

**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 4, 2020
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. [20-21505](#)-A-13 **IN RE: STEPHEN COHRS**
[TJW-1](#)

MOTION TO CONFIRM PLAN
6-23-2020 [[25](#)]

TIMOTHY WALSH/ATTY. FOR DBT.
RESPONSIVE PLEADING

No Ruling

2. [20-23415](#)-A-13 **IN RE: MICHAEL/CANDACE TODD**
[BLG-1](#)

MOTION TO EXTEND AUTOMATIC STAY
7-21-2020 [[10](#)]

CHAD JOHNSON/ATTY. FOR DBT.

No Ruling

3. [20-21018](#)-A-13 **IN RE: FREDERICK SALANTI**
[DBL-1](#)

MOTION TO CONFIRM PLAN
6-17-2020 [[26](#)]

BRUCE DWIGGINS/ATTY. FOR DBT.
NON-OPPOSITION

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 movant, approved by the trustee

Subject: First Amended Chapter 13 Plan, June 17, 2020

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.

4. [19-23120](#)-A-13 **IN RE: SHONTHA BOHANON**
[BLG-1](#)

OBJECTION TO CLAIM OF PINNACLE CREDIT SERVICES, LLC, CLAIM
NUMBER 1
6-11-2020 [[29](#)]

CHAD JOHNSON/ATTY. FOR DBT.

Since posting its original rulings, the court has changed its intended ruling on this matter:

Final Ruling

This objection having been withdrawn, ECF 63, the court will drop this matter from the calendar as moot.

5. [19-23120](#)-A-13 **IN RE: SHONTHA BOHANON**
[BLG-2](#)

OBJECTION TO CLAIM OF LVNV FUNDING, LLC, CLAIM NUMBER 2
6-11-2020 [[39](#)]

CHAD JOHNSON/ATTY. FOR DBT.

Since posting its original rulings, the court has changed its intended ruling on this matter:

Final Ruling

This objection having been withdrawn, ECF 64, the court will drop this matter from the calendar as moot.

6. [19-23120](#)-A-13 **IN RE: SHONTHA BOHANON**
[BLG-3](#)

OBJECTION TO CLAIM OF PINNACLE CREDIT SERVICES, LLC, CLAIM
NUMBER 3
6-11-2020 [[34](#)]

CHAD JOHNSON/ATTY. FOR DBT.

Since posting its original rulings, the court has changed its intended
ruling on this matter:

Final Ruling

This objection having been withdrawn, ECF 65, the court will drop
this matter from the calendar as moot.

7. [19-23120](#)-A-13 **IN RE: SHONTHA BOHANON**
[BLG-4](#)

OBJECTION TO CLAIM OF LVNV FUNDING, LLC, CLAIM NUMBER 4
6-11-2020 [[44](#)]

CHAD JOHNSON/ATTY. FOR DBT.

Since posting its original rulings, the court has changed its intended
ruling on this matter:

Final Ruling

This objection having been withdrawn, ECF 66, the court will drop
this matter from the calendar as moot.

8. [20-21720](#)-A-13 **IN RE: EARL MILLER**
[TJW-2](#)

MOTION TO CONFIRM PLAN
6-16-2020 [[28](#)]

TIMOTHY WALSH/ATTY. FOR DBT.
RESPONSIVE PLEADING

Since posting its original rulings, the court has changed its intended
ruling on this matter:

No Ruling

9. [20-21720](#)-A-13 **IN RE: EARL MILLER**
[TJW-3](#)

MOTION TO USE CASH COLLATERAL
6-18-2020 [[32](#)]

TIMOTHY WALSH/ATTY. FOR DBT.
NON-OPPOSITION

No Ruling

10. [18-21824](#)-A-13 **IN RE: MICHAEL ZENDER**
[TJW-3](#)

MOTION FOR ORDER TO CONFIRM SALE OF REAL PROPERTY
7-21-2020 [[61](#)]

TIMOTHY WALSH/ATTY. FOR DBT.

Tentative Ruling

Motion: Sell Property [Real Property]

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

Disposition: Granted

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

Property: 174 Baxter Street, Vallejo, California

Buyer: Jose Ramirez and Ruby Ramirez

Sale Price: \$490,000

Sale Type: Private sale subject to overbid opportunity

Proceeds of Sale: Pay off of 1st trust deed Lakeview Loan Servicing
and \$209,411.52, approximate, (after administrative costs) held by
Chapter 13 trustee

DEFAULT

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).

RULE 2002(A)(2)

Federal Rule of Bankruptcy Procedure 2002(a) requires sales outside
of the ordinary course to be set on 21-days notice, absent an order
shortening time. Here, the movants have given 14-days notice. The
court will exercise its discretion to shorten time to 14 days in
this instance. Future motions should be set on not less than 21-
days notice, absent an order shortening time filed prior to or
simultaneously with the motion to sell.

SALE, 11 U.S.C. § 363(b)

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

Section 363(b)(1) of Title 11 authorizes sales of property of the estate "other than in the ordinary course of business." 11 U.S.C. § 363(b)(1); see also *In re Lionel Corp.*, 722 F.2d 1063, 1071 (2d Cir. 1983) (requiring business justification).

Here, the subject property is not property of the estate because the debtor's confirmed plan provides that property of the estate reverts in debtor upon confirmation of the plan. Plan § 6.01, March 28, 2018, ECF No. 5. The property is scheduled in Class 4 of the plan. However, the confirmed plan and LBR 3015-1(h)(1)(D) obligates the debtor to obtain court authorization prior to transferring property, so the plan provides the basis for the court's authority to decide whether to approve the sale.

Absent opposition and/or overbidder at the hearing the court will approve the sale on the terms proposed and to the buyer proposed. The court believes this to be a proper excise of the debtor's business judgment and consistent with the terms of the plan, i.e., the residence is listed in Class 4 and net proceeds after payment of the first deed of trust and administrative expenses will be paid to the Chapter 13 trustee.

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

11. [20-22424](#)-A-13 **IN RE: MOHAMMED TAMIK AND SADRUL NISHA**
[WW-1](#)

MOTION TO RECONSIDER
7-14-2020 [[38](#)]

MARK WOLFF/ATTY. FOR DBT.

No Ruling

12. [20-21425](#)-A-13 **IN RE: DYLAN ANDERSON**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES
6-15-2020 [[33](#)]

FINAL INSTALLMENT FEES PAID 6/30/20

Final Ruling

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

13. [19-21827](#)-A-13 **IN RE: SEDALIA MCFADDEN**
[WLG-1](#)

MOTION TO MODIFY PLAN
6-29-2020 [[37](#)]

NICHOLAS WAJDA/ATTY. FOR DBT.
RESPONSIVE PLEADING

Final Ruling

Motion: Modify Chapter 13 Plan

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

Disposition: Denied

Order: Civil minute order

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

The debtor filed the modified plan as an exhibit to the motion to modify. The plan had not been filed as a separate document. The debtor therefore did not comply with Local Bankruptcy Rule 3015-1(d).

The trustee cannot assess that the plan as shown is feasible under 11 U.S.C. § 1325(a)(6). The plan provides for a monthly payment of

\$1,470.00 for months 16-20 and \$1,960.00 for months 21-62. The aggregate of amounts owed to the trustee and monthly amounts due to Class 1 and Class 2 claims, Class 1 arrearages, administrative expenses are \$1,982.19 for months 16-20, and \$2,016.14 for months 21-62.

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 modification of the chapter 13 plan.

14. [20-22331](#)-A-13 **IN RE: BRANDON/JOVINA LIMOSNERO**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES
7-6-2020 [[25](#)]

PAULDEEP BAINS/ATTY. FOR DBT.
7/6/20 INSTALLMENT PAID \$77

Final Ruling

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

15. [16-21537](#)-A-13 **IN RE: JOSE/ADRIANA HERNANDEZ**
[DPR-2](#)

MOTION TO WAIVE FINANCIAL MANAGEMENT COURSE REQUIREMENT,
WAIVE SECTION 1328 CERTIFICATE REQUIREMENT, CONTINUE CASE
ADMINISTRATION, SUBSTITUTE PARTY, AS TO JOINT DEBTOR
7-20-2020 [\[63\]](#)

DAVID RITZINGER/ATTY. FOR DBT.

Tentative Ruling

Motion: Substitution of Representative, Continued Administration,
Waiver of Personal Financial Management and Waiver of Certifications

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

Disposition: Granted

Order: Civil minute order

Jose Hernandez prays appointment of a personal representative,
substitution of the representative, continued administration, waiver
of the post-petition education requirement and the § 1328
certification for his now deceased spouse Adriana Hernandez

DEFAULT

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).

DISCUSSION

Suggestion of Death

When a chapter 13 debtor dies, counsel for the debtor shall file a
Suggestion of Death.

Notice of Death. In a bankruptcy case which has not been
closed, a **Notice of Death of the debtor [Fed. R. Civ. P.
25(a), Fed. R. Bankr. P. 7025]** shall be filed within
**sixty (60) days of the death of a debtor by the counsel
for the deceased debtor or the person who intends to be
appointed as the representative for or successor to a
deceased debtor.** The Notice of Death shall be served on
the trustee, U.S. Trustee, and all other parties in
interest. **A copy of the death certificate (redacted as
appropriate) shall be filed as an exhibit to the Notice
of Death.**

LBR 1016-1(a) (emphasis added); see also, Fed. R. Civ. P. 25(a),
incorporated by Fed. R. Bank. P. 7025, 9014(c).

Here, Adriana Hernandez has died. See Certificate of Death, July 20, 2020, ECF No. 66.

Substitution of Representative

Upon the death of the debtor, a personal representative for the debtor must be substituted as the real party in interest.

An action must be prosecuted in the name of the real party in interest. The following may sue in their own names without joining the person for whose benefit the action is brought: (A) an executor; (B) an administrator; (C) a guardian; (D) a bailee; (E) a trustee of an express trust; (F) a party with whom or in whose name a contract has been made for another's benefit; and (G) a party authorized by statute.

Fed. R. Civ. P. 17(a), *incorporated by* Fed. R. Bankr. P. 7017, 9014(c) (emphasis added).

Where the debtor dies during the administration of a chapter 7 case, the action is not abated, and administration shall continue. Fed. R. Bankr. P. 1016. But a representative for the now deceased debtor needs to be appointed. And that appointment process is implemented by Rule 25(a).

If a party dies and the claim is not extinguished, the court may order substitution of the proper party. A motion for substitution may be made by any party or by the decedent's successor or representative. If the motion is not made within 90 days after service of a statement noting the death, the action by or against the decedent must be dismissed.

Fed. R. Civ. P. 25, *incorporated by* Fed. R. Bankr. P. 7025, 9014(c) and LBR 1016-1(a).

Here, the debtor died in 2017, well beyond the 90 days described by Rule 25(a). But the court is unclear whether Rule 25(a) and the 90 day limitation has been applied in Chapter 13. And so no party in interest has raised the issue, the court will not do so sua sponte.

Continued Administration

Continued administration on behalf of a deceased chapter 13 debtor is discretionary.

Death or incompetency of the debtor shall not abate a liquidation case under chapter 7 of the Code. In such event the estate shall be administered and the case concluded in the same manner, so far as possible, as though the death or incompetency had not occurred. **If a reorganization, family farmer's debt adjustment, or individual's debt adjustment case is pending under chapter 11, chapter 12, or chapter 13, the case may be dismissed; or if further administration is possible and in the best interest of the parties, the case may**

proceed and be concluded in the same manner, so far as possible, as though the death or incompetency had not occurred.

Fed. R. Bankr. P. 1016 (emphasis added).

Here, the debtor proposed and confirmed a 50-month plan. Plan, March 14, 2016, ECF No. 9; Order, May 27, 2016, ECF No. 24. One of the primary purposes of the plan was to strip off a wholly unsecured second deed of trust.

Waiver of Post-Petition Education Requirement

In most case, individual chapter 7 debtors must complete a post-petition personal financial management course to receive a discharge. 11 U.S.C. 727(a)(11).

The court shall grant the debtor a discharge unless . . .
. after filing the petition, the debtor failed to complete an instructional course concerning personal financial management described in section 111, except that this paragraph shall not apply to a debtor who is a person described in section 109(h)(4).

Section 109(h) provides:

The requirements of paragraph (1) shall not apply with respect to **a debtor whom the court determines, after notice and hearing, is unable to complete those requirements because of incapacity, disability,** or active military duty in a military combat zone. For the purposes of this paragraph, incapacity means that the debtor is impaired by reason of mental illness or mental deficiency so that he is incapable of realizing and making rational decisions with respect to his financial responsibilities; and **"disability" means that the debtor is so physically impaired as to be unable, after reasonable effort, to participate in an in person, telephone, or Internet briefing required under paragraph (1).**

11 U.S.C.A. § 109(h)(4) (emphasis added).

Death is a disability within the meaning of § 109(h)(4).

WAIVER OF § 1328 CERTIFICATIONS

The motion requests a waiver of the requirement to complete and file § 1328 certifications, including certifications concerning domestic support obligations, prior bankruptcy discharges, exemptions exceeding the amount stated in § 522(q)(1) and pending criminal or civil proceedings described in § 522(q)(1)(A) and (B). These certifications are generally required for debtors by § 1328(a) and Local Bankruptcy Rule 5009-1(b) and (c). The court will waive the requirement that the deceased debtor file certifications concerning compliance with § 1328, including Forms EDC 3-190 and EDC 3-191 required under LBR 5009-1

CIVIL MINUTE ORDER

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

Jose Hernandez motion has been presented to the court. Having entered the default of the respondents and having considered the motion together with papers filed in support and opposition, and having heard the arguments of counsel, if any,

IT IS ORDERED that the motion is the motion is granted; and

IT IS FURTHER ORDERED that (1) Jose Hernandez is the representative of Adriana Hernandez and is substituted in her place and stead; (2) continued administration is appropriate; (3) as to Adriana Hernandez the post-petition education requirement is waived, 11 U.S.C. s 109(h); and (4) as to Adriana Hernandez the certifications required by 11 U.S.C. § 1328 are waived.

16. [20-22937](#)-A-13 **IN RE: ROBERT LOYA AND JULIE MCLAIN**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES
7-14-2020 [[25](#)]

PETER MACALUSO/ATTY. FOR DBT.

Final Ruling

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

17. [19-26941](#)-A-13 **IN RE: MICHAEL WYCLIFFE AND REBECCA WEAVER**
[PGM-1](#)

MOTION TO CONFIRM PLAN
6-26-2020 [[47](#)]

PETER MACALUSO/ATTY. FOR DBT.
RESPONSIVE PLEADING

No Ruling

18. [20-23441](#)-A-13 **IN RE: JEFFREY MAYHEW**
[PGM-1](#)

MOTION TO EXTEND AUTOMATIC STAY
7-20-2020 [[9](#)]

PETER MACALUSO/ATTY. FOR DBT.

No Ruling

19. [20-23442](#)-A-13 **IN RE: AERON WALLACE**
[MET-1](#)

MOTION TO EXTEND AUTOMATIC STAY
7-15-2020 [[8](#)]

MARY TERRANELLA/ATTY. FOR DBT.

No Ruling

20. [20-20843](#)-A-13 **IN RE: MARLON/MICHELLE VALENZUELA**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES
6-18-2020 [[40](#)]

STEELE LANPHIER/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.

21. [20-21944](#)-A-13 **IN RE: HUGO THOMPSON**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES
7-7-2020 [[21](#)]

MICHAEL HAYS/ATTY. FOR DBT.
7/8/20 INSTALLMENT FEE PAID \$77

Final Ruling

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

22. [20-21047](#)-A-13 **IN RE: PAUL DENNO AND SANDRA MURRAY**
[MWB-2](#)

MOTION TO CONFIRM PLAN
6-10-2020 [[44](#)]

MARK BRIDEN/ATTY. FOR DBT.
RESPONSIVE PLEADING

No Ruling

23. [20-20851](#)-A-13 **IN RE: ROBERT RISPOLI**
[PGM-2](#)

MOTION TO SELL
7-13-2020 [[35](#)]

PETER MACALUSO/ATTY. FOR DBT.
RESPONSIVE PLEADING

No Ruling

24. [16-26053](#)-A-13 **IN RE: JOHN PUGH**
[JGD-10](#)

MOTION TO MODIFY PLAN
6-17-2020 [[146](#)]

JOHN DOWNING/ATTY. FOR DBT.
DEBTOR DISMISSED: 07/07/20

Final Ruling

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

25. [19-27560](#)-A-13 **IN RE: KELLEN RAY**
[MRL-1](#)

MOTION TO MODIFY PLAN
6-5-2020 [[14](#)]

MIKALAH LIVIAKIS/ATTY. FOR DBT.
RESPONSIVE PLEADING

No Ruling

26. [20-22562](#)-A-13 **IN RE: RICARDO MEJIA**
[DPC-2](#)

MOTION TO DISMISS CASE
7-20-2020 [[20](#)]

PETER MACALUSO/ATTY. FOR DBT.

Tentative Ruling

Motion: Dismiss Case

Notice: LBR 9014-1(f)(2); no 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). 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 \$1,000.00, and was scheduled to pay \$1,000.00 on July 25, 2020. The debtor has paid \$0.00 into the plan to date.

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.

27. [16-20763](#)-A-13 **IN RE: LAWRENCE/CHYANNE MICALLEF**
[WW-7](#)

MOTION TO MODIFY PLAN
6-23-2020 [[155](#)]

MARK WOLFF/ATTY. FOR DBT.
RESPONSIVE PLEADING

No Ruling

28. [18-26980](#)-A-13 **IN RE: RENATO/MARY ROSE PORLARIS**
[NLB-3](#)

MOTION FOR COMPENSATION FOR NAKESHA L. BATTY, DEBTORS
ATTORNEY(S)
7-3-2020 [[68](#)]

NEKESHA BATTY/ATTY. FOR DBT.
NON-OPPOSITION

Final Ruling

Application: Allowance of Final Compensation and Expense
Reimbursement

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

Disposition: Approved

Order: Civil minute order

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

COMPENSATION AND EXPENSES

In this Chapter 13 case, Nekesha L. Batty has applied for an allowance of final compensation and reimbursement of expenses. The applicant requests that the court allow compensation in the amount of \$1,425.00 and reimbursement of expenses in the amount of \$310.00.

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 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.

Nekesha L. Batty'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 \$1,425.00 and reimbursement of expenses in the amount of \$310.00. The aggregate allowed amount equals \$1,735.00. As of the date of the application, the applicant held a retainer in the amount of \$0.00. The amount of \$1,735.00 shall be allowed as an administrative expense to be paid through the plan.

IT IS FURTHER ORDERED that the trustee is authorized to pay the fees allowed by this order from the available funds of the plan in a manner consistent with the terms of the confirmed plan.

29. [20-20084](#)-A-13 **IN RE: BERNADETTE TEDING**
[APN-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY VENTANA HOMEOWNERS
ASSOCIATION
7-21-2020 [[71](#)]

RICHARD JARE/ATTY. FOR DBT.
AUSTIN NAGEL/ATTY. FOR MV.

No Ruling

30. [20-20084](#)-A-13 **IN RE: BERNADETTE TEDING**
[RJ-4](#)

MOTION TO CONFIRM PLAN
6-16-2020 [\[56\]](#)

RICHARD JARE/ATTY. FOR DBT.
NON-OPPOSITION

No Ruling

31. [17-25195](#)-A-13 **IN RE: JUSTINO SANCHEZ**
[RJ-7](#)

MOTION TO MODIFY PLAN
6-16-2020 [\[112\]](#)

RICHARD JARE/ATTY. FOR DBT.
RESPONSIVE PLEADING

Tentative Ruling

Motion: Modify Chapter 13 Plan

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

Disposition: Denied

Order: Civil minute order

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

The debtor wishes to increase plan to 84 months under CARES Act. The debtor has not filed an amended Schedules I and J. The trustee cannot assess feasibility of the plan under §1325(a)(6) absent an amended Schedules I and J or an updated budget.

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 modify 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 modification of the chapter 13 plan.

32. [20-23693](#)-A-13 **IN RE: CARL CHILDS**
[MET-1](#)

MOTION TO IMPOSE AUTOMATIC STAY O.S.T.
7-29-2020 [[8](#)]

MARY TERRANELLA/ATTY. FOR DBT.

No Ruling