MHM-1
MICHAEL MEYER/MV
TIMOTHY SPRINGER/Atty. for dbt.

MOTION TO DISMISS CASE
6-30-16 [[25](#)]

Final Ruling

Motion: Dismiss Case

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

Disposition: Granted

Order: Civil minute order

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

CASE DISMISSAL

The chapter 13 trustee moves to dismiss this chapter 13 case for a delinquency in payments under the debtor's proposed chapter 13 plan. For the reasons stated in the motion, cause exists under § 1307(c)(1), (c)(4) and § 1326(a)(1)(A) to dismiss the case. Payments under the proposed plan are delinquent in the amount of \$3203.10.

CIVIL MINUTE ORDER

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

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

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

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

20. [16-12327](#)-A-13 GUSTAVO IBARRA

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
7-12-16 [[11](#)]

THOMAS GILLIS/Atty. for dbt.
\$310.00 FILING FEE PAID
7/12/16

Final Ruling

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

21. [12-16432](#)-A-13 WILLIAM KNIGHT
MHM-2
MICHAEL MEYER/MV
JERRY LOWE/Atty. for dbt.
WITHDRAWN

MOTION TO DISMISS CASE
6-8-16 [[69](#)]

Final Ruling

The motion withdrawn, the matter is dropped as moot.

22. [14-12234](#)-A-13 ALEXANDRA CHAMPAGNE
MHM-3
MICHAEL MEYER/MV
TIMOTHY SPRINGER/Atty. for dbt.
MICHAEL MEYER/Atty. for mv.

MOTION TO DISMISS CASE
6-9-16 [[80](#)]

Final Ruling

Motion: Dismiss Case

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

Disposition: Granted

Order: Civil minute order

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

For the reasons stated in the motion, cause exists under § 1307(c)(1) and (6) to dismiss the case. The debtor has failed to make all payments due under the confirmed plan. Payments are delinquent in the amount of \$2615.32.

CIVIL MINUTE ORDER

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

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

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

IT IS ORDERED that the motion is granted. The debtor has failed to make all payments due under the confirmed chapter 13 plan in this case. This delinquency constitutes cause to dismiss this case. 11 U.S.C. § 1307(c)(1), (6). The court hereby dismisses this case.

23. [16-10034](#)-A-12 PEDRO/FELIPA GUTIERREZ CONTINUED MOTION TO CONFIRM
TOG-4 CHAPTER 12 PLAN
PEDRO GUTIERREZ/MV 4-4-16 [[40](#)]
THOMAS GILLIS/Atty. for dbt.
RESPONSIVE PLEADING

No tentative ruling.

24. [14-15736](#)-A-13 OMAR MARTINEZ AND JUDIT MOTION TO DISMISS CASE
MHM-4 LOPEZ 6-16-16 [[83](#)]
MICHAEL MEYER/MV
GLEN GATES/Atty. for dbt.

Final Ruling

Motion: Dismiss Case

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

Disposition: Granted

Order: Civil minute order

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

For the reasons stated in the motion, cause exists under § 1307(c)(1) and (6) to dismiss the case. The debtor has failed to make all payments due under the confirmed plan. Payments are delinquent in the amount of \$1594.10.

CIVIL MINUTE ORDER

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

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

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

IT IS ORDERED that the motion is granted. The debtor has failed to make all payments due under the confirmed chapter 13 plan in this case. This delinquency constitutes cause to dismiss this case. 11 U.S.C. § 1307(c)(1), (6). The court hereby dismisses this case.

25. [15-14936](#)-A-13 CHARLES/KATRINA ROCHA MOTION FOR COMPENSATION BY THE
RS-2 LAW OFFICE OF FINANCIAL RELIEF
LAW CENTER FOR RICHARD L.
STURDEVANT, DEBTORS ATTORNEY(S)
6-29-16 [\[44\]](#)

RICHARD STURDEVANT/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, Richard Sturdevant has applied for an allowance of interim compensation and reimbursement of expenses. The application requests that the court allow compensation in the amount of \$990 and reimbursement of expenses in the amount of \$0.

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.

Richard Sturdevant'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 \$990 and reimbursement of expenses in the amount of \$0. The aggregate allowed amount equals \$990. As of the date of the application, the applicant held a retainer in the amount of \$0.00. The amount of \$990 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.

26. [11-60137](#)-A-13 DONNIE/FREDDIE EASON MOTION TO DISMISS CASE
MHM-1 6-8-16 [[157](#)]
MICHAEL MEYER/MV
M. ENMARK/Atty. for dbt.
WITHDRAWN

Final Ruling

The motion withdrawn, the matter is dropped as moot.

27. [14-13740](#)-A-13 LORENZO/MARIA ROBLES MOTION TO DISMISS CASE
MHM-3 6-9-16 [[32](#)]
MICHAEL MEYER/MV
THOMAS GILLIS/Atty. for dbt.
WITHDRAWN

Final Ruling

The motion withdrawn, the matter is dropped as moot.

28. [11-19742](#)-A-13 FRANCISCO/MICHELLE
MHM-2 SERRANO
MICHAEL MEYER/MV
STEPHEN LABIAK/Atty. for dbt.
WITHDRAWN

MOTION TO DISMISS CASE
6-8-16 [[50](#)]

Final Ruling

The motion withdrawn, the matter is dropped as moot.

29. [16-11645](#)-A-13 ARNOLD WILLIAMS

DEUTSCHE BANK NATIONAL TRUST
COMPANY/MV
TIMOTHY SPRINGER/Atty. for dbt.
CHRISTINA O/Atty. for mv.

OBJECTION TO CONFIRMATION OF
PLAN BY DEUTSCHE BANK NATIONAL
TRUST COMPANY
6-30-16 [[19](#)]

No tentative ruling.

30. [16-12149](#)-A-13 IRMA CASTRO
PBB-1
IRMA CASTRO/MV
PETER BUNTING/Atty. for dbt.

MOTION TO VALUE COLLATERAL OF
ONEMAIN FINANCIAL, INC.
6-30-16 [[9](#)]

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 2002 Honda Accord SE. The debt owed to the respondent is not secured by a purchase money security interest. See 11 U.S.C. § 1325(a) (hanging paragraph). The court values the vehicle at \$4144.00.

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 2002 Honda Accord SE has a value of \$4144.00. No senior liens on the collateral have been identified. The respondent has a secured claim in the amount of \$4144.00 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.

31. [16-10359](#)-A-13 MATTHEW/KIMBERLI CARROLL MOTION TO DISMISS CASE
MHM-2 6-24-16 [[41](#)]
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 comply with the 75-day order the court imposed for achieving confirmation of a chapter 13 plan in this case. The court issued a 75-day order requiring that a plan be confirmed no later than the first hearing date available 75 days after the prior confirmation hearing date. The debtor has missed this deadline. 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 given the debtor's failure to confirm a chapter 13 plan no later than the 75-day deadline established by the court. The court hereby dismisses this case.

32. [15-13461](#)-A-13 RAMIRO OCHOA
MHM-4
MICHAEL MEYER/MV
NELLIE AGUILAR/Atty. for dbt.
RESPONSIVE PLEADING
WITHDRAWN

CONTINUED MOTION TO DISMISS
CASE
4-26-16 [[132](#)]

Final Ruling

The motion withdrawn, the matter is dropped as moot.

33. [15-13461](#)-A-13 RAMIRO OCHOA CONTINUED MOTION TO CONFIRM
NRA-9 PLAN
RAMIRO OCHOA/MV 5-11-16 [[136](#)]
NELLIE AGUILAR/Atty. for dbt.
RESPONSIVE PLEADING
OPPOSITION WITHDRAWN

Final Ruling

Motion: Confirm Chapter 13 Plan

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

Disposition: Granted

Order: Prepared by the trustee, approved by debtor's counsel

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 3015-1(d)(1), 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

Chapter 13 plan confirmation is governed by 11 U.S.C. §§ 1322, 1325 and by Federal Rule of Bankruptcy Procedure 2002(b) and Local Bankruptcy Rule 3015-1. The debtor bears the burden of proof as to each element. *In re Barnes*, 32 F.3d 405, 407 (9th Cir. 1994). The court finds that the debtor has sustained that burden, and the court will approve confirmation of the plan.

34. [12-13768](#)-A-13 JOHN/ONEIDA AZEVEDO MOTION TO DISMISS CASE
MHM-2 6-8-16 [[51](#)]
MICHAEL MEYER/MV
SCOTT LYONS/Atty. for dbt.
WITHDRAWN

Final Ruling

The motion withdrawn, the matter is dropped as moot.

35. [14-13974](#)-A-13 FERNANDO POO AND PALOMA MOTION TO DISMISS CASE
MHM-1 HERNANDEZ 6-9-16 [[66](#)]
MICHAEL MEYER/MV
THOMAS GILLIS/Atty. for dbt.
WITHDRAWN

Final Ruling

The motion withdrawn, the matter is dropped as moot.

36. [16-11475](#)-A-13 DAVID ALANIS MOTION TO VALUE COLLATERAL OF
CGF-1 FRESNO COUNTY EMPLOYEES FEDERAL
DAVID ALANIS/MV CREDIT UNION
6-17-16 [[19](#)]

CHRISTOPHER FISHER/Atty. for dbt.
WITHDRAWN

Final Ruling

The motion withdrawn, the matter is dropped as moot.

37. [16-11475](#)-A-13 DAVID ALANIS MOTION TO VALUE COLLATERAL OF
CGF-2 FRESNO COUNTY EMPLOYEES FEDERAL
DAVID ALANIS/MV CREDIT UNION
6-17-16 [[25](#)]

CHRISTOPHER FISHER/Atty. for dbt.
WITHDRAWN

Final Ruling

The motion withdrawn, the matter is dropped as moot.

38. [16-11475](#)-A-13 DAVID ALANIS MOTION TO VALUE COLLATERAL OF
CGF-3 FRESNO COUNTY EMPLOYEES FEDERAL
DAVID ALANIS/MV CREDIT UNION
6-17-16 [[31](#)]

CHRISTOPHER FISHER/Atty. for dbt.
WITHDRAWN

Final Ruling

The motion withdrawn, the matter is dropped as moot.

39. [15-13076](#)-A-13 RICHARD DOMENICI MOTION TO DISMISS CASE
MHM-2 6-10-16 [[38](#)]
MICHAEL MEYER/MV
SCOTT LYONS/Atty. for dbt.

Final Ruling

Motion: Dismiss Case

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

Disposition: Granted

Order: Civil minute order

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court

considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

For the reasons stated in the motion, cause exists under § 1307(c)(1) and (6) to dismiss the case. The debtor has failed to make all payments due under the confirmed plan. Payments are delinquent in the amount of \$6388.12.

CIVIL MINUTE ORDER

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

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

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

IT IS ORDERED that the motion is granted. The debtor has failed to make all payments due under the confirmed chapter 13 plan in this case. This delinquency constitutes cause to dismiss this case. 11 U.S.C. § 1307(c)(1), (6). The court hereby dismisses this case.

40. [16-10977](#)-A-13 ALVINO GARCIA
MHM-1
MICHAEL MEYER/MV
TIMOTHY SPRINGER/Atty. for dbt.
RESPONSIVE PLEADING

CONTINUED MOTION TO DISMISS
CASE
5-23-16 [[31](#)]

No tentative ruling.

41. [14-14681](#)-A-13 GERALD RISENHOOVER
MHM-3
MICHAEL MEYER/MV
STEVEN ALPERT/Atty. for dbt.
RESPONSIVE PLEADING
WITHDRAWN

MOTION TO DISMISS CASE
6-9-16 [[50](#)]

Final Ruling

The motion withdrawn, the matter is dropped as moot.

42. [14-15882](#)-A-13 DELIA GALLARDO
MHM-3
MICHAEL MEYER/MV
JEFFREY ROWE/Atty. for dbt.
WITHDRAWN

MOTION TO DISMISS CASE
6-9-16 [[75](#)]

Final Ruling

The motion withdrawn, the matter is dropped as moot.

43. [15-13384](#)-A-13 ARTHUR/KAREN GONZALES
MHM-3
MICHAEL MEYER/MV
VARDUHI PETROSYAN/Atty. for dbt.

MOTION TO DISMISS CASE
6-10-16 [[62](#)]

Final Ruling

Motion: Dismiss Case

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

Disposition: Granted

Order: Civil minute order

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

For the reasons stated in the motion, cause exists under § 1307(c)(1) and (6) to dismiss the case. The debtor has failed to make all payments due under the confirmed plan. Payments are delinquent in the amount of \$2386.

CIVIL MINUTE ORDER

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

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

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

IT IS ORDERED that the motion is granted. The debtor has failed to make all payments due under the confirmed chapter 13 plan in this case. This delinquency constitutes cause to dismiss this case. 11 U.S.C. § 1307(c)(1), (6). The court hereby dismisses this case.

44. [14-12485](#)-A-13 FREDDIE/TERESITA
MHM-3 LEONGUERRERO
MICHAEL MEYER/MV
PETER BUNTING/Atty. for dbt.

MOTION TO DISMISS CASE
6-9-16 [[63](#)]

Final Ruling

Motion: Dismiss Case

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

Disposition: Granted

Order: Civil minute order

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

For the reasons stated in the motion, cause exists under § 1307(c)(1) and (6) to dismiss the case. The debtor has failed to make all payments due under the confirmed plan. Payments are delinquent in the amount of \$1540.

CIVIL MINUTE ORDER

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

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

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

IT IS ORDERED that the motion is granted. The debtor has failed to make all payments due under the confirmed chapter 13 plan in this case. This delinquency constitutes cause to dismiss this case. 11 U.S.C. § 1307(c)(1), (6). The court hereby dismisses this case.

45. [11-61987](#)-A-13 JOSE/LETICIA CERDA
MHM-5
MICHAEL MEYER/MV
ADRIAN WILLIAMS/Atty. for dbt.
WITHDRAWN

MOTION TO DISMISS CASE
6-8-16 [[98](#)]

Final Ruling

The motion withdrawn, the matter is dropped as moot.

46. [16-10789](#)-A-13 PAUL/MARIA WILLIAMS
JRL-1
PAUL WILLIAMS/MV
JERRY LOWE/Atty. for dbt.
RESPONSIVE PLEADING

MOTION TO CONFIRM PLAN
6-16-16 [[22](#)]

No tentative ruling.

47. [16-10789](#)-A-13 PAUL/MARIA WILLIAMS
JRL-2
PAUL WILLIAMS/MV

MOTION TO VALUE COLLATERAL OF
EDUCATIONAL EMPLOYEES CREDIT
UNION
6-29-16 [[33](#)]

JERRY LOWE/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 2011 Chevrolet Suburban. 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 \$18,668.

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 2011 Chevrolet Suburban has a value of \$18,668. No senior liens on the collateral have been identified. The respondent has a secured claim in the amount of \$18,668 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.

48. [15-13095](#)-A-13 KATHY TATUM
MHM-2
MICHAEL MEYER/MV
NICHOLAS ANIOTZBEHERE/Atty. for dbt.
WITHDRAWN

MOTION TO DISMISS CASE
6-10-16 [[29](#)]

Final Ruling

The motion withdrawn, the matter is dropped as moot.