

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

Honorable Fredrick E. Clement
Sacramento Federal Courthouse
501 I Street, 7th Floor
Courtroom 28, Department A
Sacramento, California

DAY: TUESDAY
DATE: AUGUST 3, 2021
CALENDAR: 9:00 A.M. CHAPTER 13 CASES

RULINGS

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

"No Ruling" means the likely disposition of the matter will not be disclosed in advance of the hearing. The matter will be called; parties wishing to be heard should rise and be heard.

"Tentative Ruling" means the likely disposition, and the reasons therefor, are set forth herein. The matter will be called. Aggrieved parties or parties for whom written opposition was not required should rise and be heard. Parties favored by the tentative ruling need not appear. Non-appearing parties are advised that the court may adopt a ruling other than that set forth herein without further hearing or notice.

"Final Ruling" means that the matter will be resolved in the manner, and for the reasons, indicated below. The matter will not be called; parties and/or counsel need not appear and will not be heard on the matter.

CHANGES TO PREVIOUSLY PUBLISHED RULINGS

On occasion, the court will change its intended ruling on some of the matters to be called and will republish its rulings. The parties and counsel are advised to recheck the posted rulings after 3:00 p.m. on the next business day prior to the hearing. Any such changed ruling will be preceded by the following bold face text: **"[Since posting its original rulings, the court has changed its intended ruling on this matter]"**.

ERRORS IN RULINGS

Clerical errors of an insignificant nature, e.g., nomenclature ("2017 Honda Accord," rather than "2016 Honda Accord"), amounts, ("\$880," not "\$808"), may be corrected in (1) tentative rulings by appearance at the hearing; or (2) final rulings by appropriate ex parte application. Fed. R. Civ. P. 60(a) *incorporated by* Fed. R. Bankr. P. 9024. All other errors, including those occasioned by mistake, inadvertence, surprise, or excusable neglect, must be corrected by noticed motion. Fed. R. Bankr. P. 60(b), *incorporated by* Fed. R. Bankr. P. 9023.

1. [18-22006](#)-A-13 **IN RE: ELI/KELSEY MARCHUS**
[DPC-1](#)

MOTION TO DISMISS CASE
6-22-2021 [\[51\]](#)

MICHAEL HAYS/ATTY. FOR DBT.
DAVID CUSICK/ATTY. FOR MV.
RESPONSIVE PLEADING

No Ruling

2. [18-27206](#)-A-13 **IN RE: ARLENE DILLARD**
[DPC-1](#)

MOTION TO DISMISS CASE
6-23-2021 [\[33\]](#)

RICHARD JARE/ATTY. FOR DBT.
DAVID CUSICK/ATTY. FOR MV.
RESPONSIVE PLEADING

No Ruling

3. [18-25111](#)-A-13 **IN RE: ROBIN BASINGER**
[DPC-1](#)

MOTION TO DISMISS CASE
6-22-2021 [\[28\]](#)

MIKALAH LIVIAKIS/ATTY. FOR DBT.
DAVID CUSICK/ATTY. FOR MV.
RESPONSIVE PLEADING

No Ruling

4. [18-23613](#)-A-13 **IN RE: ADOR CALICA**
[DPC-1](#)

MOTION TO MODIFY PLAN
6-15-2021 [\[64\]](#)

ERIC VANDERMEY/ATTY. FOR DBT.
DAVID CUSICK/ATTY. FOR MV.

Final Ruling

Motion: Modify Chapter 13 Plan

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

Disposition: Granted

Order: Prepared by movant, approved by the trustee

Subject: Third Amended Chapter 13 Plan, June 15, 2021

This is the Chapter 13 trustee's motion to modify the plan. 11
U.S.C. § 1329(a).

DEFAULT OF RESPONDENT

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).

CHAPTER 13 PLAN MODIFICATION

Chapter 13 plan modification is governed by 11 U.S.C. §§ 1322, 1323, 1325, 1329 and by Federal Rules of Bankruptcy Procedure 2002(a)(5) and 3015(g) and Local Bankruptcy Rule 3015-1. "[T]he only limits on modification are those set forth in the language of the Code itself, coupled with the bankruptcy judge's discretion and good judgment in reviewing the motion to modify." *In re Powers*, 202 B.R. 618, 622 (B.A.P. 9th Cir. 1996).

Chapter 13 debtors seeking plan modification have the burden of proving that all requirements of § 1322(a) and (b) and § 1325(a) have been met. See 11 U.S.C. §§ 1322(a)-(b), 1325(a), 1329(b)(1); see also *In re Powers*, 202 B.R. at 622 ("[Section] 1329(b)(1) protects the parties from unwarranted modification motions by ensuring that the proposed modifications satisfy the same standards as required of the initial plan."); see also *In re Barnes*, 32 F.3d 405, 407 (9th Cir. 1994); *In re Andrews*, 49 F.3d 1404, 1408 (9th Cir. 1995).

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

5. [16-23414](#)-A-13 **IN RE: ALFREDO/LORENA MEDINA**
[DPC-1](#)

MOTION TO DISMISS CASE
6-23-2021 [\[36\]](#)

DAVID RITZINGER/ATTY. FOR DBT.
DAVID CUSICK/ATTY. FOR MV.

No Ruling

6. [21-22514](#)-A-13 **IN RE: PATRICK FIELDS**
[DBL-1](#)

MOTION TO EXTEND AUTOMATIC STAY
7-16-2021 [\[11\]](#)

BRUCE DWIGGINS/ATTY. FOR DBT.

No Ruling

7. [19-23815](#)-A-13 **IN RE: MICHELLE MOLDEN**
[DPC-1](#)

MOTION TO DISMISS CASE
6-23-2021 [\[32\]](#)

KRISTY HERNANDEZ/ATTY. FOR DBT.
DAVID CUSICK/ATTY. FOR MV.
RESPONSIVE PLEADING

No Ruling

8. [21-21815](#)-A-13 **IN RE: TYLER HARKER**
[DPC-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY DAVID P. CUSICK
7-14-2021 [\[18\]](#)

NICHOLAS WAJDA/ATTY. FOR DBT.

Tentative Ruling

Objection: Trustee's Objection to Confirmation of Plan

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

Disposition: Sustained and confirmation denied

Order: Civil minute order

No responding party is required to file written opposition to the objection; opposition may be presented at the hearing. LBR 3015-1(c)(4), 9014-1(f)(2)(C). If opposition is presented at the hearing, the court may rule on the merits or set a briefing schedule. Absent such opposition, the court will adopt this tentative ruling.

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 has the burden of proving that the plan complies with all statutory requirements of confirmation. *In re Andrews*, 49 F.3d 1404, 1407-08 (9th Cir. 1995); *In re Barnes*, 32 F.3d 405, 407-08 (9th Cir. 1994).

11 U.S.C. § 521

The list of documents that a chapter 13 debtor must surrender to the trustee is long. At a minimum it includes (1) pay advices for the 60 days prior to the petition, 11 U.S.C. § 521(a)(1)(B)(iv), Fed. R. Bankr. P. 1007(b)(1)(E); (2) a copy of the debtor's most recent federal income tax return (or a transcript thereof), 11 U.S.C. § 521(e)(2)(A); Fed. R. Bankr. P. 4002(b)(3); (3) a photographic identification and proof of social security number, Fed. R. Bankr. P. 4002(b)(1); (4) evidence of "current monthly income," such as a post-petition pay stub, Fed. R. Bankr. P. 4002(b)(2)(A); (5) documentation of monthly expenses claimed under §§ 707(b)(2)(A), (B), 1325(b)(3); and (6) bank and investment account statements that reflect the balance on the date of the petition, Fed. R. Bankr. 4002(b)(2)(B). Pay stubs and tax returns are due to the trustee at least 7 days prior to the meeting of creditors. Fed. R. Bankr. P. 1007(b)(1)(E), 4002(b)(3). The remainder of these documents must be provided no later than the meeting of creditors. Fed. R. Bankr. 4002(b).

Social Security Number

The debtor failed to provide proof of his social security number at the meeting of the creditor, F.R.B.P. 4002(b)(1)(B). The hearing was continued to August 5, 2021.

Tax Returns

The debtor has not provided the trustee the with the tax returns required under § 1325(a)(9). The debtor admitted at the Meeting of the Creditors that he had filed an extension for the 2020 tax returns, which was rejected.

ATTORNEY FEES

The debtor's plan states, in § 3.05, that \$1,422.00 in attorney fees were paid pre-filing and \$2,078.00 shall be paid through the plan under L.B.R. § 2016-1(c), ECF No. 4. This totals \$3,500.00. However, the Debtor's Rights and Responsibilities (ECF No. 5) and Disclosure of Compensation (ECF No. 1) both state the attorney's total fees will be \$4,000.00. The debtor admitted at the First Meeting of Creditors that he believed the attorney fees to be charged in this case was \$3,500.00 and \$1,422.00 was paid prior to the filing of the case. The debtor failed to make clear the total amount of attorney fees his attorney is charging and how much will be paid through the plan.

CIVIL MINUTE ORDER

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

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

The chapter 13 trustee's objection to confirmation has been presented to the court. Having considered the objection, oppositions, responses and replies, if any, and having heard oral argument presented at the hearing,

IT IS ORDERED that the objection is sustained. The court denies confirmation of the chapter 13 plan.

9. [18-23816](#)-A-13 **IN RE: LISA SLEDGE**
[DPC-2](#)

MOTION TO DISMISS CASE
6-23-2021 [[160](#)]

MARY TERRANELLA/ATTY. FOR DBT.
DAVID CUSICK/ATTY. FOR MV.
RESPONSIVE PLEADING

No Ruling

10. [20-25016](#)-A-13 **IN RE: FREDERICK BRISBY**
[DPC-2](#)

CONTINUED MOTION TO DISMISS CASE
6-7-2021 [\[84\]](#)

JASON VOGELPOHL/ATTY. FOR DBT.
DAVID CUSICK/ATTY. FOR MV.
RESPONSIVE PLEADING

No Ruling

11. [20-25016](#)-A-13 **IN RE: FREDERICK BRISBY**
[JV-5](#)

MOTION TO CONFIRM PLAN
6-24-2021 [\[92\]](#)

JASON VOGELPOHL/ATTY. FOR DBT.
RESPONSIVE PLEADING

Tentative Ruling

Motion: Confirm Chapter 13 Plan

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

Disposition: Denied

Order: Civil minute order

The motion requests confirmation of the Chapter 13 plan in this case. See 11 U.S.C. §§ 1322, 1323, 1325; Fed. R. Bankr. P. 2002(b); LBR 3015-1(d)(1)-(2). The Chapter 13 trustee opposes the motion, objecting to confirmation. `

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 has the burden of proving that the plan complies with all statutory requirements of confirmation. *In re Andrews*, 49 F.3d 1404, 1407-08 (9th Cir. 1995); *In re Barnes*, 32 F.3d 405, 407-08 (9th Cir. 1994).

11 U.S.C. § 1325(a)(6)

11 U.S.C. § 1325(a)(6) requires that a chapter 13 plan is feasible, and that the debtor shows ability to comply with its terms.

Post-petition Default

The debtor's original plan called for them to pay Sun West Mortgage directly and did not acknowledge any arrears existed, ECF No. 4. The debtor became delinquent post-petition and proposes to cure the default through the current plan, ECF No. 89. However, the

debtor did not provide sufficient evidence as to what payments were made post-petition when not paid by the trustee.

Pre-petition Default

Based on the latest claim by Sun West Mortgage, Claim No. 7-2, the debtor has a pre-petition default of \$28,562.33 (over 6 payments). The debtor attempted to explain the reason for the default (bank fraud and backwashed sewer), ECF No. 73, but does not give dates or duration of such events or dollar amounts involved. Sun West Mortgage subsequently filed a Stay Relief motion for cause, stating the debtor's failure to provide post-petition payments, ECF No. 109.

Quarterly Reports

The plan calls for quarterly declarations with documentary evidence of proof of ongoing mortgage payments. The debtor did not provide evidence to show what post-petition payments the debtor made in the ten months this plan was pending. The debtor also did not make clear when the first such report will be due if the plan is confirmed.

For the foregoing reasons, the debtor failed to show feasibility of the plan and ability to comply with the terms of the plan.

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 confirm a chapter 13 plan has been presented to the court. Having considered the motion together with papers filed in support and opposition to it, and having heard the arguments of counsel, if any, and good cause appearing, presented at the hearing,

IT IS ORDERED that the motion is denied. The court denies confirmation of the chapter 13 plan.

12. [16-20118](#)-A-13 **IN RE: LESTHER GASTELUM AND ALMA SAQUELARES**
[PGM-4](#)

MOTION TO MODIFY PLAN
6-23-2021 [[185](#)]

PETER MACALUSO/ATTY. FOR DBT.
RESPONSIVE PLEADING

Final Ruling

Motion: Modify Chapter 13 Plan

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

Disposition: Granted

Order: Prepared by movant, approved by the trustee

Subject: Fourth Amended Chapter 13 Plan, June 23, 2021

DEFAULT OF RESPONDENT

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).

CHAPTER 13 PLAN MODIFICATION

Chapter 13 plan modification is governed by 11 U.S.C. §§ 1322, 1323, 1325, 1329 and by Federal Rules of Bankruptcy Procedure 2002(a)(5) and 3015(g) and Local Bankruptcy Rule 3015-1. "[T]he only limits on modification are those set forth in the language of the Code itself, coupled with the bankruptcy judge's discretion and good judgment in reviewing the motion to modify." *In re Powers*, 202 B.R. 618, 622 (B.A.P. 9th Cir. 1996).

Chapter 13 debtors seeking plan modification have the burden of proving that all requirements of § 1322(a) and (b) and § 1325(a) have been met. See 11 U.S.C. §§ 1322(a)-(b), 1325(a), 1329(b)(1); see also *In re Powers*, 202 B.R. at 622 ("[Section] 1329(b)(1) protects the parties from unwarranted modification motions by ensuring that the proposed modifications satisfy the same standards as required of the initial plan."); see also *In re Barnes*, 32 F.3d 405, 407 (9th Cir. 1994); *In re Andrews*, 49 F.3d 1404, 1408 (9th Cir. 1995).

The court finds that the debtor has sustained this burden of proof. The court will grant the motion and approve the modification. The debtors shall also correct the interest rate to Class 2(A) creditor Portfolio Recovery so that it reflects 4.5%.

13. [19-23120](#)-A-13 **IN RE: SHONTHA BOHANON**
[DPC-1](#)

MOTION TO DISMISS CASE
6-22-2021 [\[75\]](#)

CHAD JOHNSON/ATTY. FOR DBT.
DAVID CUSICK/ATTY. FOR MV.

No Ruling

14. [20-24820](#)-A-13 **IN RE: NATALIE MCAULEY**
[PSB-1](#)

MOTION TO MODIFY PLAN
6-17-2021 [\[23\]](#)

PAULDEEP BAINS/ATTY. FOR DBT.
RESPONSIVE PLEADING

Final Ruling

Motion: Modify Chapter 13 Plan

Notice: LBR 3015-1(d)(2), 9014-1(f)(1); trustee's non-opposition filed

Disposition: Granted

Order: Prepared by movant, approved by the trustee

Subject: First Amended Chapter 13 Plan, June 17, 2021

DEFAULT OF RESPONDENT

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).

CHAPTER 13 PLAN MODIFICATION

Chapter 13 plan modification is governed by 11 U.S.C. §§ 1322, 1323, 1325, 1329 and by Federal Rules of Bankruptcy Procedure 2002(a)(5) and 3015(g) and Local Bankruptcy Rule 3015-1. "[T]he only limits on modification are those set forth in the language of the Code itself, coupled with the bankruptcy judge's discretion and good judgment in reviewing the motion to modify." *In re Powers*, 202 B.R. 618, 622 (B.A.P. 9th Cir. 1996).

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

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

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

15. [20-24820](#)-A-13 **IN RE: NATALIE MCAULEY**
[PSB-2](#)

OBJECTION TO CLAIM OF PINNACLE SERVICE SOLUTIONS LLC, CLAIM
NUMBER 31
6-17-2021 [[30](#)]

PAULDEEP BAINS/ATTY. FOR DBT.
TRUSTEE NON-OPPOSITION

Final Ruling

Objection: Objection to Claim

Notice: LBR 3007-1(b)(1); trustee's non-opposition filed

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).

OBJECTION TO CLAIM

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).

Furthermore, "[a] claim that is not regular on its face does not qualify as having been 'executed and filed in accordance with these rules.'" *Garvida*, 347 B.R. at 707 n.7 (quoting Fed. R. Bankr. P. 3001(f)). Such a claim lacks prima facie validity.

Here, the attachment to the Proof of Claim No. 31 does not have any information regarding the last payment date and the last charge date to determine whether or not this claim is past the statute of limitations for collecting. The court concludes the claim lacks sufficient support under Rule 3001(c) and (f). The creditor has been unresponsive to multiple attempts by the debtor to request pertinent information as to the missing information in Claim No. 31. The court sustains the debtor's objection.

16. [21-20922](#)-A-13 **IN RE: KYLE ASH**
[JCR-1](#)

MOTION TO CONFIRM PLAN
6-23-2021 [\[40\]](#)

JOSEPH ROSENBLIT/ATTY. FOR DBT.
RESPONSIVE PLEADING

Tentative Ruling

Motion: Confirm Chapter 13 Plan

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

Disposition: Denied

Order: Civil minute order

The motion requests confirmation of the Chapter 13 plan in this case. See 11 U.S.C. §§ 1322, 1323, 1325; Fed. R. Bankr. P. 2002(b); LBR 3015-1(d)(1)-(2). The Chapter 13 trustee opposes the motion, objecting to confirmation. `

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 has the burden of proving that the plan complies with all statutory requirements of confirmation. *In re Andrews*, 49 F.3d 1404, 1407-08 (9th Cir. 1995); *In re Barnes*, 32 F.3d 405, 407-08 (9th Cir. 1994).

TRUSTEE' S OBJECTION

11 U.S.C. § 1325(a)(6)

11 U.S.C. § 1325(a)(6) requires that a chapter 13 plan is feasible, and that the debtor shows ability to comply with its terms. The debtor is delinquent under the plan \$10,850.00. The debtor failed to show that the plan is feasible or that the debtor is able to comply with its terms.

L.B.R. 2016-1(c)

L.B.R. 2016-1(c) states the maximum fee that may be charged for attorneys' fees is \$4,000.00 in nonbusiness cases. Here, \$ 3.05 of the plan opts into L.B.R. 2016-1(c) for attorney's fees, ECF No. 42. However, the plan states the attorney received \$5,000.00 pre-filing and that \$5,000.00 will be paid to the attorney throughout the plan. This is an individual case. The plan proposes payments that far exceed the maximum allowed by 2016-1(c).

ACM INVESTOR SERVICES, INC.'S OBJECTION

Improper Inclusion of Property in Plan

Creditor ACM Investor Services, Inc. held a deed of trust against 531 Westwood Court, Vacaville, CA 95688. The original borrower under the deed transferred the interest to the debtor without the creditor's knowledge or consent, prior to a valid foreclosure sale. The debtor subsequently filed this bankruptcy case. The court granted the creditor's Motion for Relief from the Automatic Stay, ECF No. 53. The property was sold to a third party at a foreclosure auction. This property remains included in the plan in Class 2(A), ECF No. 42. Unless the plan is amended so that this property is no longer part of the plan, the court cannot grant confirmation.

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 confirm a chapter 13 plan has been presented to the court. Having considered the motion together with papers filed in support and opposition to it, and having heard the arguments of counsel, if any, and good cause appearing, presented at the hearing,

IT IS ORDERED that the motion is denied. The court denies confirmation of the chapter 13 plan.

17. [18-22724](#)-A-13 **IN RE: ANGELO NOLASCO AND DEBRA RODRIQUEZ-NOLASCO**
[DPC-1](#)

MOTION TO DISMISS CASE
6-22-2021 [[82](#)]

PETER MACALUSO/ATTY. FOR DBT.
DAVID CUSICK/ATTY. FOR MV.
RESPONSIVE PLEADING

No Ruling

18. [17-24431](#)-A-13 **IN RE: MARY PITMAN**
[DPC-1](#)

MOTION TO DISMISS CASE
6-22-2021 [[61](#)]

RICHARD KWUN/ATTY. FOR DBT.
DAVID CUSICK/ATTY. FOR MV.
RESPONSIVE PLEADING

Final Ruling

Since the trustee requested that the court drop this matter, ECF No. 70, the court will drop this matter from the calendar as moot.

19. [16-23134](#)-A-13 **IN RE: DANA DREBERT**
[MOH-2](#)

CONTINUED MOTION FOR HARDSHIP DISCHARGE
6-15-2021 [[68](#)]

MICHAEL HAYS/ATTY. FOR DBT.
RESPONSIVE PLEADING

No Ruling

20. [21-20539](#)-A-13 **IN RE: KATHRYN TAYLOR**
[CRG-1](#)

MOTION FOR COMPENSATION BY THE LAW OFFICE OF LINCOLN LAW,
LLP FOR CARL R. GUSTAFSON, DEBTORS ATTORNEY(S)
7-1-2021 [\[20\]](#)

CARL GUSTAFSON/ATTY. FOR DBT.
TRUSTEE NON-OPPOSITION

Tentative Ruling

Application: Allowance of Interim Compensation and Expense
Reimbursement

Notice: LBR 9014-1(f)(1); trustee's non-opposition filed

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

This is a straight-forward above-median income Chapter 13 case. Counsel seeks \$6,451.50 in compensation and \$0.00 in costs in addition to \$800 received prior to the date of the petition. The court notes the existence of nine different timekeepers on a no-more-difficult than average case and rates at above market rates, e.g., \$475/hour for counsel. These factors are offset by the aggregate of fees requested \$7,251.50 (\$800 prior to the retainer and \$6,451.50 by this motion). Considering counsel's fee request on a gestalt basis, the court will grant the motion.

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.

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.

Lincoln Law, LLP's application for allowance of 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. The court allows interim compensation in the amount of \$6,451.50 and reimbursement of expenses in the amount of \$0.00. The aggregate allowed amount equals \$6,451.50. Said amount must be finalized by final fee application prior to the conclusion of the case.

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.

21. [17-24941](#)-A-13 **IN RE: CLARICE TAYLOR**
[DPC-1](#)

MOTION TO DISMISS CASE
6-23-2021 [\[22\]](#)

MOHAMMAD MOKARRAM/ATTY. FOR DBT.
DAVID CUSICK/ATTY. FOR MV.

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 \$2,360.00.

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.

22. [21-21942](#)-A-13 **IN RE: PATRICK/REBECCA HITE**
[DPC-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY DAVID P. CUSICK
7-13-2021 [\[17\]](#)

PAULDEEP BAINS/ATTY. FOR DBT.

No Ruling

23. [18-22944](#)-A-13 **IN RE: DARRIN/DEZIREE SUTLIFF**
[DPC-1](#)

MOTION TO DISMISS CASE
6-22-2021 [\[39\]](#)

MARY TERRANELLA/ATTY. FOR DBT.
DAVID CUSICK/ATTY. FOR MV.
RESPONSIVE PLEADING

No Ruling

24. [21-21845](#)-A-13 **IN RE: MICHAEL GILLBANK**
[DPC-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY DAVID P. CUSICK
7-14-2021 [\[21\]](#)

MIKALAH LIVIAKIS/ATTY. FOR DBT.

No Ruling

25. [18-25046](#)-A-13 **IN RE: LORENZO/CORRINA AGUILAR**
[DPC-2](#)

MOTION TO DISMISS CASE
6-22-2021 [[62](#)]

CANDACE BROOKS/ATTY. FOR DBT.
DAVID CUSICK/ATTY. FOR MV.
RESPONSIVE PLEADING

Final Ruling

Since the trustee requested that the court drop this matter, ECF No. 70, the court will drop this matter from the calendar as moot.

26. [21-20846](#)-A-13 **IN RE: ANTOINETTE EDWARDS**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES
7-13-2021 [[65](#)]

PETER MACALUSO/ATTY. FOR DBT.

Final Ruling

The case having been dismissed, the order to show cause is discharged as moot.

27. [21-21347](#)-A-13 **IN RE: ALSESTER COLEMAN**

CONTINUED ORDER TO SHOW CAUSE - FAILURE TO PAY FEES
6-22-2021 [[31](#)]

PETER MACALUSO/ATTY. FOR DBT.
7/13/21 INSTALLMENT FEE PAID \$1.00

Final Ruling

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

28. [17-25149](#)-A-13 **IN RE: CHRISTINA JACOBS**
[DPC-2](#)

MOTION TO DISMISS CASE
6-23-2021 [\[56\]](#)

MICHAEL HAYS/ATTY. FOR DBT.
DAVID CUSICK/ATTY. FOR MV.
RESPONSIVE PLEADING

Tentative Ruling

Motion: Dismiss Case

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

Disposition: Granted

Order: Civil minute order

The chapter 13 trustee moves to dismiss this case, asserting that cause exists under § 1307(c)(1) and (6) as the debtor has failed to make all payments due under the plan. The trustee contends that the debtor is delinquent in the amount of \$388.00.

The debtor's opposition states that the debtor will come current by the hearing. In effect, the debtor's statements regarding amounts remaining to be paid admits the existence of a delinquency in the amount of \$388.00.

The debtor's opposition does not fully resolve the grounds for dismissal. A delinquency still exists as of the date of the opposition. A statement of intent to pay the delinquency on or before a future date is not equivalent to cure of the delinquency. The court is unable to deny the motion given the outstanding delinquency.

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 considered the motion, the opposition, responses, and oral argument at the hearing, if any, and good cause appearing,

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. Payments are delinquent in the amount of \$388.00. This delinquency constitutes cause to dismiss this case. 11 U.S.C. § 1307(c)(1), (6). The court hereby dismisses this case.

29. [18-20051](#)-A-13 **IN RE: RORY MCNEIL**
[DPC-3](#)

MOTION TO DISMISS CASE
6-22-2021 [\[88\]](#)

MARK BRIDEN/ATTY. FOR DBT.
DAVID CUSICK/ATTY. FOR MV.

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 \$32,670.00.

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.

30. [21-21154](#)-A-13 **IN RE: JEAN APPLING**
[DPC-1](#)

MOTION TO DISMISS CASE
7-6-2021 [\[45\]](#)

D. ENSMINGER/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).

DELINQUENCY

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 proposed plan. Payments are delinquent in the amount of \$2,131.00.

FAILURE TO PROSECUTE

The debtor has failed to confirm a plan within a reasonable time. The case has been pending for approximately 4 months, yet a plan has not been confirmed. This constitutes unreasonable delay by the debtor that is prejudicial to creditors. The court will dismiss the case.

CIVIL MINUTE ORDER

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

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

The trustee's motion to dismiss 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 proposed 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.

31. [18-21957](#)-A-13 **IN RE: WILLIAM AMARAL**
[PGM-12](#)

MOTION FOR COMPENSATION FOR PETER G. MACALUSO, DEBTORS
ATTORNEY(S)
6-25-2021 [[210](#)]

PETER MACALUSO/ATTY. FOR DBT.
RESPONSIVE PLEADING

No Ruling

32. [16-26158](#)-A-13 **IN RE: HELEN GUNKEL**
[DPC-1](#)

MOTION TO DISMISS CASE
6-23-2021 [[48](#)]

MARY TERRANELLA/ATTY. FOR DBT.
DAVID CUSICK/ATTY. FOR MV.
RESPONSIVE PLEADING

No Ruling

33. [21-22060](#)-A-13 **IN RE: JACQUE HAND**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES
7-6-2021 [[16](#)]

MICHAEL BENAVIDES/ATTY. FOR DBT.

Tentative Ruling

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

34. [19-21063](#)-A-13 **IN RE: ANGELA BOOTH**
[DPC-2](#)

MOTION TO DISMISS CASE
6-23-2021 [[70](#)]

ERIC SCHWAB/ATTY. FOR DBT.
DAVID CUSICK/ATTY. FOR MV.
RESPONSIVE PLEADING

No Ruling

35. [18-25565](#)-A-13 **IN RE: KACEE PEREZ**
[DPC-3](#)

MOTION TO DISMISS CASE
6-22-2021 [[55](#)]

RICHARD STURDEVANT/ATTY. FOR DBT.
DAVID CUSICK/ATTY. FOR MV.

Final Ruling

Since the trustee withdrew this motion, ECF No. 59, the court will drop this matter from the calendar as moot.

36. [21-20167](#)-A-13 **IN RE: HARLAN/CHARLOTTE CONFER**
[21-2024](#)

CONTINUED STATUS CONFERENCE RE: AMENDED COMPLAINT
6-2-2021 [[8](#)]

WATSON ET AL V. CONFER, III ET
AL
BARRY SPITZER/ATTY. FOR PL.

No Ruling

37. [21-20167](#)-A-13 **IN RE: HARLAN/CHARLOTTE CONFER**
[FEC-1](#)

ORDER TO SHOW CAUSE
6-25-2021 [[75](#)]

MICHAEL HAYS/ATTY. FOR DBT.

No Ruling

38. [21-20167](#)-A-13 **IN RE: HARLAN/CHARLOTTE CONFER**
[FEC-2](#)

STATUS CONFERENCE RE: VOLUNTARY PETITION
1-20-2021 [[1](#)]

MICHAEL HAYS/ATTY. FOR DBT.

No Ruling

39. [17-25168](#)-A-13 **IN RE: THOMAS/JEANNINE HOFFMAN**
[DPC-1](#)

MOTION TO DISMISS CASE
6-23-2021 [[34](#)]

LUCAS GARCIA/ATTY. FOR DBT.
DAVID CUSICK/ATTY. FOR MV.
RESPONSIVE PLEADING

No Ruling

40. [19-27469](#)-A-13 **IN RE: AARON/JESSICA MEAUX**
[PGM-5](#)

MOTION FOR COMPENSATION BY THE LAW OFFICE OF LAW OFFICES OF
PETER G. MACALUSO DEBTORS ATTORNEY(S)
6-29-2021 [[95](#)]

PETER MACALUSO/ATTY. FOR DBT.
TRUSTEE NON-OPPOSITION

Final Ruling

Application: Allowance of Compensation and Expense Reimbursement

Notice: LBR 9014-1(f)(1); trustee's non-opposition filed

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, Peter G. Macaluso has applied for an allowance of compensation and reimbursement of expenses. The application requests that the court allow compensation in the amount of \$1,035.00 and reimbursement of expenses in the amount of \$0.00.

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 applicant filed Form EDC 3-096, *Rights and Responsibilities of Chapter 13 Debtors and Their Attorneys*, opting in to the no-look fee

approved through plan confirmation, ECF No. 4. The plan also shows the attorney opted in pursuant to Local Bankruptcy Rule 2016-1(c), ECF No. 3. The applicant now seeks additional fees, arguing that the no-look fee is insufficient to fairly compensate the applicant. However, in cases in which the fixed, no-look fee has been approved as part of a confirmed plan, an applicant requesting additional compensation must show that substantial and unanticipated post-confirmation work was necessary. See LBR 2016-1(c).

The court finds that the compensation and expenses sought are reasonable, and that the movant has shown that substantial and unanticipated post-confirmation work was necessary. The court will approve the application. 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.

Peter G. Macaluso's application for allowance of 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. The court allows compensation in the amount of \$1,035.00 and reimbursement of expenses in the amount of \$0.00. The aggregate allowed amount equals \$1,035.00.

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.

41. [20-25379](#)-A-13 **IN RE: JOANNE ASPIRAS**
[PLC-6](#)

MOTION TO CONFIRM PLAN
6-28-2021 [\[69\]](#)

PETER CIANCHETTA/ATTY. FOR DBT.
CASE DISMISSED: 6/30/2021

Final Ruling

The case having been dismissed, the matter is dropped as moot.

42. [19-21681](#)-A-13 **IN RE: MICHELLE SWIFT**
[DPC-1](#)

MOTION TO DISMISS CASE
6-22-2021 [\[58\]](#)

PETER MACALUSO/ATTY. FOR DBT.
DAVID CUSICK/ATTY. FOR MV.
RESPONSIVE PLEADING

Final Ruling

Since the trustee requested the court to drop this matter, ECF No. 71, the court will drop this matter from the calendar as moot.

43. [19-20882](#)-A-13 **IN RE: HENRY RODRIGUEZ**
[DPC-1](#)

MOTION TO DISMISS CASE
6-22-2021 [\[63\]](#)

PETER MACALUSO/ATTY. FOR DBT.
DAVID CUSICK/ATTY. FOR MV.
RESPONSIVE PLEADING

Tentative Ruling

Motion: Dismiss Case

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

Disposition: Granted

Order: Civil minute order

The chapter 13 trustee moves to dismiss this case, asserting that cause exists under § 1307(c)(1) and (6) as the debtor has failed to make all payments due under the plan. The trustee contends that the debtor is delinquent in the amount of \$2,950.00.

The debtor's opposition states that the debtor will come current by the hearing. In effect, the debtor's statements regarding amounts remaining to be paid admits the existence of a delinquency in the amount of \$2,950.00.

The debtor's opposition does not fully resolve the grounds for dismissal. A delinquency still exists as of the date of the opposition. A statement of intent to pay the delinquency on or before a future date is not equivalent to cure of the delinquency. The court is unable to deny the motion given the outstanding delinquency.

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 considered the motion, the opposition, responses, and oral argument at the hearing, if any, and good cause appearing,

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. Payments are delinquent in the amount of \$2,950.00. This delinquency constitutes cause to dismiss this case. 11 U.S.C. § 1307(c)(1), (6). The court hereby dismisses this case.

44. [21-21682](#)-A-13 **IN RE: CHRISTOPHER WONG**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES
7-12-2021 [[45](#)]

Final Ruling

The case having been dismissed, the order to show cause is discharged as moot.

45. [19-24685](#)-A-13 **IN RE: EMILIA ARDELEAN**
[TBG-2](#)

CONTINUED MOTION TO CONFIRM PLAN
10-11-2019 [[37](#)]

STEPHAN BROWN/ATTY. FOR DBT.
RESPONSIVE PLEADING

No Ruling

46. [19-24685](#)-A-13 **IN RE: EMILIA ARDELEAN**
[TBG-4](#)

MOTION FOR COMPENSATION BY THE LAW OFFICE OF THE BANKRUPTCY
GROUP, P.C. FOR DANIEL J. GRIFFIN, DEBTORS ATTORNEY(S)
7-6-2021 [\[181\]](#)

STEPHAN BROWN/ATTY. FOR DBT.
RESPONSIVE PLEADING

Tentative Ruling

Application: Allowance of Interim Compensation and Expense
Reimbursement

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

Disposition: Approved

Order: Civil minute order

Debtor's counsel prays compensation of \$31,000.00 and costs of
\$42,087.92. Creditor opposes the motion.

COMPENSATION AND EXPENSES

In this Chapter 13 case, The Bankruptcy Group, P.C. has applied for
an allowance of interim compensation and reimbursement of expenses.
The application requests that the court allow compensation in the
amount of \$31,000.00 and reimbursement of expenses in the amount of
\$2,087.92.

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.

The Bankruptcy Group, P.C.'s application for allowance of interim
compensation and reimbursement of expenses has been presented to the
court. Having entered the default of respondent for failure to
appear, timely oppose, or otherwise defend in the matter, and having
considered the well-pleaded facts of the application,

IT IS ORDERED that the application is approved on an interim basis. The court allows interim compensation in the amount of \$31,000.00 and reimbursement of expenses in the amount of \$2,087.92. The aggregate allowed amount equals \$33,087.92. The amount of \$33,087.92 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.

47. [21-22485](#)-A-13 **IN RE: SCOTT LOVE**
[MOH-1](#)

MOTION TO VALUE COLLATERAL OF ONEMAIN FINANCIAL GROUP, LLC
7-19-2021 [\[15\]](#)

MICHAEL HAYS/ATTY. FOR DBT.

Tentative Ruling

Motion: Value Collateral [Personal Property; Motor Vehicle]

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

Disposition: Denied

Order: Civil minute order

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

VALUATION OF COLLATERAL

Chapter 13 debtors may value collateral by noticed motion. Fed. R. Bankr. P. 3012. Section 506(a) of the Bankruptcy Code provides, "An allowed claim of a creditor secured by a lien on property in which the estate has an interest . . . is a secured claim to the extent of the value of such creditor's interest in the estate's interest in such property" and is unsecured as to the remainder. 11 U.S.C. § 506(a). For personal property, value is defined as "replacement value" on the date of the petition. *Id.* § 506(a)(2). For "property acquired for personal, family, or household purposes, replacement value shall mean the price a retail merchant would charge for property of that kind considering the age and condition of the

property at the time value is determined." *Id.* The costs of sale or marketing may not be deducted. *Id.*

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

In this case, the debtor seeks to value collateral consisting of a motor vehicle described as a 2008 Chevrolet Avalanche. The debt secured by the vehicle was incurred within the 910-day period preceding the date of the petition. Also, the debtor is retired. The vehicle appears to be for the debtor's personal use. Thus, the debtor failed to meet his burden of proof that he is entitled to the relief requested under the § 1325(a) hanging paragraph.

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 denied.

48. [19-23686](#)-A-13 **IN RE: STEVE/ANNETTE ALSEY**
[DPC-1](#)

MOTION TO DISMISS CASE
6-22-2021 [[30](#)]

MIKALAH LIVIAKIS/ATTY. FOR DBT.
DAVID CUSICK/ATTY. FOR MV.

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 \$3,533.32.

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.

49. [18-20390](#)-A-13 **IN RE: THOMAS/SAMMY BOONE**
[PLC-7](#)

CONTINUED MOTION TO SELL
7-6-2021 [\[109\]](#)

PETER CIANCHETTA/ATTY. FOR DBT.
RESPONSIVE PLEADING

No Ruling

50. [21-20191](#)-A-13 **IN RE: KRISTA MICHIELS**
[RKW-1](#)

MOTION TO CONFIRM PLAN
6-13-2021 [\[44\]](#)

RICHARD KWUN/ATTY. FOR DBT.
TRUSTEE NON-OPPOSITION

Final Ruling

Motion: Confirm Chapter 13 Plan

Notice: LBR 3015-1(d)(1), 9014-1(f)(1); trustee's non-opposition
filed

Disposition: Granted

Order: Prepared by the movant, approved by the trustee

Subject: First Amended Chapter 13 Plan, June 14, 2021

DEFAULT OF RESPONDENT

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).

CHAPTER 13 PLAN CONFIRMATION

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 has the burden of proving that the plan complies with all statutory requirements of confirmation. *In re Andrews*, 49 F.3d 1404, 1407-08 (9th Cir. 1995); *In re Barnes*, 32 F.3d 405, 407-08 (9th Cir. 1994).

The court finds that the debtor has sustained that burden, and the court will approve confirmation of the plan.

51. [21-22594](#)-A-13 **IN RE: PETER/REBECCA DELGADO**
[PGM-1](#)

MOTION TO EXTEND AUTOMATIC STAY
7-20-2021 [\[11\]](#)

PETER MACALUSO/ATTY. FOR DBT.

No Ruling

52. [20-21695](#)-A-13 **IN RE: DEANNA MENDES**
[TLA-1](#)

MOTION TO MODIFY PLAN
6-22-2021 [\[23\]](#)

THOMAS AMBERG/ATTY. FOR DBT.
TRUSTEE NON-OPPOSITION

Final Ruling

Motion: Modify Chapter 13 Plan

Notice: LBR 3015-1(d)(2), 9014-1(f)(1); trustee's non-opposition
filed

Disposition: Granted

Order: Prepared by movant, approved by the trustee

Subject: First Amended Chapter 13 Plan, June 23, 2021

DEFAULT OF RESPONDENT

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).

CHAPTER 13 PLAN MODIFICATION

Chapter 13 plan modification is governed by 11 U.S.C. §§ 1322, 1323, 1325, 1329 and by Federal Rules of Bankruptcy Procedure 2002(a)(5) and 3015(g) and Local Bankruptcy Rule 3015-1. "[T]he only limits on modification are those set forth in the language of the Code itself, coupled with the bankruptcy judge's discretion and good judgment in reviewing the motion to modify." *In re Powers*, 202 B.R. 618, 622 (B.A.P. 9th Cir. 1996).

Chapter 13 debtors seeking plan modification have the burden of proving that all requirements of § 1322(a) and (b) and § 1325(a) have been met. See 11 U.S.C. §§ 1322(a)-(b), 1325(a), 1329(b)(1); see also *In re Powers*, 202 B.R. at 622 ("[Section] 1329(b)(1)

protects the parties from unwarranted modification motions by ensuring that the proposed modifications satisfy the same standards as required of the initial plan."); *see also In re Barnes*, 32 F.3d 405, 407 (9th Cir. 1994); *In re Andrews*, 49 F.3d 1404, 1408 (9th Cir. 1995).

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

53. [18-26598](#)-A-13 **IN RE: JOE/JENITSA CHAVEZ**
[MS-3](#)

MOTION TO INCUR DEBT
7-12-2021 [[54](#)]

MARK SHMORGON/ATTY. FOR DBT.
TRUSTEE NON-OPPOSITION

Tentative Ruling

Motion: Approve New Debt [Mortgage Loan to Finance Home Purchase]

Notice: LBR 9014-1(f)(2); trustee's non-opposition filed

Disposition: Granted

Order: Prepared by moving party

Property to Refinance: 2437 Sanders Lane, Fairfield, CA 94533

Proposed Loan: \$3,550.00/month, 360 months, 3% interest

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 debtor seeks to incur new debt to finance the purchase of a new home. The court will grant the motion, and the trustee will approve the order as to form and content. The proceeds are to be disbursed directly to the trustee in an amount to pay all creditors in full pursuant to the trustee's demand based on the debtors' confirmed plan.

54. [21-21198](#)-A-13 **IN RE: ANDREW NILSEN**
[BLF-3](#)

MOTION FOR COMPENSATION FOR LORIS L. BAKKEN, TRUSTEES
ATTORNEY(S)
7-6-2021 [\[54\]](#)

MARK BRIDEN/ATTY. FOR DBT.
RESPONSIVE PLEADING

Final Ruling

Application: Allowance of Final Compensation and Expense
Reimbursement

Notice: LBR 9014-1(f)(1); trustee's non-opposition filed

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, Loris L. Bakken, attorney for the trustee, has applied for an allowance of final compensation and reimbursement of expenses. The applicant requests that the court allow compensation in the amount of \$4,165.00 and reimbursement of expenses in the amount of \$0.00.

Section 330(a) of the Bankruptcy Code authorizes "reasonable compensation for actual, necessary services" rendered by a trustee, examiner or professional person employed under § 327 or § 1103 and "reimbursement for actual, necessary expenses." 11 U.S.C. § 330(a)(1). 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.

Loris L. Bakken'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 \$4,165.00 and reimbursement of expenses in the amount of \$0.00.

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.

55. [18-20699](#)-A-13 **IN RE: ARVIS CURRY**
[DPC-1](#)

MOTION TO DISMISS CASE
6-23-2021 [\[33\]](#)

MOHAMMAD MOKARRAM/ATTY. FOR DBT.
DAVID CUSICK/ATTY. FOR MV.

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 \$2,800.00.

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.