

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

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

PRE-HEARING DISPOSITIONS

DAY: FRIDAY
DATE: OCTOBER 12, 2018
CALENDAR: 9:00 A.M. CHAPTERS 13 AND 12 CASES

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. 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.

1. [18-12104](#)-A-13 **IN RE: DIANNA CONDELL**
[MHM-3](#)

MOTION TO DISMISS CASE
9-12-2018 [[46](#)]

MICHAEL MEYER/MV
MARK ZIMMERMAN
RESPONSIVE PLEADING

Final Ruling

This motion is continued to October 31, 2018, at 9:00 a.m. It appears that the only impediment to confirmation is the debtor's motion to value the collateral of Capital One Auto Finance, September 19, 2018, ECF # 50, set for hearing on October 17, 2018. If that motion is granted and if the plan is otherwise confirmable, the trustee shall withdraw his motion not later than October 24, 2018.

2. [13-14205](#)-A-13 **IN RE: EDDIE NOLEN**
[MHM-1](#)

MOTION TO DISMISS CASE
9-6-2018 [[67](#)]

MICHAEL MEYER/MV
HENRY NUNEZ
RESPONSIVE PLEADING

Final Ruling

The motion withdrawn, the matter is dropped as moot.

3. [18-12908](#)-A-13 **IN RE: CODY/CELESTE BERG**
[MHM-2](#)

MOTION TO DISMISS CASE
9-5-2018 [[27](#)]

MICHAEL MEYER/MV
NICHOLAS WAJDA
WITHDRAWN

Final Ruling

The motion withdrawn, the matter is dropped as moot.

4. [18-13019](#)-A-13 **IN RE: RENEE BURTON**
[MHM-2](#)

MOTION TO DISMISS CASE
9-6-2018 [[26](#)]

MICHAEL MEYER/MV
SCOTT LYONS

Tentative Ruling

Motion: Dismiss Chapter 13 Case

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

Disposition: Granted

Order: Civil minute order

Tax Return & 60 Day Pay Advice Deadline: August 28, 2018

Other § 521(a) Rule 4002(b) Documents Deadline: September 4, 2018

Date of Chapter 13 trustee's § 521(a)(3) Demand: July 25, 2018

Chapter 13 trustee Michael H. Meyer ("Meyer") moves to dismiss this case. 11 U.S.C. §§ 1307(c)(1), 521(a)(3),(4). Meyer contends that he has not received all of the documents to which he is entitled and which are necessary for performance of his duties. Renee Burton (hereinafter "the debtor"), has not filed a written opposition to this motion.

DISMISSAL

Section 1307(c) provides that the court may dismiss a chapter 13 case for cause. Failure to provide documents required by the chapter 13 trustee is cause. *See In re Robertson*, 2010 WL 5462500 (Bankr. S.C. 2010); *In re Nichols*, 2009 WL 2406172 (Bankr. E.D. N.C. 2009).

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).

But the statutorily required documents do not define the outer limits of documentation debtor's duties. The chapter 13 trustee has discretion to ask for far more documentation. Section 521 requires

that the debtor “. . . cooperate with the trustee as necessary to enable the trustee to perform the trustee’s duties under this title.” 11 U.S.C. § 521(a)(3) (emphasis added). As one commentator noted, “Cooperate’ is a broad term, indeed, and must be construed that whenever the trustee calls upon the debtor for assistance in the performance of his duties, the debtor is required to respond, at least if the request is not unreasonable.” 4 *Collier on Bankruptcy* ¶ 521.15 (Alan N. Resnick & Henry J. Sommer eds., 16th ed. rev. 2018). Paramount among the chapter 13 trustee’s duties is to “appear and be heard” regarding plan confirmation. 11 U.S.C. §§ 1302(b)(2)(B), 1322 (mandatory and optional plan contents), 1325 (elements for plan confirmation). Neither the code, nor the rules, prescribe a deadline for that cooperation, and this court finds that the debtor is entitled to a reasonable time to respond to the trustee’s inquiries and requests for documentation.

Section 521(a)(3) Documents

The trustee has requested the following additional documentation from the debtor: Class 1 Checklist for each Class 1 creditor (EDC.003-086) and Deed of Trust for the second deed of trust held by Freedom Mortgage Corporation. More than 78 days have passed since that demand and the debtor has not provided those documents. These documents are necessary for the chapter 13 trustee to rise and be heard with respect to plan confirmation. The debtor has included her mortgage in Class 1. Plan, Section 3.07, ECF No. 6. The debtor has not provided the documents, which would allow the trustee to complete the necessary tasks (i.e. cure arrearages and make ongoing mortgage payments). 11 U.S.C. § 1322 (b)(3), (8). The court finds that the debtor has had a reasonable time to cooperate, and has not done so.

For each of these reasons, the case is dismissed.

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, opposition and ancillary documents thereto the motion,

IT IS ORDERED that the motion is granted, and the case dismissed.

5. [14-11820](#)-A-13 **IN RE: TONY/CARMEN BAIZA**
[MHM-4](#)

MOTION TO DETERMINE FINAL CURE AND MORTGAGE PAYMENT RULE
3002.1
9-12-2018 [[117](#)]

MICHAEL MEYER/MV
SCOTT LYONS

Final Ruling

Motion: Determination of Final Cure and Payment of Required
Postpetition Amounts under Rule 3002.1(h)

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

Disposition: Granted

Order: Prepared by moving party

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

Federal Rule of Bankruptcy Procedure 3002.1(h) provides that the debtor or trustee may file a motion to "determine whether the debtor has cured the default and paid all required postpetition amounts" due on a claim in a chapter 13 case that is "(1) secured by a security interest in the debtor's principal residence, and (2) provided for under § 1322(b)(5) of the Code in the debtor's plan." Fed. R. Bankr. P. 3002.1.

Rule 3002.1(f) and (g) describe procedures that must be followed before the motion may be filed. These procedures begin with the trustee's filing and serving "a notice stating that the debtor has paid in full the amount required to cure any default on the claim" and "inform[ing] the holder of its obligation to file and serve a response." Fed. R. Bankr. P. 3002.1(f). This notice is called the Notice of Final Cure. The debtor may file this notice if the trustee does not do so. *Id.*

Next, the holder of the claim has a limited time to file a response to this notice. See Fed. R. Bankr. P. 3002.1(g) (the holder must serve and file its response statement within 21 days after service of the Notice of Final Cure). The response statement permits the holder of the claim to dispute (or agree) that the debtor has paid in full the amount required to cure the default on the claim or whether the debtor is otherwise current on all payments under § 1322(b)(5).

A motion for a determination of final cure and payment must be filed within 21 days after service of the claimholder's response statement under subdivision (g) of Rule 3002.1. Fed. R. Bankr. P. 3002.1(h).

If the movant complies with these procedures, then "the court shall, after notice and hearing, determine whether the debtor has cured the default and paid all required postpetition amounts." *Id.*

If, however, the holder of the claim fails to provide a response statement under subdivision (g) of Rule 3002.1, then the court may both (1) preclude the holder from presenting the omitted information, in any form, as evidence in any contested matter or adversary proceeding in the case, or (2) award other appropriate relief. Fed. R. Bank. P. 3002.1(i).

For the reasons stated in the motion and supporting papers, the court will grant the relief sought by the motion. It will also award the "other appropriate relief" described in Rule 3002.1(i)(2) by determining that the debtor has cured the default and paid all postpetition amounts due on the secured claim described in the motion as of the date indicated in the motion.

6. [18-11032](#)-A-13 **IN RE: RICARDO CORONA**
[MHM-1](#)

MOTION TO DISMISS CASE
9-10-2018 [[64](#)]

MICHAEL MEYER/MV
THOMAS GILLIS
WITHDRAWN

Final Ruling

The motion withdrawn, the matter is dropped as moot.

7. [18-10339](#)-A-13 **IN RE: KENNETH BLOWERS AND KIMBERLY**
BOLTON-BLOWERS
[MHM-4](#)

MOTION TO DISMISS CASE
9-5-2018 [[83](#)]

MICHAEL MEYER/MV
KARNEY MEKHITARIAN
WITHDRAWN

Final Ruling

The motion withdrawn, the matter is dropped as moot.

8. [18-10339](#)-A-13 **IN RE: KENNETH BLOWERS AND KIMBERLY
BOLTON-BLOWERS**
[MHM-5](#)

MOTION TO DISMISS CASE
9-11-2018 [[87](#)]

MICHAEL MEYER/MV
KARNEY MEKHITARIAN
RESPONSIVE PLEADING

Final Ruling

This motion is continued to November 1, 2018, at 9:00 a.m. to coincide with the hearing on the debtor's third modified chapter 13 plan.

9. [18-11439](#)-A-13 **IN RE: BRANDON/LESLIE SMART**
[MHM-3](#)

OBJECTION TO CONFIRMATION OF PLAN BY TRUSTEE MICHAEL H.
MEYER
9-20-2018 [[41](#)]

TIMOTHY SPRINGER

No Ruling

10. [18-10241](#)-A-13 **IN RE: LINDA FORD**
[TCS-2](#)

MOTION TO MODIFY PLAN
9-5-2018 [[53](#)]

LINDA FORD/MV
TIMOTHY SPRINGER

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 the trustee, approved by debtor's counsel

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 3015-1(d)(2), 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 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.

11. [10-19042](#)-A-12 **IN RE: LUIS/MARIA SOTO**
[TOG-19](#)

MOTION FOR COMPENSATION FOR THOMAS O. GILLIS, DEBTORS
ATTORNEY(S)
9-12-2018 [[221](#)]

THOMAS GILLIS

Tentative Ruling

Application: Allowance of Second and 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).

COMPLIANCE WITH LOCAL RULES

The motion is not compliant with local rules.

Local Rules 9014-1 regulates notice.

B) Notice.

(i) The notice of hearing shall advise potential respondents whether and when written opposition must be filed, the deadline for filing and serving it, and the names and addresses of the persons who must be served with any opposition.

(ii) If written opposition is required, the notice of hearing shall advise potential respondents that the failure to file timely written opposition may result in the motion being resolved without oral argument and the striking of untimely written opposition.

LBR 9014-1(d)(3)(B) (emphasis added).

Future violations of local rules may result in summary denial of the motion.

COMPENSATION AND EXPENSES

In this Chapter 12 case, Thomas O. Gillis has applied for an allowance of final compensation and reimbursement of expenses. The applicant requests that the court allow compensation in the amount of \$14,291.45 and reimbursement of expenses in the amount of \$59.76. The applicant also asks that the court allow on a final basis all prior applications for fees and costs that the court has previously allowed on an interim basis.

Section 330(a) of the Bankruptcy Code authorizes "reasonable compensation for actual, necessary services" rendered by a debtor's attorney in a Chapter 12 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. The court also approves on a final basis all prior applications for interim fees and costs that the court has allowed under § 331 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.

Thomas O. Gillis'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 \$14,291.45 and reimbursement of expenses in the amount of \$59.76. The aggregate allowed amount equals \$14,351.21. The amount of \$14,351.21 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 court also approves on a final basis all prior applications for interim fees and costs that the court has allowed under § 331 on an interim basis.

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.

12. [18-10147](#)-A-13 **IN RE: RENEE RILEY**
[SFR-5](#)

SUPPLEMENTAL OBJECTION
9-7-2018 [[97](#)]

SHARLENE ROBERTS-CAUDLE

No Ruling

13. [18-12548](#)-A-13 **IN RE: RAFAEL/MARTHA GUTIERREZ**
[PK-1](#)

MOTION TO VALUE COLLATERAL OF ONEMAIN FINANCIAL SERVICES
9-26-2018 [[25](#)]

RAFAEL GUTIERREZ/MV
PATRICK KAVANAGH

Final Ruling

The matter resolved by stipulation, the motion is dropped from calendar.

14. [18-12949](#)-A-13 **IN RE: MANUEL/CAROLE CAMILO**
[MHM-2](#)

MOTION TO DISMISS CASE
9-6-2018 [[24](#)]

MICHAEL MEYER/MV
TIMOTHY SPRINGER

No Ruling

15. [18-13252](#)-A-13 **IN RE: JENNIFER SILVA**
[MRG-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY SRP 2014-15 LLC
9-12-2018 [[22](#)]

SRP 2014-15 LLC/MV
SCOTT LYONS
KRISTIN ZILBERSTEIN/ATTY. FOR MV.

Final Ruling

This objection is continued to November 1, 2018, at 9:00 a.m. to coincide with the debtor's motion to value this property.

16. [16-11256](#)-A-13 **IN RE: SAMUEL/DIANE DOMINGUEZ**
[FW-10](#)

MOTION TO SELL
9-26-2018 [[134](#)]

SAMUEL DOMINGUEZ/MV
PETER FEAR
OST 9/26/18

Tentative Ruling

Motion: Sell Property [Personal Property]

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

Disposition: Granted

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

Property: 2010 Ford E350 Econoline Van

Buyer: Jaron Ramirez Inc.

Sale Price: 5,800.00

Sale Type: Private sale subject to overbid opportunity

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).

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).

Here, the subject property is property of the estate because the debtor's confirmed plan provides that property of the estate will not revert in debtors upon confirmation.

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). A Chapter 13 debtor has the rights and powers given to a trustee under § 363(b). 11 U.S.C. § 1303. Based on the motion and supporting papers, the court finds a proper reorganization purpose for this sale. The stay of the order provided by Federal Rule of Bankruptcy Procedure 6004(h) will be waived.

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.

17. [18-12956](#)-A-13 **IN RE: SHANNON HULING**
[MHM-2](#)

MOTION TO DISMISS CASE
9-5-2018 [[20](#)]

MICHAEL MEYER/MV
JERRY LOWE
RESPONSIVE PLEADING

Tentative Ruling

Motion: Dismiss Chapter 13 Case

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

Disposition: Granted

Order: Civil minute order

Chapter 13 trustee Michael H. Meyer ("Meyer") moves to dismiss this case. 11 U.S.C. §§ 1307(c)(1), 521(a)(3),(4). Meyer contends that he has not received necessary documents from the debtor. The debtor opposes the motion, contending that some (but not all) of the requested documents.

DISMISSAL

Section 1307(c) provides that the court may dismiss a chapter 13 case for cause. Failure to provide the chapter 13 trustee required documents is cause. *See In re Robertson*, 2010 WL 5462500 (Bankr. S.C. 2010); *In re Nichols*, 2009 WL 2406172 (Bankr. E.D. N.C. 2009).

The list of documents that 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) bank

and investment account statements that reflect the balance on the date of the petition, Fed. R. Bankr. 4002(b)(2)(B); and (6) documentation of monthly expenses claimed under §§ 707(b)(2)(A), (B), 1325(b)(3). Pay stubs and tax returns are due at the office of the case 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 may be provided to the trustee at the meeting of creditors. Fed. R. Bankr. 4002(b).

But the statutorily required documents do not define the outer limits of debtor's documentation duties. The chapter 13 trustee has discretion to ask for far more documentation. Section 521 requires the debtor to "[t]he debtor shall . . . cooperate with the trustee as necessary to enable the trustee to perform the trustee's duties under this title." 11 U.S.C. § 521(a)(3) (emphasis added). As one commentator noted, "Cooperate" is a broad term, indeed, and must be construed that whenever the trustee calls upon the debtor for assistance in the performance of his duties, the debtor is required to respond, at least if the request is not unreasonable." 4 *Collier on Bankruptcy* ¶ 521.15 (Alan N. Resnick & Henry J. Sommer eds., 16th ed. rev. 2018). Paramount among the chapter 13 trustee's duties is to "appear and be heard" regarding plan confirmation. 11 U.S.C. §§ 1302(b)(2)(B), 1322 (mandatory and optional plan contents), 1325 (elements for plan confirmation). Neither the code, nor the rules, prescribe a deadline for that cooperation and this court finds that the debtor is entitled to a reasonable time to respond to the trustee's inquiries and requests for documentation.

Here, the meeting of creditors was September 4, 2018. Pay advices (60 days) and tax returns were due to the trustee not later than August 28, 2018. All other documents were due at the meeting of creditors. As of that date, the debtor failed to provide the trustee the proof of health insurance (Form 122C-2, item # 25), and proof of special circumstances (Form 122-C, item # 43). (The proof of health insurance was provided September 28, 2018, approximately three week late.)

Additionally, on July 23, 2018, the trustee requested that the debtor provide the following documents: (1) tax analysis (Form 122C-2, item # 16), and (2) charitable contributions (Form 122C-2, item # 31). These documents are necessary for the chapter 13 trustee to rise and be heard with respect to plan confirmation in that the requested documents bear on whether the debtor's proposed plan complies with § 1325(b)(project disposable income for above median income debtors). Despite the passage of two and one-half months the debtor has not provided evidence of charitable contributions and did not provide the tax analysis until more than two months after it was requested. The court finds that the debtor has had a reasonable time to cooperate and have not done so.

For each of these reasons, the case is dismissed.

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, opposition and ancillary documents thereto the motion,

IT IS ORDERED that the motion be granted, and the case dismissed.

18. [17-13957](#)-A-13 **IN RE: TERESA QUINTERO**
[SL-1](#)

MOTION TO APPROVE LOAN MODIFICATION
9-24-2018 [\[22\]](#)

TERESA QUINTERO/MV
SCOTT LYONS

Tentative Ruling

Motion: Approval of Mortgage Loan Modification

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

Disposition: Granted in part, denied in part

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).

LOAN MODIFICATION

The court construes the present motion as requesting two forms of relief. First, the motion requests approval of a loan modification agreement. While the ordinary chapter 13 debtor has some of the rights and powers of a trustee under § 363, such a debtor does not have the trustee's right to obtain credit or incur debt under § 364. See 11 U.S.C. § 1303. *But cf.* 11 U.S.C. § 1304 (providing that a chapter 13 debtor engaged in business has the rights and powers of a trustee under § 364). The court's local rules address this situation and require court authorization before a chapter 13 debtor obtains credit or incurs new debt. LBR 3015-1(h)(1)(E).

Second, the motion impliedly requests relief under § 362(d)(1) to insulate the secured lender from any claim of liability for "any act to collect, assess, or recover a claim against the debtor." See 11 U.S.C. § 362(a)(6), (d)(1).

The court will grant the motion in part to authorize the debtor and the secured lender to enter into the loan modification agreement subject to the parties' right to reinstatement of the original terms of the loan documents in the event conditions precedent to the loan

modification agreement are not satisfied. The court will also grant relief from the stay of § 326(a) to allow the secured lender to negotiate and enter into the loan modification agreement with the debtor. 11 U.S.C. § 362(d)(1).

By granting this motion, the court is not approving the terms or conditions of the loan modification agreement. The motion will be denied in part to the extent that the motion requests approval of the terms and conditions of the loan modification agreement or other declaratory relief.

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 court has reviewed the present motion for approval of a mortgage loan modification agreement between the debtor and the secured creditor named in the motion. Having entered the default of respondent for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the motion,

IT IS ORDERED that the motion is granted in part and denied in part. The court authorizes the debtor and the secured creditor to enter into the loan modification agreement subject to the parties' right to reinstatement of the original terms of the loan documents in the event conditions precedent to the loan modification agreement are not satisfied. The court denies the motion to the extent it requests approval of the terms and conditions of the loan modification or any other declaratory relief. To the extent the modification is inconsistent with the confirmed chapter 13 plan, the debtor shall continue to perform the plan as confirmed until it is modified.

IT IS FURTHER ORDERED that the court grants relief from the automatic stay to allow the secured lender to negotiate and enter into the loan modification agreement with the debtor. 11 U.S.C. § 362(d)(1). The automatic stay remains in effect for all acts not described in this order.

19. [18-12363](#)-A-13 **IN RE: MANUEL/JINA VILLALOVOS**
[MHM-2](#)

MOTION TO DISMISS CASE
9-14-2018 [[30](#)]

MICHAEL MEYER/MV
SCOTT LYONS
WITHDRAWN

Final Ruling

The motion withdrawn, the matter is dropped as moot.

20. [18-12767](#)-A-13 **IN RE: CARLOS LEAL**
[MHM-3](#)

MOTION TO DISMISS CASE
9-6-2018 [[30](#)]

MICHAEL MEYER/MV
TIMOTHY SPRINGER

Final Ruling

Motion: Dismiss Case

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

Disposition: Granted

Order: Civil minute order

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

CASE DISMISSAL

The chapter 13 trustee moves to dismiss this chapter 13 case for a delinquency in payments under the debtor's proposed chapter 13 plan. For the reasons stated in the motion, cause exists under § 1307(c)(1), (c)(4) and § 1326(a)(1)(A) to dismiss the case. Payments under the proposed plan are delinquent in the amount of \$1,560.00.

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

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

21. [18-12768](#)-A-13 **IN RE: TONI MACABEO**
[MHM-1](#)

MOTION TO DISMISS CASE
9-12-2018 [[16](#)]

MICHAEL MEYER/MV
TIMOTHY SPRINGER

No Ruling

22. [18-13072](#)-A-13 **IN RE: CHARLES BLANKENSHIP**
[MHM-1](#)

MOTION TO DISMISS CASE
9-6-2018 [[32](#)]

MICHAEL MEYER/MV
SHARLENE ROBERTS-CAUDLE
RESPONSIVE PLEADING

No Ruling

23. [18-12375](#)-A-13 **IN RE: GREG/RANDA HALL**
[MHM-1](#)

MOTION TO DISMISS CASE
9-11-2018 [\[25\]](#)

MICHAEL MEYER/MV
MARK ZIMMERMAN
RESPONSIVE PLEADING

Final Ruling

This matter is continued to November 1, 2018, at 9:00 a.m. to allow the debtor's motion to value (2007 GMC Yukon) to be heard on October 17, 2018. The trustee will file a status report or withdraw this motion not later than October 24, 2018.

24. [18-13182](#)-A-13 **IN RE: WANDA CLEMMONS**
[MHM-1](#)

MOTION TO DISMISS CASE
9-10-2018 [\[18\]](#)

MICHAEL MEYER/MV
ROBERT WILLIAMS
RESPONSIVE PLEADING

Tentative Ruling

Motion: Dismiss Chapter 13 Case

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

Disposition: Granted

Order: Civil minute order

Chapter 13 trustee Michael H. Meyer ("Meyer") moves to dismiss this case. 11 U.S.C. §§ 1307(c)(1), 521(a)(3),(4). Meyer contends that he has not received necessary documents from the debtor. The debtor opposes the motion, contending the requested documents were uploaded to the trustee's website.

DISMISSAL

Section 1307(c) provides that the court may dismiss a chapter 13 case for cause. Failure to provide the chapter 13 trustee required documents is cause. *See In re Robertson*, 2010 WL 5462500 (Bankr. S.C. 2010); *In re Nichols*, 2009 WL 2406172 (Bankr. E.D. N.C. 2009).

The list of documents that 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) bank and investment account statements that reflect the balance on the date of the petition, Fed. R. Bankr. 4002(b)(2)(B); and (6) documentation of monthly expenses claimed under §§ 707(b)(2)(A),(B), 1325(b)(3). Pay stubs and tax returns are due at the office of the case 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 may be provided to the trustee at the meeting of creditors. Fed. R. Bankr. 4002(b).

But the statutorily required documents do not define the outer limits of the debtor's documentation duties. The chapter 13 trustee has discretion to ask for far more documentation. Section 521 requires the debtor to "[t]he debtor shall . . . cooperate with the trustee as necessary to enable the trustee to perform the trustee's duties under this title." 11 U.S.C. § 521(a)(3) (emphasis added). As one commentator noted, "Cooperate" is a broad term, indeed, and must be construed that whenever the trustee calls upon the debtor for assistance in the performance of his duties, the debtor is required to respond, at least if the request is not unreasonable." 4 *Collier on Bankruptcy* ¶ 521.15 (Alan N. Resnick & Henry J. Sommer eds., 16th ed. rev. 2018). Paramount among the chapter 13 trustee's duties is to "appear and be heard" regarding plan confirmation. 11 U.S.C. §§ 1302(b)(2)(B), 1322 (mandatory and optional plan contents), 1325 (elements for plan confirmation). Neither the code, nor the rules, prescribe a deadline for that cooperation and this court finds that the debtor is entitled to a reasonable time to respond to the trustee's inquiries and requests for documentation.

Here, the meeting of creditors was September 11, 2018. Pay advices (60 days) and tax returns were due to the trustee not later than September 4, 2018. All other documents were due at the meeting of creditors. The court gives no weight to the assertions of debtor's counsel regarding uploading of documents to the trustee's website. And that is the case for two reasons. First, there no admissible evidence before the court on this point. LBR 9014-1(d)(3)(D). Second, debtor's counsel has not provided the "receipts" he received from the trustee's website. The debtor has not provided the following statutorily required documents: tax returns and bank statements.

Here, on August 2, 2018, the trustee requested that the debtor provide the following documents: as described in the Clark decl. ¶5(a)-(c) and ¶ 7(a)-(g). These documents are necessary for the chapter 13 trustee to rise and be heard with respect to plan confirmation in that the requested documents bear on whether the debtor's proposed plan complies with liquidation, 11 U.S.C. § 1325(a)(4) and projected disposable income, 11 U.S.C. § 1325(b). Despite the passage of more than two months debtor has not do so. The court finds that the debtor has had a reasonable time to cooperate and have not done so.

For each of these reasons, the case is dismissed.

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, opposition and ancillary documents thereto the motion,

IT IS ORDERED that the motion be granted, and the case dismissed.

25. [11-13085](#)-A-13 **IN RE: MARCOS GARCIA AND MARIA FRUTOZ-GARCIA**
[MAC-3](#)

MOTION TO AVOID LIEN OF DISCOVER BANK
9-4-2018 [[119](#)]

MARCOS GARCIA/MV
GARY HUSS

Final Ruling

Motion: Avoid Multiple Liens that Impair Exemption

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

Disposition: Granted

Order: Prepared by moving party

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

LIEN-AVOIDANCE STANDARDS

Section 522(f) of the Bankruptcy Code authorizes the court to avoid a lien "on an interest of the debtor in property to the extent that such lien impairs an exemption to which the debtor would have been entitled." 11 U.S.C. § 522(f)(1). There are four elements to avoidance of a lien that impairs an exemption: (1) there must be an exemption to which the debtor would have been entitled; (2) the property must be listed on the schedules and claimed as exempt; (3) the lien must impair the exemption claimed; and (4) the lien must be a judicial lien or nonpossessory, nonpurchase-money security interest in property described in § 522(f)(1)(B). *Goswami v. MTC Distrib. (In re Goswami)*, 304 B.R. 386, 390-91 (B.A.P. 9th Cir. 2003). Impairment is statutorily defined: a lien impairs an exemption "to the extent that the sum of - (i) the lien; (ii) all

other liens on the property; and (iii) the amount of the exemption that the debtor could claim if there were no liens on the property; exceeds the value that the debtor's interest in the property would have in the absence of any liens." 11 U.S.C. § 522(f)(2)(A).

REVERSE-PRIORITY ANALYSIS

In cases in which there are multiple liens to be avoided, the liens must be avoided in the reverse order of their priority. See *In re Meyer*, 373 B.R. 84, 87-88 (B.A.P. 9th Cir. 2007). "[L]iens already avoided are excluded from the exemption-impairment calculation with respect to other liens." *Id.*; 11 U.S.C. § 522(f)(2)(B).

The court finds it unnecessary to apply the reverse-priority analysis individually to each of the respondents' liens. See *In re Meyer*, 373 B.R. at 88 ("[O]ne must approach lien avoidance from the back of the line, or at least some point far enough back in line that there is no nonexempt equity in sight.").

Under the reverse-priority analysis, Capital One's judicial lien would be the last judicial lien to be avoided because of its higher priority than the other judicial liens (but it remains subject to any senior consensual lien). In determining whether Capital One's lien may be avoided, the court must exclude all junior judicial liens that would already have been avoided under such analysis. See 11 U.S.C. § 522(f)(2)(B); *In re Meyer*, 373 B.R. at 87-88.

The senior judicial lien, plus all other liens (excluding junior judicial liens lower in priority), plus the exemption amount together equal \$385,164.65. This sum exceeds the property's value by an amount greater than or equal to the senior judicial lien. As a result, Capital One's judicial lien may be avoided entirely.

Because the highest-priority judicial lien is avoidable, all other junior judicial liens are also avoidable, and the reverse-priority analysis is unnecessary to apply to each judicial lien. Stated differently, the sum of the debt secured by the consensual liens plus the debtor's exemption amount equals or exceeds the fair market value of the real property, so all judicial liens on the debtor's property are avoidable under § 522(f).

26. [18-11294](#)-A-13 **IN RE: EULALIO GIRAL ALVARADO**
[KDG-2](#)

MOTION TO DISMISS CASE
9-19-2018 [\[67\]](#)

TOMITY CORPORATION/MV
JERRY LOWE
HAGOP BEDOYAN/ATTY. FOR MV.

Final Ruling

The case dismissed, the matter is dropped as moot.

27. [18-11294](#)-A-13 **IN RE: EULALIO GIRAL ALVARADO**
[MHM-3](#)

OBJECTION TO CONFIRMATION OF PLAN BY TRUSTEE MICHAEL H.
MEYER
9-20-2018 [\[74\]](#)

JERRY LOWE

Final Ruling

The case dismissed, the objection is dropped as moot.

28. [18-11294](#)-A-13 **IN RE: EULALIO GIRAL ALVARADO**
[MHM-4](#)

MOTION TO DISMISS CASE
9-14-2018 [\[63\]](#)

MICHAEL MEYER/MV
JERRY LOWE

Final Ruling

Motion: Dismiss Case

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

Disposition: Granted

Order: Civil minute order

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

CASE DISMISSAL

The chapter 13 trustee moves to dismiss this chapter 13 case for a delinquency in payments under the debtor's proposed chapter 13 plan. For the reasons stated in the motion, cause exists under § 1307(c)(1), (c)(4) and § 1326(a)(1)(A) to dismiss the case. Payments under the proposed plan are delinquent in the amount of \$2,022.00.

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

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

29. [18-12797](#)-A-13 **IN RE: ANTONIO LOZANO DE ANDA**
[MHM-3](#)

MOTION TO DISMISS CASE
9-6-2018 [[27](#)]

MICHAEL MEYER/MV
RICHARD STURDEVANT
RESPONSIVE PLEADING
WITHDRAWN

Final Ruling

The motion withdrawn, the matter is dropped as moot.

30. [11-13085](#)-A-13 **IN RE: MARCOS GARCIA AND MARIA FRUTOZ-GARCIA**
[MAC-2](#)

MOTION TO AVOID LIEN OF CAPITAL ONE
9-4-2018 [[125](#)]

MARCOS GARCIA/MV
GARY HUSS

Final Ruling

Motion: Avoid Multiple Liens that Impair Exemption

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

Disposition: Granted

Order: Prepared by moving party

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

LIEN-AVOIDANCE STANDARDS

Section 522(f) of the Bankruptcy Code authorizes the court to avoid a lien "on an interest of the debtor in property to the extent that such lien impairs an exemption to which the debtor would have been entitled." 11 U.S.C. § 522(f)(1). There are four elements to avoidance of a lien that impairs an exemption: (1) there must be an exemption to which the debtor would have been entitled; (2) the property must be listed on the schedules and claimed as exempt; (3) the lien must impair the exemption claimed; and (4) the lien must be a judicial lien or nonpossessory, nonpurchase-money security interest in property described in § 522(f)(1)(B). *Goswami v. MTC Distrib. (In re Goswami)*, 304 B.R. 386, 390-91 (B.A.P. 9th Cir. 2003). Impairment is statutorily defined: a lien impairs an exemption "to the extent that the sum of - (i) the lien; (ii) all other liens on the property; and (iii) the amount of the exemption that the debtor could claim if there were no liens on the property; exceeds the value that the debtor's interest in the property would have in the absence of any liens." 11 U.S.C. § 522(f)(2)(A).

REVERSE-PRIORITY ANALYSIS

In cases in which there are multiple liens to be avoided, the liens must be avoided in the reverse order of their priority. See *In re Meyer*, 373 B.R. 84, 87-88 (B.A.P. 9th Cir. 2007). "[L]iens already avoided are excluded from the exemption-impairment calculation with respect to other liens." *Id.*; 11 U.S.C § 522(f)(2)(B).

The court finds it unnecessary to apply the reverse-priority analysis individually to each of the respondents' liens. See *In re Meyer*, 373 B.R. at 88 ("[O]ne must approach lien avoidance from the back of the line, or at least some point far enough back in line that there is no nonexempt equity in sight.").

Under the reverse-priority analysis, Capital One's judicial lien would be the last judicial lien to be avoided because of its higher priority than the other judicial liens (but it remains subject to any senior consensual lien). In determining whether Capital One's lien may be avoided, the court must exclude all junior judicial liens that would already have been avoided under such analysis. See 11 U.S.C. § 522(f)(2)(B); *In re Meyer*, 373 B.R. at 87-88.

The senior judicial lien, plus all other liens (excluding junior judicial liens lower in priority), plus the exemption amount together equal \$385,164.65. This sum exceeds the property's value by an amount greater than or equal to the senior judicial lien. As a result, Capital One's judicial lien may be avoided entirely.

Because the highest-priority judicial lien is avoidable, all other junior judicial liens are also avoidable, and the reverse-priority analysis is unnecessary to apply to each judicial lien. Stated differently, the sum of the debt secured by the consensual liens plus the debtor's exemption amount equals or exceeds the fair market value of the real property, so all judicial liens on the debtor's property are avoidable under § 522(f).

31. [11-13085](#)-A-13 **IN RE: MARCOS GARCIA AND MARIA FRUTOZ-GARCIA**
[MAC-4](#)

MOTION TO AVOID LIEN OF TARGET NATIONAL BANK
9-4-2018 [\[129\]](#)

MARCOS GARCIA/MV
GARY HUSS

Final Ruling

Motion: Avoid Multiple Liens that Impair Exemption

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

Disposition: Granted

Order: Prepared by moving party

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

LIEN-AVOIDANCE STANDARDS

Section 522(f) of the Bankruptcy Code authorizes the court to avoid a lien "on an interest of the debtor in property to the extent that such lien impairs an exemption to which the debtor would have been entitled." 11 U.S.C. § 522(f)(1). There are four elements to avoidance of a lien that impairs an exemption: (1) there must be an exemption to which the debtor would have been entitled; (2) the property must be listed on the schedules and claimed as exempt; (3) the lien must impair the exemption claimed; and (4) the lien must be a judicial lien or nonpossessory, nonpurchase-money security interest in property described in § 522(f)(1)(B). *Goswami v. MTC Distrib. (In re Goswami)*, 304 B.R. 386, 390-91 (B.A.P. 9th Cir. 2003). Impairment is statutorily defined: a lien impairs an exemption "to the extent that the sum of - (i) the lien; (ii) all other liens on the property; and (iii) the amount of the exemption that the debtor could claim if there were no liens on the property; exceeds the value that the debtor's interest in the property would have in the absence of any liens." 11 U.S.C. § 522(f)(2)(A).

REVERSE-PRIORITY ANALYSIS

In cases in which there are multiple liens to be avoided, the liens must be avoided in the reverse order of their priority. *See In re Meyer*, 373 B.R. 84, 87-88 (B.A.P. 9th Cir. 2007). "[L]iens already avoided are excluded from the exemption-impairment calculation with respect to other liens." *Id.*; 11 U.S.C. § 522(f)(2)(B).

The court finds it unnecessary to apply the reverse-priority analysis individually to each of the respondents' liens. *See In re Meyer*, 373 B.R. at 88 ("[O]ne must approach lien avoidance from the

back of the line, or at least some point far enough back in line that there is no nonexempt equity in sight.").

Under the reverse-priority analysis, Capital One's judicial lien would be the last judicial lien to be avoided because of its higher priority than the other judicial liens (but it remains subject to any senior consensual lien). In determining whether Capital One's lien may be avoided, the court must exclude all junior judicial liens that would already have been avoided under such analysis. See 11 U.S.C. § 522(f)(2)(B); *In re Meyer*, 373 B.R. at 87-88.

The senior judicial lien, plus all other liens (excluding junior judicial liens lower in priority), plus the exemption amount together equal \$385,164.65. This sum exceeds the property's value by an amount greater than or equal to the senior judicial lien. As a result, Capital One's judicial lien may be avoided entirely.

Because the highest-priority judicial lien is avoidable, all other junior judicial liens are also avoidable, and the reverse-priority analysis is unnecessary to apply to each judicial lien. Stated differently, the sum of the debt secured by the consensual liens plus the debtor's exemption amount equals or exceeds the fair market value of the real property, so all judicial liens on the debtor's property are avoidable under § 522(f).