



UNITED STATES BANKRUPTCY COURT
Eastern District of California

Honorable Christopher M. Klein
Bankruptcy Judge
Sacramento, California

October 31, 2023 at 1:30 p.m.

Unless otherwise ordered, all matters before the Honorable Christopher M. Klein shall be simultaneously: (1) **In Person** at Sacramento Courtroom #35, (2) via **ZoomGov Video**, (3) via **ZoomGov Telephone**, and (4) via **CourtCall**.

You may choose any of these options unless otherwise ordered.

Parties in interest and members of the public may connect to the video and audio feeds, free of charge, using the connection information provided:

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To appear remotely for law and motion or status conference proceedings, you must comply with the following guidelines and procedures:

1. Review the [Pre-Hearing Dispositions](#) prior to appearing at the hearing.
2. You are required to give the court 24 hours advance notice. Review the court's [Zoom Procedures and Guidelines](#) for these, and additional instructions.
3. Parties appearing via CourtCall are encouraged to review the [CourtCall Appearance Information](#).

Please join at least 10 minutes prior to the start of the calendar and wait with your microphone muted until the matter is called.

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UNITED STATES BANKRUPTCY COURT
Eastern District of California

Honorable Christopher M. Klein
Bankruptcy Judge
Sacramento, California

October 31, 2023 at 1:30 p.m.

-
1. [19-22300](#)-C-13 LESLIE SAWYER MOTION TO MODIFY PLAN
[DPB](#)-3 Douglas Broomell 8-16-23 [[68](#)]

Tentative Ruling:

The Motion has been set on Local Rule 9014-1(f) (1) procedure which requires 35 days' notice. The Proof of Service shows that 68 days' notice was provided. Dkt. 74.

The Motion to Modify Plan is denied.

The debtor filed this Motion seeking to confirm the Modified Chapter 13 Plan (Dkt. 70) filed on August 16, 2023.

The Chapter 13 Trustee filed an Opposition (Dkt. 81) on October 17, 2023, opposing confirmation on the following grounds:

1. The Trustee is unable to determine the amounts and timing of debtor's payments;
2. The apparent payment of \$4,147.80 is more than the Debtor's monthly net income;
3. Debtor has been making higher monthly payments than the proposed amount in the plan;
4. The plan provides for a conduit payment to Specialized Loan Servicing and payment directly by debtor in almost the same amount to the same creditor; and
5. The plan indicates a higher delinquent amount than what the Trustee's records indicate.

DISCUSSION

The debtor has supplied insufficient information relating to the plan payments to assist the Chapter 13 Trustee. Debtor fails to provide accurate income and expenses to determine the Debtor's monthly net income.

Notwithstanding whether the plan provides for the debtors montly net income, the debtor has not carried her burden to show the plan is adequately funded. That is reason to deny confirmation. 11 U.S.C. § 1325(a)(6).

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Upon review of the record, the court finds the plan does not comply with 11 U.S.C. §§ 1322, 1325(a), and 1329. The Motion is denied, and the plan is not confirmed.

The court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Motion to Modify Plan filed by the debtor, Leslie Sawyer, having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Motion is denied, and the plan is not confirmed.

2. [20-22025](#)-C-13 BRETT/SUSAN HUTCHENS
[SS-11](#) Scott Shumaker

MOTION FOR COMPENSATION FOR
SCOTT SHUMAKER, DEBTORS
ATTORNEY(S)
10-3-23 [[173](#)]

Tentative Ruling:

The Motion has been set on Local Rule 9014-1(f)(1) procedure which requires 28 days' notice. The Proof of Service shows that 28 days' notice was provided. Dckt. 177.

The Motion for Allowance of Professional Fees is granted.

Counsel for the debtor filed this Motion seeking additional compensation, beyond the fixed fee approved in connection with plan confirmation pursuant to Local Bankruptcy Rule 2016-1(c), for substantial and unanticipated work performed.

Fees are requested for the period November 19, 2020, through October 31, 2023. Applicant requests fees in the amount of \$2,906.25.

DISCUSSION

The unique facts surrounding the case, including the post-conversion services provided, raise substantial and unanticipated work for the benefit of the Estate, Debtor, and parties in interest. The court finds that the hourly rates are reasonable and that Applicant effectively used appropriate rates for the services provided. The request for additional fees in the amount of \$2,906.25 are approved pursuant to 11 U.S.C. § 330 and authorized to be paid by the Chapter 13 Trustee from the available funds of the Plan in a manner consistent with the order of distribution in a Chapter 13 case under the confirmed Plan.

The Chapter 13 Trustee initially opposed the application because the debtors did not provide a declaration in support of the motion. Debtors subsequently filed the declaration in support resolving the Trustee's opposition, which she confirmed.

The court shall issue an order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Motion for Allowance of Fees and Expenses filed by Scott Shumaker ("Applicant"), Attorney having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that Applicant is allowed the following fees and expenses as a professional of the Estate:

Applicant, a professional employed by the Chapter 13 debtors, Brett and Susan Hutchens,

Fees in the amount of \$2,906.25,

as the final allowance of fees pursuant to 11 U.S.C. § 330 as counsel for Debtor.

IT IS FURTHER ORDERED that the Chapter 13 trustee is authorized to pay the fees allowed by this Order from the available Plan funds in a manner consistent with the order of distribution in a Chapter 13 case.

3. [21-23637](#)-C-13 JASON GRAHAM
[SLH](#)-4 Seth Hanson

MOTION TO BORROW
10-2-23 [[51](#)]

Final Ruling: No appearance at the October 31, 2023 hearing is required.

The Motion has been set on Local Rule 9014-1(f)(1) procedure which requires 28 days' notice. The Proof of Service shows that 29 days' notice was provided. Dkt. 55.

No opposition has been filed. Therefore, the court enters the defaults of the non-responding parties in interest, finds there are no disputed material factual issues, and determines the matter will be resolved without oral argument. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995); *Law Offices of David A. Boone v. Derham-Burk (In re Eliapo)*, 468 F.3d 592, 602 (9th Cir. 2006).

The Motion to Incur Debt is granted.

The Debtor filed this Motion seeking authority to finance the purchase of real property with a mortgage.

The proposed financing is in the principal amount of \$3,37,117.00, paid at 7.25% interest over a 30 year term. Monthly payments are proposed to be \$3,688.00.

The court finds that the proposed credit, based on the unique facts and circumstances of this case, is reasonable. There being no opposition from any party in interest and the terms being reasonable, the Motion is granted.

The court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Motion to Incur Debt filed by Jason Graham having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Motion is granted, and Jason Graham is authorized to incur debt pursuant to the terms of the agreement, Exhibit A, Dkt. 53.

IT IS FURTHER ORDERED that debtor's counsel shall prepare an appropriate order granting the Motion, transmit the proposed order to the Chapter 13 Trustee for approval as to form, and if so approved submit the proposed order to the court.

4. [23-22441](#)-C-13 JAIME PADILLA
[LGT](#)-1 Mark Wolff

CONTINUED OBJECTION TO
CONFIRMATION OF PLAN BY LILIAN
G. TSANG
9-12-23 [[19](#)]

Final Ruling: No appearance at the October 31, 2023 hearing is required.

The Objection has been set on Local Rule 9014-1(f)(2) notice which requires 14 days' notice. The Proof of Service shows that 22 days' notice was provided. Dkt. 22.

The Objection to Confirmation is dismissed without prejudice.

The trustee having filed an Ex Parte Motion to Dismiss the pending Objection on October 25, 2023, Dkt. 29; no prejudice to the responding party appearing by the dismissal of the Objection; trustee having the right to request dismissal of the objection pursuant to Federal Rule of Civil Procedure 41(a)(2) and Federal Rules of Bankruptcy Procedure 9014 and 7041; and the dismissal being consistent with the opposition filed by trustee; **the Ex Parte Motion is granted, the Objection is dismissed without prejudice, the court removes this Objection from the calendar, and the Chapter 13 Plan filed on July 25, 2023, is confirmed.**

Counsel for the debtor shall prepare an appropriate order confirming the Chapter 13 Plan, transmit the proposed order to the Trustee for approval as to form, and if so approved, the Trustee will submit the proposed order to the court.

Final Ruling: No appearance at the October 31, 2023 hearing is required.

The Motion has been set on Local Rule 9014-1(f)(1) procedure which requires 28 days' notice. The Proof of Service shows that 34 days' notice was provided. Dkt. 77.

The Motion for Entry of Discharge has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). Failure of the respondent and other parties in interest to file written opposition at least fourteen days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(B) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995) (upholding a court ruling based upon a local rule construing a party's failure to file opposition as consent to grant a motion). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. *See Law Offices of David A. Boone v. Derham-Burk (In re Eliapo)*, 468 F.3d 592, 602 (9th Cir. 2006). Therefore, the defaults of the non-responding parties and other parties in interest are entered. Upon review of the record, there are no disputed material factual issues, and the matter will be resolved without oral argument. The court will issue its ruling from the parties' pleadings.

The Motion for Entry of Discharge is granted.

The Motion for Entry of Discharge has been filed by Alejandro Llanos ("Debtor"). With some exceptions, 11 U.S.C. § 1328 permits the discharge of debts provided for in a plan or disallowed under 11 U.S.C. § 502 after the completion of plan payments. The Chapter 13 Trustee's final report was filed on September 14, 2022, and no objection was filed within the specified thirty-day period. *See Fed. R. Bankr. P. 5009*. The order approving final report and discharging the Chapter 13 Trustee was entered on October 25, 2022. Dckt. 68. The entry of an order approving the final report is evidence that the estate has been fully administered. *See In re Avery*, 272 B.R. 718, 729 (Bankr. E.D. Cal. 2002).

Debtor's Declaration (Dckts. 76 & 78) certifies that Debtor:

- A. has completed the plan payments;
- B. does not have any delinquent domestic support obligations;
- C. has completed a financial management course and filed the certificate with the court;
- D. has not received a discharge in a case under Chapter 7, 11, or 12 during the four-year period prior to filing of this case or a discharge under a Chapter 13 case during the two-year period prior to filing of

this case;

- E. is not subject to the provisions of 11 U.S.C. § 522(q) (1); and
- F. is not a party to a pending proceeding which implicates 11 U.S.C. § 522(q) (1).

There being no objection, Debtor is entitled to a discharge.

The court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Motion for Entry of Discharge filed by Movant, Alejandro Christopher Llanos ("Debtor") having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Motion is granted, and the court shall enter the discharge for Alejandro Christopher Llanos.

6. [22-20466](#)-C-13 ELIZABETH ANDRADE
[FF-2](#) Gary Fraley

MOTION FOR COMPENSATION BY THE
LAW OFFICE OF FRALEY & FRALEY
FOR GARY RAY FRALEY, DEBTORS
ATTORNEY(S)
9-22-23 [[61](#)]

Tentative Ruling:

The Motion has been set on Local Rule 9014-1(f)(1) procedure which requires 28 days' notice. The Proof of Service shows that 39 days' notice was provided. Dkt. 66.

The Motion for Allowance of Professional Fees is granted.

Gary Fraley filed this First interim request seeking approval of compensation for attorney services provided to debtor, Elizabeth Andrade.

Fees are requested for the period January 28, 2022, through August 25, 2023. The movant requests fees in the amount of \$6,645.00 and costs in the amount of \$64.94.

DISCUSSION

Hourly Fees

The court finds that the hourly rates are reasonable and that the movant effectively used appropriate rates for the services provided. First interim fees in the amount of \$6,645.00 are approved pursuant to 11 U.S.C. § 331, and subject to final review pursuant to 11 U.S.C. § 330, and authorized to be paid by the Chapter 13 trustee from the available funds of the Estate in a manner consistent with the order of distribution in a Chapter 13 case.

Costs

First interim Costs in the amount of \$64.94 are approved pursuant to 11 U.S.C. § 331, and subject to final review pursuant to 11 U.S.C. § 330, and authorized to be paid by the Chapter 13 trustee from the available funds of the Estate in a manner consistent with the order of distribution in a Chapter 13 case.

The movant is allowed, and the Chapter 13 trustee is authorized to pay, the following amounts as compensation to this professional in this case:

Fees	\$6,645.00
Costs and Expenses	\$64.94

pursuant to this Motion as interim fees pursuant to 11 U.S.C. § 331 in this case.

The court shall issue an order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Motion for Allowance of Fees and Expenses filed by Gary Fraley ("Movant") having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that Movant is allowed the following fees and expenses as a professional of the Estate:

Movant, Professional employed by Elizabeth Andrade,

Fees in the amount of \$6,645.00

Expenses in the amount of \$64.94,

as an interim allowance of fees and expenses pursuant to 11 U.S.C. § 331 and subject to final review and allowance pursuant to 11 U.S.C. § 330.

IT IS FURTHER ORDERED that the Chapter 13 trustee is authorized to pay 100% of the fees and 100% of the costs allowed by this Order from the available funds of the Estate in a manner consistent with the order of distribution in a Chapter 13 case.