

UNITED STATES BANKRUPTCY COURT
Eastern District of California
Honorable Jennifer E. Niemann
Hearing Date: Thursday, September 29, 2022
Place: Department A - Courtroom #11
Fresno, California

Beginning the week of June 28, 2021, and in accordance with District Court General Order No. 631, the court resumed in-person courtroom proceedings in Fresno. Parties to a case may still appear by telephone, provided they comply with the court's telephonic appearance procedures, which can be found on the court's website.

INSTRUCTIONS FOR PRE-HEARING DISPOSITIONS

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

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

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

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

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

THE COURT ENDEAVORS TO PUBLISH ITS RULINGS AS SOON AS POSSIBLE. HOWEVER, CALENDAR PREPARATION IS ONGOING AND THESE RULINGS MAY BE REVISED OR UPDATED AT ANY TIME PRIOR TO 4:00 P.M. THE DAY BEFORE THE SCHEDULED HEARINGS. PLEASE CHECK AT THAT TIME FOR POSSIBLE UPDATES.

9:30 AM

1. [22-11116](#)-A-13 **IN RE: THEDFORD JONES**
[MJB-1](#)

OBJECTION TO CLAIM OF DENISE BALESTIER, CLAIM NUMBER 5
8-30-2022 [[25](#)]

THEDFORD JONES/MV
MICHAEL BERGER/ATTY. FOR DBT.

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

DISPOSITION: Continued to October 20, 2022 at 9:30 a.m.

NO ORDER REQUIRED.

The parties have stipulated to continue the hearing on the motion for entry of discharge to October 20, 2022 at 9:30 a.m. The court has already issued an order on September 15, 2022. Doc. #36.

Any opposition to the objection to claim must be in writing and must be filed and served on or before October 6, 2022. The written reply must be filed and served on or before October 13, 2022.

2. [22-11116](#)-A-13 **IN RE: THEDFORD JONES**
[SAH-2](#)

CONTINUED OBJECTION TO CONFIRMATION OF PLAN BY DENISE BALESTIER
8-15-2022 [[22](#)]

DENISE BALESTIER/MV
MICHAEL BERGER/ATTY. FOR DBT.
SUSAN HEMB/ATTY. FOR MV.

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

DISPOSITION: Continued to October 20, 2022 at 9:30 a.m.

NO ORDER REQUIRED.

The parties have stipulated to continue the hearing on the motion for entry of discharge to October 20, 2022 at 9:30 a.m. The court has already issued an order on September 15, 2022. Doc. #36.

Any opposition to confirmation of the chapter 13 plan must be in writing and must be filed and served on or before October 6, 2022. The written reply must be filed and served on or before October 13, 2022.

3. [17-12330](#)-A-13 **IN RE: TIMOTHY/SHARON TEGTMEYER**
[EPE-3](#)

MOTION TO AVOID LIEN OF HERSHEL W. NOONKESTER AND TEDDY A. NOONKESTER
8-25-2022 [\[74\]](#)

SHARON TEGTMEYER/MV
ERIC ESCAMILLA/ATTY. FOR DBT.

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

DISPOSITION: Granted.

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

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

Timothy Jan Tegtmeier and Sharon Patricia Tegtmeier ("Debtors"), the debtors in this chapter 13 case, move pursuant to 11 U.S.C. § 522(f) and Federal Rules of Bankruptcy Procedure 4003(d) and 9014 to avoid the judicial lien of Hershel W. Noonkester and Teddy A. Noonkester (together, "Creditors") on the residential real property commonly referred to as 27978 Yosemite Springs Parkway, Coarsegold, CA 93614 (the "Property"). Doc. #74; Am. Schedule C, Doc. #63; Am. Schedule D, Doc. #19.

In order to avoid a lien under 11 U.S.C. § 522(f)(1), the movant must establish four elements: (1) there must be an exemption to which the debtor would be entitled under § 522(b); (2) the property must be listed on the debtors' schedules as exempt; (3) the lien must impair the exemption; and (4) the lien must be either a judicial lien or a non-possessory, non-purchase money security interest in personal property listed in § 522(f)(1)(B). 11 U.S.C. § 522(f)(1); Goswami v. MTC Distrib. (In re Goswami), 304 B.R. 386, 390-91 (B.A.P. 9th Cir. 2003) (quoting In re Mohring, 142 B.R. 389, 392 (Bankr. E.D. Cal. 1992)).

Debtors filed the bankruptcy petition on June 15, 2017. Doc. #1. A judgment was entered against Timothy J. Tegtmeier and Sharon P. Tegtmeier in the amount of \$4,672.50 in favor of Creditors on May 21, 2015. Ex. 2, Doc. #77. The abstract judgment was recorded pre-petition in Madera County on July 20, 2015, as document number 2015016626. Ex. 2, Doc. #77. The lien attached to Debtors' interest in the Property located in Madera County. Doc. #77. The Property also is encumbered by a lien in favor of Ocwen Loan Servicing in the amount \$392,207.00. Am. Schedule D, Doc. #19. Debtors claimed an exemption of \$24,325.00 in the Property under California Code of Civil Procedure § 704.730.

Am. Schedule C, Doc. #63. Debtors assert a market value for the Property as of the petition date at \$400,000.00. Am. Schedule A/B, Doc. #19.

Applying the statutory formula:

Amount of Creditors' judicial lien		\$4,672.50
Total amount of all other liens on the Property (excluding junior judicial liens)	+	\$392,207.00
Amount of Debtors' claim of exemption in the Property	+	\$24,324.00
		\$421,203.50
Value of Debtors' interest in the Property absent liens	-	\$400,000.00
Amount Creditors' lien impairs Debtors' exemption		\$21,203.50

After application of the arithmetical formula required by § 522(f)(2)(A), the court finds there is insufficient equity to support Creditors' judicial lien. Therefore, the fixing of this judicial lien impairs Debtors' exemption in the Property and its fixing will be avoided.

Debtors have established the four elements necessary to avoid a lien under 11 U.S.C. § 522(f)(1). Accordingly, this motion is GRANTED.

4. [22-11542](#)-A-13 **IN RE: ANDREW ARAGON**
[TCS-1](#)

MOTION TO EXTEND AUTOMATIC STAY
9-8-2022 [8]

ANDREW ARAGON/MV
TIMOTHY SPRINGER/ATTY. FOR DBT.

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Granted.

ORDER: The minutes of the hearing will be the court's findings and conclusions. The court will issue an order.

This motion was filed and served on at least 14 days' notice pursuant to Local Rule of Practice ("LBR") 9014-1(f)(2) and will proceed as scheduled. Unless opposition is presented at the hearing, the court intends to enter the respondents' defaults and grant the motion. If opposition is presented at the hearing, the court will consider the opposition and whether further hearing is proper pursuant to LBR 9014-1(f)(2). The court will issue an order if a further hearing is necessary.

Debtor Andrew Aragon ("Debtor") moves the court for an order extending the automatic stay pursuant to 11 U.S.C. § 362(c)(3)(B).

Debtor had a chapter 13 case pending within the preceding one-year period that was dismissed, Case No. 19-11879 (Bankr. E.D. Cal.) (the "Prior Case"). The Prior Case was filed on May 3, 2019 and dismissed on May 20, 2022. See Case No. 19-11879, Doc. #59; Decl. of Andrew Aragon, Doc. #10. Under 11 U.S.C. § 362(c)(3)(A), if a debtor had a bankruptcy case pending within the preceding one-year period that was dismissed, then the automatic stay with respect to any action taken with respect to a debt or property securing such debt or with respect to any lease shall terminate with respect to the debtor on the 30th day after the filing of the current case. Debtor filed this case on September 2,

2022. Petition, Doc. #1. The automatic stay will terminate in the present case on October 2, 2022.

Section 362(c)(3)(B) allows the court to extend the stay "to any or all creditors (subject to such conditions or limitations as the court may then impose) after notice and a hearing completed before the expiration of the 30-day period only if the party in interest demonstrates that the filing of the later case is in good faith as to the creditors to be stayed[.]" 11 U.S.C. § 362(c)(3)(B).

Section 362(c)(3)(C)(i) creates a presumption that the case was not filed in good faith if: (1) the debtor filed more than one prior case in the preceding year; (2) the debtor failed to file or amend the petition or other documents without substantial excuse, provide adequate protection as ordered by the court, or perform the terms of a confirmed plan; or (3) the debtor has not had a substantial change in his or her financial or personal affairs since the dismissal, or there is no other reason to believe that the current case will result in a discharge or fully performed plan. 11 U.S.C. § 362(c)(3)(C)(i).

The presumption of bad faith may be rebutted by clear and convincing evidence. 11 U.S.C. § 362(c)(3)(C). Under the clear and convincing standard, the evidence presented by the movant must "place in the ultimate factfinder an abiding conviction that the truth of its factual contentions are 'highly probable.' Factual contentions are highly probable if the evidence offered in support of them instantly tilt[s] the evidentiary scales in the affirmative when weighed against the evidence offered in opposition." Emmert v. Taggart (In re Taggart), 548 B.R. 275, 288 n.11 (B.A.P. 9th Cir. 2016) (citations omitted) vacated and remanded on other grounds by Taggart v. Lorenzen, 139 S. Ct. 1795 (2019).

In this case, the presumption of bad faith arises. Debtor failed to perform the terms of a confirmed plan in the Prior Case. A review of the court's docket in the Prior Case discloses that a chapter 13 plan was confirmed on November 7, 2019, the Chapter 13 trustee ("Trustee") filed a Notice of Default and Intent to Dismiss Case (the "Notice") on January 5, 2022, and the court dismissed the Prior Case on May 20, 2022, upon Trustee's declaration that Debtor failed to address the Notice in the time and manner prescribed by LBR 3015-1(g). See Case No. 19-11879, Doc. ##37, 55, 57, 59. Debtor acknowledges that he was unable to make plan payments at the end of the Prior Case and the case was dismissed for non-payment. Decl. of Andrew Aragon, Doc. #10.

In support of this motion to extend the automatic stay, Debtor declares that he has steady monthly income to maintain plan payments and is confident a chapter 13 plan will be confirmed in this case. Aragon Decl., Doc. #10. Debtor further declares that his proposed plan payment in this case is substantially lower because the current plan no longer includes a vehicle, which Debtor believes will allow him to be successful in his current chapter 13 case. Doc. #8; Aragon Decl., Doc. #10. The court notes that secured creditor Americredit Financial Services, Inc. dba GM Financial ("Creditor") has filed a motion for relief from stay with respect to a 2014 Hyundai Elantra ("Vehicle") and represents that that Creditor recovered the Vehicle on July 6, 2022. Doc. #16.

However, contrary to Debtor's declaration, a comparison of the confirmed plan in the Prior Case and the proposed plan in this case shows that the monthly plan payment in the current case is higher than the monthly plan payment in the Prior Case. Debtor filed a proposed plan in the current case on September 2, 2022, with a monthly plan payment of \$1,891.00. Plan, Doc. #3. In the Prior Case, Debtor's monthly plan payment was \$1,390.00. See Case No. 19-11879, Doc. #2.

Comparing Debtor's Schedules I and J filed in this case and the Prior Case show that in this case, unlike in the Prior Case, Debtor has excess net monthly income that is greater than the monthly plan payment. In the Prior Case, Debtor scheduled monthly income of \$3,375.00 and expenses of \$1,985.00, resulting in monthly net income of \$1,390.00, which was the same amount as the monthly plan payment. See Case No. 19-11879, Schedules I and J, Doc. #1; Case No. 19-11879, Plan, Doc. #2. Debtor's Schedules I and J filed in this case list monthly income of \$4,105.00 and expenses of \$1,985.00, resulting in monthly net income of \$2,120.00. Schedules I and J, Doc. #1. The proposed monthly plan payment in this case is only \$1,891.00, so Debtor will have excess monthly income of \$229.00 beyond the amount needed for the plan payment. Plan, Doc. #3.

The court is inclined to find that the excess net monthly income over the amount needed to make the proposed plan payments coupled with the pre-petition relinquishment of the Vehicle represent a substantial change in Debtor's financial affairs since the dismissal of the Prior Case and rebut the presumption of bad faith that arose from Debtor's failure to perform the terms of a confirmed plan in the Prior Case by clear and convincing evidence.

Accordingly, the court is inclined to GRANT the motion and extend the automatic stay for all purposes as to those parties that received notice of Debtor's motion (see Doc. #8), unless terminated by further order of the court.

5. [17-13050](#)-A-13 **IN RE: DWIGHT/MARISSA ROSENQUIST**
[MEV-6](#)

MOTION TO WAIVE FINANCIAL MANAGEMENT COURSE REQUIREMENT, WAIVE SECTION 1328 CERTIFICATE REQUIREMENT, CONTINUE CASE ADMINISTRATION, SUBSTITUTE PARTY, AS TO DEBTOR
9-3-2022 [[108](#)]

MARISSA ROSENQUIST/MV
MARC VOISENAT/ATTY. FOR DBT.

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Granted in part and denied without prejudice in part.

ORDER: The minutes of the hearing will be the court's findings and conclusions. The court will issue an order after the hearing.

This motion was filed and served on at least 14 days' notice pursuant to Local Rule of Practice ("LBR") 9014-1(f)(2) and will proceed as scheduled. Unless opposition is presented at the hearing, the court intends to enter the respondents' defaults and grant the motion in part and deny the motion in part without prejudice. If opposition is presented at the hearing, the court will consider the opposition and whether further hearing is proper pursuant to LBR 9014-1(f)(2). The court will issue an order if a further hearing is necessary.

Marissa K. Rosenquist ("Movant"), the surviving spouse of Dwight W. Rosenquist ("Joint Debtor") and joint debtor in this chapter 13 case, requests the court name Movant as the successor to the deceased Joint Debtor, permit the continued administration of this chapter 13 case and waive the § 1328 certification requirements. Doc. #108.

Upon the death of a debtor in chapter 13, Federal Rule of Bankruptcy Procedure 1016 provides that the case may be dismissed or may proceed and be concluded in the same manner, so far as possible, as though the death had not occurred upon a showing that further administration is possible and in the best interest of the parties. Joint Debtor died on April 2, 2021 of natural causes. Decl. of Marissa K. Rosenquist, Ex. A, Doc. #110. Movant requests the court appoint her as the sole representative for Joint Debtor in this bankruptcy case. Rosenquist Decl., Doc. #110. The declaration provides no evidence to support a showing that further administration is possible and in the best interest of the parties. However, the docket in this case shows that all plan payments have been made (Doc. #100) and the trustee's final report has been filed and noticed for objection. Doc. ##105, 106. Based on the status of the case as shown on the docket, the court finds that appointing Movant to be representative to proceed with case administration is in the best interest of the parties and creditors.

With respect to a waiver of Joint Debtor's certification requirements for entry of discharge under 11 U.S.C. § 1328, the declaration filed by Movant in support of the motion does not provide any evidence for the court to make the required finding that the Joint Debtor did not meet the post-petition financial education requirements before he died.

Accordingly, Movant's application to be appointed representative of Joint Debtor's estate for the further administration of this bankruptcy case will be GRANTED. Movant's motion to waive Joint Debtor's § 1328 certification requirements will be DENIED WITHOUT PREJUDICE.

6. [20-11453](#)-A-13 **IN RE: GLORIA ROBLES**
[BDB-2](#)

MOTION TO DISMISS CASE
9-14-2022 [[68](#)]

GLORIA ROBLES/MV
BENNY BARCO/ATTY. FOR DBT.

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Granted.

ORDER: The minutes of the hearing will be the court's findings and conclusions. The Moving Party shall submit a proposed order after hearing.

This motion was filed and served on at least 14 days' notice pursuant to Local Rule of Practice ("LBR") 9014-1(f)(2) and will proceed as scheduled. Unless opposition is presented at the hearing, the court intends to enter the respondents' defaults and grant the motion. If opposition is presented at the hearing, the court will consider the opposition and whether further hearing is proper pursuant to LBR 9014-1(f)(2). The court will issue an order if a further hearing is necessary.

Gloria Robles ("Debtor"), the chapter 13 debtor, requests dismissal of this chapter 13 case pursuant to 11 U.S.C. § 1307(b).

Under Bankruptcy Code § 1307(b), the debtor may request the court to dismiss their case under this chapter at any time if the case has not been converted

under section 706, 1112, or 1208. Here, Debtor filed this chapter 13 case on April 20, 2020. Doc. #1. Debtor is voluntarily dismissing this case because the plan payments are not feasible for her to make and she believes that she can better manage her finances outside of bankruptcy. Decl. of Gloria Robles, Doc. #70. Debtor has not previously converted this Bankruptcy case under section 706 or 1112. Robles Decl., Doc. #70.

Accordingly, this motion will be GRANTED, and the case will be dismissed.

7. [22-11358](#)-A-13 **IN RE: GEOFFREY PRINZ**
[MHM-1](#)

OBJECTION TO DEBTOR'S CLAIM OF EXEMPTIONS
9-1-2022 [[19](#)]

MICHAEL MEYER/MV
GARY FRALEY/ATTY. FOR DBT.
RESPONSIVE PLEADING

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Overruled.

ORDER: The minutes of the hearing will be the court's findings and conclusions. The court will issue an order after the hearing.

This motion was set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1). The debtor timely filed written opposition on September 15, 2022. Doc. #25. The matter will proceed as scheduled.

Michael H. Meyer ("Trustee"), the Chapter 13 trustee in the bankruptcy case of Geoffrey Dean Prinz ("Debtor"), objects to Debtor's claim of a homestead exemption under California Code of Civil Procedure ("C.C.P.") § 704.730 in the amount of \$412,350.00 in Debtor's real property located at 10440 Oak Ridge Ct., Coulterville, CA 95311, in Mariposa County ("Property"). Tr.'s Obj., Doc. #19; see Schedule C, Doc. #1.

Debtor filed his Chapter 13 case on August 10, 2022. At the time of filing, C.C.P. § 704.730 provided that the amount of the homestead exemption is the greater of "[t]he countywide median sale price for a single-family home in the calendar year prior to the calendar year in which the judgment debtor claims the exemption, not to exceed" \$626,400, with a minimum of \$313,200. C.C.P. § 704.730.

Trustee does not contest that the Property is Debtor's homestead. Rather, Trustee objects to Debtor's exemption in the Property on the ground that Debtor has not proved, by a preponderance of the evidence, that the countywide median sale price of a single-family home in Mariposa County in 2021 was \$412,350.00. Doc. #19.

In his opposition, Debtor calculates the countywide median sale price for a single-family home in Mariposa County by (1) obtaining the monthly median sale price for Mariposa County for each month in 2021 from the website of the California Association of Realtors, (2) sorting the twelve monthly median sales prices from lowest to highest, (3) dropping the five lowest prices and the five highest prices, and (4) averaging the remaining two prices. Through this

calculation, Debtor arrives at a median sale price in 2021 for a single-family home in Mariposa County of \$412,350.00. Doc. #25.

"[T]he debtor, as the exemption claimant, bears the burden of proof which requires [him] to establish by a preponderance of the evidence that [the property] claimed as exempt in Schedule C is exempt under California Code of Civil Procedure § [704.730] and the extent to which the exemption applies." In re Pashenee, 531 B.R. 834, 837 (Bankr. E.D. Cal. 2015); see Diaz v. Kosmala (In re Diaz), 547 B.R. 329, 337 (B.A.P. 9th Cir. 2016) (concluding "that where a state law exemption statute specifically allocates the burden of proof to the debtor, Rule 4003(c) does not change that allocation.").

The court finds Debtor's methodology for calculating the median sale price as required by C.C.P. § 704.730 to be sound and determines that Debtor has shown by a preponderance of the evidence that the median sale price in 2021 for a single-family home in Mariposa County is \$412,350.00.

Accordingly, this objection to Debtor's claim of exemption is OVERRULED.

8. [19-14174](#)-A-13 **IN RE: JANET CHURCHILL**
[FW-3](#)

MOTION FOR COMPENSATION BY THE LAW OFFICE OF FEAR WADDELL, P.C.
FOR GABRIEL J. WADDELL, DEBTORS ATTORNEY(S)
8-26-2022 [[18](#)]

GABRIEL WADDELL/ATTY. FOR DBT.

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

DISPOSITION: Granted.

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

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

Fear Waddell, P.C. ("Movant"), counsel for Janet Irene Churchill ("Debtor"), the debtor in this chapter 13 case, requests allowance of final compensation in the amount of \$2,390.00 and reimbursement for expenses in the amount of \$391.23 for services rendered from June 21, 2019 through August 16, 2022. Doc. #18. Debtor's confirmed plan provides, in addition to \$3,190.00 paid prior to filing the case, for \$8,000.00 in attorney's fees. Plan, Doc. ##2, 13. No prior fee

application has been filed. Debtor consents to the amount requested in Movant's application. Ex. E, Doc. #20.

Section 330(a) of the Bankruptcy Code authorizes "reasonable compensation for actual, necessary services rendered" and "reimbursement for actual, necessary expenses" to a debtor's attorney in a chapter 13 case. 11 U.S.C. § 330(a)(1), (4)(B). In determining the amount of reasonable compensation, the court shall consider the nature, extent, and value of such services, taking into account all relevant factors. 11 U.S.C. § 330(a)(3). Here, Movant demonstrates services rendered relating to: (1) pre-petition fact gathering and consultation; (2) filing of chapter 13 petition and confirming plan; (3) reviewing and analyzing issues regarding correspondence from chapter 13 trustee; (4) preparing final fee application; and (5) general case administration. Exs. A-C, Doc. #20. The court finds that the compensation and reimbursement sought are reasonable, actual, and necessary, and the court will approve the motion on a final basis.

This motion is GRANTED. The court allows on a final basis compensation requested by this motion in the amount of \$2,390.00 and reimbursement for expenses in the amount of \$391.00 to be paid in a manner consistent with the terms of the confirmed plan.

9. [22-10378](#)-A-13 **IN RE: FRANCES HOLGUIN**
[SL-2](#)

MOTION FOR COMPENSATION BY THE LAW OFFICE OF SCOTT LYONS
DEBTORS ATTORNEY(S)
8-24-2022 [\[35\]](#)

SCOTT LYONS/ATTY. FOR DBT.

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

DISPOSITION: Granted.

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

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

Scott Lyons, Attorney at Law ("Movant"), counsel for Frances Gonzales Holguin ("Debtor"), the debtor in this chapter 13 case, requests interim allowance of compensation in the amount of \$7,623.00 and reimbursement for expenses in the amount of \$357.60 for services rendered from January 29, 2020 through

August 24, 2022. Doc. #35. Debtor's confirmed plan provides, in addition to \$1,500.00 paid prior to filing the case, for \$12,000.00 in attorney's fees to be paid through the plan. Plan, Doc. ##3, 32. No prior fee application has been filed. Debtor consents to the amount requested in Movant's application. Doc. #35.

Section 330(a) of the Bankruptcy Code authorizes "reasonable compensation for actual, necessary services rendered" and "reimbursement for actual, necessary expenses" to a debtor's attorney in a chapter 13 case. 11 U.S.C. § 330(a)(1), (4)(B). The court may allow reasonable compensation to the chapter 13 debtor's attorney for representing interests of the debtor in connection with the bankruptcy case. 11 U.S.C. § 330(a)(4). In determining the amount of reasonable compensation, the court shall consider the nature, extent, and value of such services, taking into account all relevant factors. 11 U.S.C. § 330(a)(3). Here, Movant demonstrates services rendered relating to: (1) pre-petition fact gathering and consultation; (2) preparing and prosecuting Debtor's chapter 13 plan; (3) appearing at meeting of creditors; (4) preparing and filing motion to vacate dismissal; (5) preparing fee application; (6) corresponding with client regarding case; and (7) general case administration. Exs. A & B, Doc. #37. The court finds that the compensation and reimbursement sought are reasonable, actual, and necessary, and the court will approve the motion.

This motion is GRANTED. The court allows on an interim basis compensation in the amount of \$7,623.00 and reimbursement for expenses in the amount of \$357.60 to be paid in a manner consistent with the terms of the confirmed plan.

10. [22-10994](#)-A-13 **IN RE: NANCY JERKOVICH**
[APN-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY SPECIALIZED LOAN SERVICING LLC
8-25-2022 [\[33\]](#)

SPECIALIZED LOAN SERVICING LLC/MV
AUSTIN NAGEL/ATTY. FOR MV.
CASE DISMISSED: 09/01/2022

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

DISPOSITION: Overruled as moot.

ORDER: The court will issue an order.

An order dismissing this case was entered on September 1, 2022. Doc. #38. Therefore, this objection will be OVERRULED AS MOOT.

11:00 AM

1. [20-10945](#)-A-12 **IN RE: AJITPAL SINGH AND JATINDERJEET SIHOTA**
[20-1041](#) [CAE-1](#)

CONTINUED PRE-TRIAL CONFERENCE RE: COMPLAINT
6-26-2020 [[1](#)]

SIHOTA ET AL V. SINGH ET AL
PETER SAUER/ATTY. FOR PL.
RESPONSIVE PLEADING

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

DISPOSITION: Continued to October 27, 2022 at 11:00 a.m.

ORDER: The court will issue an order.

Pursuant to the joint status conference statement filed on September 22, 2022 (Doc. #104), the status conference will be continued to October 27, 2022 at 11:00 a.m. The parties shall file either joint or unilateral status report(s) not later than October 20, 2022.

2. [17-13859](#)-A-7 **IN RE: KYLE PENNINGTON**
[17-1091](#) [CAE-1](#)

CONTINUED STATUS CONFERENCE RE: COMPLAINT
12-16-2017 [[1](#)]

MARTINEZ V. PENNINGTON
KEVIN LITTLE/ATTY. FOR PL.
RESPONSIVE PLEADING

NO RULING.

3. [20-10569](#)-A-12 **IN RE: BHAJAN SINGH AND BALVINDER KAUR**
[20-1042](#) [CAE-1](#)

CONTINUED PRE-TRIAL CONFERENCE RE: COMPLAINT
6-26-2020 [[1](#)]

SIHOTA ET AL V. SINGH ET AL
LENDEN WEBB/ATTY. FOR PL.
RESPONSIVE PLEADING

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

DISPOSITION: Continued to October 27, 2022 at 11:00 a.m.

ORDER: The court will issue an order.

Pursuant to the joint status conference statement filed on September 22, 2022 (Doc. #107), the status conference will be continued to October 27, 2022 at

11:00 a.m. The parties shall file either joint or unilateral status report(s) not later than October 20, 2022.

4. [21-10679](#)-A-13 **IN RE: SYLVIA NICOLE**
[21-1023](#)

PRE-TRIAL CONFERENCE RE: COMPLAINT
5-26-2021 [[1](#)]

U.S. TRUSTEE V. NICOLE
JUSTIN VALENCIA/ATTY. FOR PL.

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

DISPOSITION: Continued to January 12, 2023 at 11:00 a.m.

NO ORDER REQUIRED.

On September 14, 2022, the court issued an order continuing discovery deadlines and the pre-trial conference to January 12, 2023 at 11:00 a.m. Doc. #80.