

UNITED STATES BANKRUPTCY COURT
Eastern District of California
Honorable Jennifer E. Niemann
Hearing Date: Thursday, November 4, 2021
Place: Department A – 510 19th Street
Bakersfield, California

ALL APPEARANCES MUST BE TELEPHONIC
(Please see the court's website for instructions.)

Pursuant to District Court General Order 631, courthouses for the Eastern District of California were reopened to the public effective June 14, 2021.

At this time, when in-person hearings in Bakersfield will resume is to be determined. No persons are permitted to appear in court for the time being. All appearances of parties and attorneys shall be telephonic through CourtCall. The contact information for CourtCall to arrange for a phone appearance is: (866) 582-6878.

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.

1. [21-12210](#)-A-13 **IN RE: BRYNISH LEE**
[MHM-1](#)

MOTION TO DISMISS CASE
10-6-2021 [\[24\]](#)

MICHAEL MEYER/MV

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

DISPOSITION: Granted.

ORDER: The court will issue the order.

Unless the trustee's motion is withdrawn before the hearing, the motion will be granted without oral argument for cause shown.

This motion was set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of creditors, the debtor, 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 Systems, Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires a movant make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

Here, the chapter 13 trustee asks the court to dismiss this case for unreasonable delay by the debtor that is prejudicial to creditors (11 U.S.C. § 1307(c)(1)) and because the debtor has failed to complete Credit Counseling Certificates timely (11 U.S.C. § 109(h)). Doc. #24. The debtor did not file written opposition.

Under 11 U.S.C. § 109(h), an individual may not be a debtor unless the debtor received credit counseling within the 180-day period ending on the petition date. 11 U.S.C. § 109(h)(1). Brynish Lee ("Debtor") filed for relief under chapter 13 of the Bankruptcy Code on September 16, 2021. Doc. #1. On September 30, 2021, a Certificate of Counseling was filed indicating that Debtor received credit counseling on September 29, 2021, offered by an approved provider pursuant to 11 U.S.C. § 111. Doc. #17. The certificate shows that Debtor received her credit counseling after, not before, Debtor filed her bankruptcy petition. The Bankruptcy Code allows the debtor to request a waiver of the § 109(h)(1) requirement to receive credit counseling pre-petition based on exigent circumstances. 11 U.S.C. § 109(h)(3)(A). However, Debtor has not requested a waiver of the § 109(h)(1) requirements and, because Debtor did not receive credit counseling prior to filing her bankruptcy petition and has not received a waiver of that requirement, Debtor may not be a debtor pursuant to § 109(h).

Further, under 11 U.S.C. § 1307(c), the court may convert or dismiss a case, whichever is in the best interests of creditors and the estate, for cause. "A

debtor's unjustified failure to expeditiously accomplish any task required either to propose or to confirm a chapter 13 plan may constitute cause for dismissal under § 1307(c)(1)." Ellsworth v. Lifescape Med. Assocs., P.C. (In re Ellsworth), 455 B.R. 904, 915 (B.A.P. 9th Cir. 2011). Debtor's schedules reveal no assets and no liabilities. Schedules A-J, Doc. #39. After the motion was filed, on October 14, 2021, Debtor filed a chapter 13 plan. Doc. #41. The proposed plan does not call for monthly payments to any creditor, but asserts \$6,600 in priority claims, although Debtor does not identify any taxes, administrative expenses, domestic support obligations, or other priority claims. Doc. #41. Debtor has not served her chapter 13 plan on parties in interest and has not noticed or set a confirmation hearing. The proposed plan calls for monthly payments of \$117.86 for 56 months, which totals approximately \$6,600. In the plan, Debtor lists an arrearage of \$6,600 owed to Ed Paine c/o Sandra McCormack Esq. in Class 1, but does not provide for any arrearage dividend, interest, or post-petition monthly payment. Doc. #41. On October 27, 2021, the court granted Ed Paine, Trustee of the Paine Family Trust relief from the automatic stay to proceed with state law actions to take possession of real property. Order, Doc. #46. In the court's civil minutes regarding that motion, the court acknowledged that the state court action to take possession of the residential real property did not arise from unpaid rent, and a cure of any arrearage would not necessarily protect Debtor's interest in the property. Civil Minutes, Doc. #44. It appears that Debtor has no assets and no liabilities. Debtor's only scheduled creditor, Debtor's landlord, has been granted relief from the automatic stay.

There is "cause" for dismissal under 11 U.S.C. § 1307(c)(1) for unreasonable delay by debtor that is prejudicial to creditors and 11 U.S.C. § 109(h) for failing to timely complete credit counseling. Debtor scheduled no assets and no liabilities, and dismissal of this case will not prejudice Debtor or the estate.

Accordingly, this motion will be GRANTED. The case will be dismissed.

2. 17-13818-A-13 **IN RE: ANTHONY FRACKOWIAK**
RSW-3

MOTION TO MODIFY PLAN
9-8-2021 [66]

ANTHONY FRACKOWIAK/MV
ROBERT WILLIAMS/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 35 days' notice as required by Local Rule of Practice ("LBR") 3015-1(d)(2). 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.

This motion is GRANTED. The confirmation order shall include the docket control number of the motion and it shall reference the plan by the date it was filed.

3. [18-14223](#)-A-13 **IN RE: KRISTIN COLLINS**
[PK-1](#)

MOTION FOR COMPENSATION FOR PATRICK KAVANAGH, DEBTORS ATTORNEY(S)
10-14-2021 [\[57\]](#)

PATRICK KAVANAGH/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 the hearing.

This motion was filed and served on at least 21 days' notice prior to the hearing date pursuant to Federal Rule of Bankruptcy Procedure 2002 and 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.

Patrick Kavanagh ("Movant"), counsel for the chapter 13 debtor, requests allowance of interim compensation in the amount of \$5,200.00 for services rendered from August 18, 2018 through December 31, 2020. Doc. #57. While Movant has incurred \$7,540.00 in total fees, Movant has agreed to limit his requested fees to \$5,200.00. Doc. ##57, 59.

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's services in the relevant period included, without limitation: (1) pre-petition consultation and fact gathering; (2) preparing and filing the petition, schedules, and forms; (3) hearings; and (4) claim administration and objections. Doc. ##57, 59. The court finds that the compensation and reimbursement sought are reasonable, actual, and necessary, and the court will approve the motion on an interim basis.

This motion is GRANTED. The court allows interim compensation in the amount of \$5,200.00. In light of a pre-petition retainer of \$964.00, the court approves \$4,236.00 to be paid in a manner consistent with the terms of the confirmed plan.

4. [20-13524](#)-A-13 **IN RE: KYLE/NATALIE SINGLEY**
[CJK-2](#)

MOTION TO APPROVE LOAN MODIFICATION
10-7-2021 [\[67\]](#)

BANK OF AMERICA, N.A./MV
ROBERT WILLIAMS/ATTY. FOR DBT.
CHRISTINA KHIL/ATTY. FOR MV.

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.

Bank of America N.A. ("Movant") seeks authorization to allow Kyle William Singley and Natalia Rania Singley (together, "Debtors") to enter into and finalize a loan modification with Movant. Doc. #67. On October 20, 2021, Debtors submitted a declaration wishing to enter into the home loan modification agreement with Movant. Doc. #74.

In 2015, Movant and Debtors executed a deed of trust to secure a loan on Debtors' residential real property referred to as 2500 September Drive, Bakersfield, CA 93313. Decl., Doc. #69. After Debtors commenced this bankruptcy case, Movant filed a proof of claim detailing pre-petition arrears. Id. The loan modification recapitalizes arrears into the new modified principal balance of \$140,514.84 to be amortized at a fixed 4.125% interest rate over 480 months. Id.; Decl. of Debtors, Doc. #74. The new monthly payment effective August 1, 2021 is \$945.97. Id. Debtors state that the loan modification is beneficial to them, and Debtors support granting Movant's motion. Doc. #74.

This motion is GRANTED. Debtors are authorized, but not required, to complete the loan modification with Movant. Debtors shall continue making plan payments in accordance with their confirmed chapter 13 plan. Debtors must modify the

plan if the payments under the modified loan prevent them from paying under the plan.

5. [18-10929](#)-A-13 **IN RE: LARRY/SILVIA HULSEY**
[JCW-1](#)

MOTION TO APPROVE LOAN MODIFICATION
9-13-2021 [\[50\]](#)

DEUTSCHE BANK TRUST COMPANY AMERICAS/MV
WILLIAM OLCOTT/ATTY. FOR DBT.
JENNIFER WONG/ATTY. FOR MV.

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.

Deutsche Bank Trust Company Americas, as Trustee for Residential Accredit Loans Inc., Mortgage Asset-Backed Pass-Through Certificates, Series 2006-Q09, its assignees and/or successors, by and through its servicing agent Nationstar Mortgage LLC d/b/a Mr. Cooper ("Movant") seeks authorization to allow Larry Wayne Hulsey and Silvia Rodriguez Hulsey (together, "Debtors") to enter into and finalize a loan modification with Movant. Doc. #50.

Movant holds a deed of trust on Debtors' residential real property referred to as 1906 18th Avenue, Delano, CA 93215. Doc. #50. After Debtors commenced this bankruptcy case, Movant filed a proof of claim. Claim 25. Debtors applied for a loan modification and Movant has accepted. Doc. #50. The new principal balance will be \$173,269.35 with an interest rate of 2.2875%, resulting in a monthly payment of \$804.96. Doc. #50.

This motion is GRANTED. Debtors are authorized, but not required, to complete the loan modification with Movant. Debtors shall continue making plan payments in accordance with their confirmed chapter 13 plan. Debtors must modify the plan if the payments under the modified loan prevent them from paying under the plan.

6. [21-11929](#)-A-13 **IN RE: MICHELLE VALENCIA**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES
10-6-2021 [\[37\]](#)

DISMISSED 10/6/21

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

DISPOSITION: Dropped as moot.

NO ORDER REQUIRED.

An order dismissing the case was entered on October 6, 2021, Doc. #40. The Order to Show Cause will be dropped as moot. No appearance is necessary.

7. [19-14252](#)-A-13 **IN RE: MICHAEL/LUCIA LOPEZ**
[RSW-4](#)

MOTION TO MODIFY PLAN
9-13-2021 [\[99\]](#)

LUCIA LOPEZ/MV
ROBERT WILLIAMS/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 35 days' notice as required by Local Rule of Practice ("LBR") 3015-1(d)(2). 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.

This motion is GRANTED. The confirmation order shall include the docket control number of the motion and it shall reference the plan by the date it was filed.

8. [21-12153](#)-A-13 **IN RE: JOSE COUTINO**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES
10-13-2021 [\[28\]](#)

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

DISPOSITION: Dropped as moot.

NO ORDER REQUIRED.

An order dismissing the case will be entered pursuant to matter #9 below.
Therefore, this Order to Show Cause will be dropped as moot.

9. [21-12153](#)-A-13 **IN RE: JOSE COUTINO**
[MHM-1](#)

MOTION TO DISMISS CASE
10-6-2021 [\[22\]](#)

MICHAEL MEYER/MV

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

DISPOSITION: Granted.

ORDER: The court will issue an order.

Unless the trustee's motion is withdrawn before the hearing, the motion will be granted without oral argument for cause shown.

This motion was set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of creditors, the debtor, 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 Systems, Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires a movant make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

Here, the chapter 13 trustee asks the court to dismiss this case under 11 U.S.C. § 1307(c)(1) for unreasonable delay by debtor that is prejudicial to creditors; failure to appear at the scheduled 341 meeting of creditors; failure to set a plan for hearing with notice to creditors; and failure to provide required documentation. Doc #22. Debtor did not oppose.

The record shows that there has been unreasonable delay by the debtor that is prejudicial to creditors (11 U.S.C. § 1307(c)(1)). The debtor failed to appear at the scheduled 341 meeting of creditors and failed to provide the trustee with all of the documentation required by 11 U.S.C. § 521(a)(3) and (4).

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

10. [19-13473](#)-A-13 **IN RE: CHRISTOPHER LOCASCIO**
[RSW-4](#)

MOTION TO MODIFY PLAN
9-8-2021 [[95](#)]

CHRISTOPHER LOCASCIO/MV
ROBERT WILLIAMS/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 35 days' notice as required by Local Rule of Practice ("LBR") 3015-1(d)(2). 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.

This motion is GRANTED. The confirmation order shall include the docket control number of the motion and it shall reference the plan by the date it was filed.

11. [20-12578](#)-A-13 **IN RE: MARIO/SUSANA GONZALEZ**
[RSW-2](#)

MOTION TO MODIFY PLAN
9-13-2021 [[51](#)]

SUSANA GONZALEZ/MV
ROBERT WILLIAMS/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 35 days' notice as required by Local Rule of Practice ("LBR") 3015-1(d)(2). 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.

This motion is GRANTED. The confirmation order shall include the docket control number of the motion and it shall reference the plan by the date it was filed.

1. [21-11715](#)-A-7 **IN RE: MARVELOUS GRACE DE LEON**
[CJK-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
9-28-2021 [\[16\]](#)

PENNYMAC LOAN SERVICES, LLC/MV
ROBERT WILLIAMS/ATTY. FOR DBT.
CHRISTINA KHIL/ATTY. FOR MV.
DISCHARGED 10/27/21

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

DISPOSITION: Granted in part and denied as moot in part.

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

As an initial matter, Pennymac Loan Services LLC ("Movant") filed a proof of service in connection with its motion for relief from the automatic stay that shows an incomplete zip code in the debtor's address. Doc. #21. Based on Movant's filed proof of service, the debtor was not properly served with the motion and related pleadings. However, the court entered the debtor's discharge on October 27, 2021, and the automatic stay against the debtor has terminated by operation of law. See 11 U.S.C. § 362(c)(2). Because the court is denying Movant's motion as moot with respect to the debtor's interest pursuant to § 362(c)(2)(C), any failure of Movant to serve the motion properly on the debtor does not prejudice the debtor or deprive the debtor of due process. Accordingly, the court will rule on the motion notwithstanding the apparent improper service on the debtor.

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.

The motion will be GRANTED IN PART as to the trustee's interest and DENIED AS MOOT IN PART as to the debtor's interest pursuant to 11 U.S.C. § 362(c)(2)(C). The debtor's discharge was entered on October 27, 2021. Doc. #28. The motion will be GRANTED IN PART for cause shown as to the chapter 7 trustee.

Movant seeks relief from the automatic stay under 11 U.S.C. § 362(d)(1) and (d)(2) with respect to real property located at 10508 Crockett Street, Sun Valley CA 91352 ("Property"). Doc. #16.

11 U.S.C. § 362(d)(1) allows the court to grant relief from the stay for cause, including the lack of adequate protection. "Because there is no clear definition of what constitutes 'cause,' discretionary relief from the stay must be determined on a case by case basis." In re Mac Donald, 755 F.2d 715, 717 (9th Cir. 1985).

After review of the included evidence, the court finds that "cause" exists to lift the stay because the debtor has failed to make at least 9 complete pre- and post-petition payments. Movant has produced evidence that the debtor is delinquent by at least \$41,118.07 and the entire balance of \$548,975.20 is due. Doc. #18.

Accordingly, the motion will be granted pursuant to 11 U.S.C. § 362(d)(1) to permit Movant to dispose of its collateral pursuant to applicable law and to use the proceeds from its disposition to satisfy its claim. No other relief is awarded. According to the debtor's Statement of Intention, the Property will be surrendered. Doc. #1.

The order shall also provide that the bankruptcy proceeding has been finalized for purposes of California Civil Code § 2923.5.

The 14-day stay of Fed. R. Bankr. P. 4001(a)(3) will be ordered waived because the debtor has failed to make at least 9 payments, both pre- and post-petition, to Movant and the entire balance of the loan is due.

2. [21-11751](#)-A-7 **IN RE: JOSE/TINA VAZQUEZ**
[JMV-1](#)

MOTION TO SELL
10-13-2021 [\[20\]](#)

JEFFREY VETTER/MV
LEONARD WELSH/ATTY. FOR DBT.

TENTATIVE RULING: This matter will proceed as scheduled for higher and better offers.

DISPOSITION: Granted.

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

This motion was filed and served on at least 21 days' notice prior to the hearing date pursuant to Federal Rule of Bankruptcy Procedure 2002 and 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.

Jeffrey Vetter ("Trustee"), the chapter 7 trustee of the bankruptcy estate of Jose Alberto Vazquez and Tina Ann Vazquez (together, "Debtors"), moves the court pursuant to 11 U.S.C. § 363 for an order authorizing the sale of the bankruptcy estate's interest in a 2014 Ford F-150 truck with approximately

49,399 miles (the "Vehicle") to Debtors for the purchase price of \$13,198.40, subject to higher and better bids at the hearing. Doc. #20.

Pursuant to 11 U.S.C. § 363(b)(1), the trustee, after notice and a hearing, may "use, sell, or lease, other than in the ordinary course of business, property of the estate." Proposed sales under § 363(b) are reviewed to determine whether they are: (1) in the best interests of the estate resulting from a fair and reasonable price; (2) supported by a valid business judgment; and (3) proposed in good faith. In re Alaska Fishing Adventure, LLC, 594 B.R. 883, 887 (Bankr. D. Alaska 2018) (citing 240 N. Brand Partners, Ltd. v. Colony GFP Partners, L.P. (In re 240 N. Brand Partners, Ltd.), 200 B.R. 653, 659 (B.A.P. 9th Cir. 1996)). "In the context of sales of estate property under § 363, a bankruptcy court 'should determine only whether the trustee's judgment [is] reasonable and whether a sound business justification exists supporting the sale and its terms.'" Alaska Fishing Adventure, 594 B.R. at 889 (quoting 3 COLLIER ON BANKRUPTCY ¶ 363.02[4] (Richard Levin & Henry J. Sommer eds., 16th ed.)). "[T]he trustee's business judgment is to be given great judicial deference." Id. at 889-90 (quoting In re Psychometric Sys., Inc., 367 B.R. 670, 674 (Bankr. D. Colo. 2007)).

Trustee believes that approval of the sale on the terms set forth in the motion is in the best interests of creditors and the estate resulting from a fair and reasonable price. Decl. of Tr., Doc. #22. Trustee's proposed sale to Debtors is made in consideration of the full and fair market value of the Vehicle. Doc. #22. Debtors are entitled to a \$12,050 exemption in the Vehicle. Id. Trustee values the Vehicle at approximately \$29,000, and, after deducting Debtors' exemption and costs of sale, the purchase price of \$13,198.40 is reasonable. Id. The sale is subject to overbid at the hearing. Doc. #22. The court recognizes that no commission will need to be paid because the sale is to Debtors.

It appears that the sale of the estate's interest in the Vehicle is in the best interests of the estate, the Vehicle will be sold for a fair and reasonable price, and the sale is supported by a valid business judgment and proposed in good faith.

Accordingly, subject to overbid offers made at the hearing, the court is inclined to GRANT Trustee's motion and authorize the sale of the estate's interest in the Vehicle to Debtors on the terms set forth in the motion.

3. [21-12161](#)-A-7 **IN RE: GEORGIA MAE JACKSON**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES
9-23-2021 [\[14\]](#)

WILLIAM EDWARDS/ATTY. FOR DBT.
\$338.00 FILING FEE PAID 10/11/21

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

DISPOSITION: The OSC will be vacated.

ORDER: The court will issue an order.

The record shows that the filing fees now due have been paid in full.

MOTION TO COMPEL ABANDONMENT
10-5-2021 [\[13\]](#)

ABDUL RAHMANI/MV
ROBERT WILLIAMS/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 trustee, 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.

Abdul Rahim Rahmani ("Debtor"), the chapter 7 debtor in this case, moves the court to order the chapter 7 trustee to abandon the following property of the estate:

1. Residence located at 2500 Springwood Drive, Atwater, CA 95301;
2. 2015 Toyota Camry SE, 115,000 miles;
3. 2001 Toyota Corolla, 145,000 miles;
4. Household goods and furnishings;
5. Household electronics;
6. Wearing apparel;
7. Jewelry; and
8. Chase Bank checking.

(collectively, the "Property"). Doc. #13. Debtor asserts that the Property is burdensome to the estate or of inconsequential value to the bankruptcy estate. Doc. #13; Decl. of Debtor, Doc. #15. No opposition has been filed in response to this motion.

11 U.S.C. § 554(b) permits the court, on request of a party in interest and after notice and a hearing, to order the trustee to abandon property that is burdensome to the estate or of inconsequential value and benefit to the estate. Vu v. Kendall (In re Vu), 245 B.R. 644, 647 (B.A.P. 9th Cir. 2000). To grant a motion to abandon property, the bankruptcy court must find either that the property is (1) burdensome to the estate or (2) of inconsequential value and inconsequential benefit to the estate. Id. (citing In re K.C. Machine & Tool Co., 816 F.2d 238, 245 (6th Cir. 1987)). However, "an order compelling abandonment [under § 554(b)] is the exception, not the rule. Abandonment should

only be compelled in order to help the creditors by assuring some benefit in the administration of each asset. . . . Absent an attempt by the trustee to churn property worthless to the estate just to increase fees, abandonment should rarely be ordered." Id. (quoting K.C. Machine & Tool Co., 816 F.2d at 246).

Here, the Property is of inconsequential value to the bankruptcy estate. 11 U.S.C. § 554(b); Vu, 245 B.R. at 647. Debtor filed a Schedule C on July 20, 2021, and no objection has been filed to any of the claimed exemptions. Doc. #1; Decl. of Debtor, Doc. #15. Debtor's Schedule C exempts nearly all of the value of the Property. Schedule C, Doc. #1. Debtor's Schedule D sets forth creditors who have claims secured by the Property. Schedule D, Doc. #1. Debtor's allowed exemptions, in addition to the claims secured by the Property, leave no value for the bankruptcy estate. The court finds that Debtor has met his burden of establishing by a preponderance of the evidence that the Property is of inconsequential value and benefit to the estate.

Accordingly, this motion is GRANTED. The order shall specifically identify the property abandoned.

1. [20-10010](#)-A-11 **IN RE: EDUARDO/AMALIA GARCIA**

CONTINUED STATUS CONFERENCE RE: CHAPTER 11 VOLUNTARY
PETITION
1-2-2020 [[1](#)]

LEONARD WELSH/ATTY. FOR DBT.

NO RULING.

2. [20-10010](#)-A-11 **IN RE: EDUARDO/AMALIA GARCIA**
[GAG-1](#)

STATUS CONFERENCE RE: OBJECTION TO CLAIM OF NINO GLOBAL, LLC, CLAIM
NUMBER 13, - OBJECTION TO CLAIM OF NINO GLOBAL LLC, CLAIM NUMBER 14,
- OBJECTION TO CLAIM OF PLATINUM FARMS SERVICES, LLC, CLAIM NUMBER 16,
- OBJECTION TO CLAIM OF NINO GLOBAL, LLC, CLAIM NUMBER 17
5-24-2021 [[593](#)]

AMALIA GARCIA/MV
LEONARD WELSH/ATTY. FOR DBT.
RESPONSIVE PLEADING

NO RULING.

At the hearing, the parties shall be prepared to explain to the court why they did not timely file a joint status report addressing the issues specified on page 3 of the Scheduling Order and Order Consolidating Contested Matters filed on July 8, 2021. Doc. #686.

3. [20-10010](#)-A-11 **IN RE: EDUARDO/AMALIA GARCIA**
[GAG-3](#)

OBJECTION TO CLAIM OF BLUE PHOENIX VENTURES, LLC, CLAIM NUMBER 15
10-18-2021 [[765](#)]

AMALIA GARCIA/MV
LEONARD WELSH/ATTY. FOR DBT.

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

DISPOSITION: Overruled without prejudice.

ORDER: The court will issue an order.

This matter is OVERRULED WITHOUT PREJUDICE for improper notice.

Notice by mail of this motion was sent October 18, 2021, with a hearing date set for November 4, 2021. The motion was set for hearing on less than 30 days' notice. Pursuant to Local Rule of Practice ("LBR") 3007-1(b)(2), an objecting party must file and serve the objection to a proof of claim at least 30 days prior to the hearing date. In addition to failing to file and serve the

objection in the time minimum required by LBR 3007-1(b)(2), the Notice of Hearing filed with the motion cited LBR 9014-1 and stated that opposition must be filed and served no later than fourteen days before the hearing and that failure to file written response may result in the court granting the motion prior to the hearing. However, LBR 3007-1(b)(2) provides that when an objection to claim is filed and served with less than 44 days' notice, no written opposition is required and opposition may be presented at the hearing. Thus, the objection and Notice of Hearing do not comply with LBR 3007-(1)(b).

Also, the pleading does not comply with LBR 9014-1(c). The docket control number used for this objection to claim was used on a previous objection to claim, which was overruled without prejudice on July 8, 2021. Doc. #685. Because the previous objection to claim was finally resolved, the movant should have used a new, unique docket control number for this objection to claim. Since this objection to claim is being finally determined, if another objection to claim is filed by the debtors, that objection to claim should have a new, unique docket control number.

The court urges counsel to review the local rules in order to be compliant in future matters. The rules can be accessed on the court's website at <http://www.caeb.uscourts.gov/LocalRules.aspx>.

4. [20-10010](#)-A-11 **IN RE: EDUARDO/AMALIA GARCIA**
[LKW-21](#)

CONTINUED AMENDED/MODIFIED PLAN
2-18-2021 [520](#)

LEONARD WELSH/ATTY. FOR DBT.
RESPONSIVE PLEADING

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Denied.

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

Eduardo and Amalia Garcia (collectively, "Debtors"), the chapter 11 debtors and debtors-in-possession in this case, move the court for confirmation of their Second Amended Plan of Reorganization dated February 18, 2021, as modified by the first and second modifications to their plan before confirmation, amendment to the second modification and correction thereto (collectively, the "Plan"). Doc. ##520-525, 540, 542-543, 561-573, 583-587, 742-743, 748-749. The original hearing to confirm the Plan was set by order of the court filed on March 11, 2021 ("Order"). Doc. #540. In the Order, the court ordered transmission of the Plan, accompanying disclosure statement, ballots, and notice of the confirmation hearing by March 17, 2021; acceptances or rejections of the Plan, and objections to confirmation by April 14, 2021; and responses to objections, tabulation of ballots, and brief by April 21, 2021. The court finds notice and service of the Plan and related documents were proper. Doc. #543.

Debtors are married individuals who own several parcels of real property and operate a cattle business in California. Debtors own significant amounts of farmland and are shareholders in 4G Farming, Inc. Debtors filed this chapter 11 case on January 2, 2020, to prevent foreclosure sales on two of Debtors'

properties as well as stop collection actions initiated against them by other creditors.

The Plan designates creditors into eighteen classes of claims. Class 1 consists of priority unsecured claims. Debtors do not believe there are any Class 1 claimants. Class 2 through Class 14 consist of various secured claims. Class 15 and Class 16 consist of general unsecured creditors. Class 17 consists of Debtors' executory contracts and unexpired leases. Class 18 consists of Debtors' interests. The Plan provides that secured creditors in Classes 5, 6, 7, 8, 11 and 12 and unsecured creditors in Class 15 will be paid in full, with interest, on or before December 31, 2021 from the sale of real property identified as: (i) Hacienda 1 and Hacienda West Ranch (478.18 acres); (ii) Hacienda 2 and Buena Vista Ranch (345.29 acres); (iii) Pole Barn Ranch and Grazing Land (474.62 acres); (iv) Portillo Ranch (77.04 acres); and (v) Hacienda Feed lot (50 acres). Doc. #523.

Timely objections to confirmation of the Plan were filed by: (1) Keevmo, LLC ("Keevmo") (Doc. ## 546-549); (2) Stephanie Hudson ("Hudson") (Doc. ## 550-553); (3) Meggan Phillips ("Phillips") (Doc. ## 544-558, 588-589); and (4) NewRez LLC d/b/a Shellpoint Mortgage Servicing ("NewRez") (Doc. ##559-560). The objection to confirmation of NewRez has been resolved through modifications to the Plan. Doc. #571.

Classes Two through Four, Thirteen and Seventeen are unimpaired and deemed to have accepted the Plan. Classes Five, Six, Eight, Ten, Twelve, Fifteen and Eighteen are impaired and voted to accept the Plan. There are no members of Class One, and it did not vote on the Plan. Classes Fourteen and Sixteen are impaired and are comprised of disputed claims that were not temporarily allowed and were not entitled to vote on the Plan. Classes Seven (Keevmo), Nine (Phillips) and Eleven (Hudson) are impaired and voted to reject the Plan. Based on resolutions of objections to the Plan, Hudson now accepts the Plan. On October 27, 2021, Phillips withdrew her objection to the Plan because her claim has been satisfied in full through the sale of real property owned by Debtors. Doc. #776.

It is unclear to the court whether Keevmo still objects to confirmation of the Plan. In any event, the court has an independent duty to ensure that chapter 11 plans comply with the requirements of § 1129. In re Las Vegas Monorail Co., 462 B.R. 795, 798 (Bankr. D. Nev. 2011) (quoting 7 COLLIER ON BANKRUPTCY ¶1129.05[1][e] (Allan N. Resnick & Henry J. Sommer eds., 16th ed.) ("The court has a mandatory, independent duty to review plans and ensure they comply with the requirements of section 1129.")). Based on the proceedings before this court, the court finds that confirmation of the Plan should be denied because the Plan does not meet the requirements of 11 U.S.C. § 1129(a)(11).

Section 1129(a)(11) requires the court to find that the plan is feasible and confirmation of the Plan is not likely to be followed by the liquidation, or the need for further financial reorganization of Debtors or any successor to Debtors under the Plan. "Feasibility has been defined as whether the things which are to be done after confirmation can be done as a practical matter under the facts." Jorgensen v. Fed. Land Bank of Spokane (In re Jorgensen), 66 B.R. 104, 108 (B.A.P. 9th Cir. 1986) (citation omitted).

Based on evidence and proceedings currently before the court, the court finds that Debtors have not met their burden of proof as to feasibility by a preponderance of the evidence. Acequia, Inc. v. Clinton (In re Acequia, Inc.), 787 F.2d 1352, 1358 (9th Cir. 1986) (proponent has burden of demonstrating that the plan complies with the Bankruptcy Code). Specifically, the court finds that Debtors have not shown that sufficient real property will be sold such that

Debtors will be able to pay secured creditors in Classes 5, 6, 7, 8, 11 and 12 and unsecured creditors in Class 15 in full, with interest, on or before December 31, 2021, as required by the terms of the Plan.

On May 22, 2020, Debtors were authorized to employ ASU Commercial as realtors (effective as of May 11, 2020) to market and sell 77.04 acres of irrigated farmland located in Kern County, California identified as the Portillo Ranch. Doc. #118. On July 8, 2020, Debtors filed a motion to sell Portillo Ranch to Grimmway Farms for \$1.1 million. Doc. #157. On August 13, 2020, an order granting that motion was filed. Doc. #228. That sale was canceled by Grimmway Farms before the sale closed. Disclosure Statement dated September 9, 2020, Doc. #269.

On January 11, 2021, Debtors filed a second motion to sell Portillo Ranch to Debtors' children for \$1 million. Doc. #469. On February 9, 2021, an order granting the second sale was filed. Doc. #514. The original closing date on the second motion to sell Portillo Ranch was 30 days after entry of the order granting motion to sell. Decl. of Rene Garcia filed in support of 2nd motion to sell, Doc. #471. The closing date was extended several times, and the sale of Portillo Ranch finally closed on or about September 16, 2021. Doc. #744. To date, Portillo Ranch is the only piece of real property sold by Debtors in this bankruptcy case.

On October 22, 2020, Debtors were authorized to employ ASU Commercial as realtors (effective as of September 25, 2020) to market and sell 398.18 acres of irrigated farmland and 474.62 acres of grazing land located in Kern County, California identified as: (i) the Hacienda Ranch; (ii) the Pole Barn; and (iii) the Grazing Land. Doc. #325. To date, Debtors have filed no motions with the court to sell the Pole Barn or the Grazing Land.

On June 11, 2021, Debtors filed a motion to sell Hacienda 1 Ranch to KSB, LP and/or its assignee for \$6 million. Doc. #634. On August 9, 2021, an order granting the sale of Hacienda 1 Ranch was filed. Doc. #708. However, on August 14, 2021, the buyer canceled the purchase of Hacienda 1 Ranch "after Debtors refused to sell an additional 80 acres of farmland to the [b]uyer on terms unacceptable to Debtors and before escrow on the sale of the Hacienda 1 Ranch closed." Fifth Supp. Decl. of Leonard K. Welsh in support of confirmation of Plan, Doc. #727. On October 14, 2021, Debtors filed a second motion to sell Hacienda 1 Ranch to Varoojan Mirzayan or his assignee for \$6 million. Doc. #757. However, that motion was withdrawn on October 28, 2021. Doc. #780. To date, there is no motion pending with the court to sell Hacienda 1 Ranch.

To summarize, only one of the five pieces of real property identified by Debtors that are to be sold by December 31, 2021, in order to pay undisputed secured and unsecured creditors in full, with interest, as required by the Plan, has been sold. There are no motions pending before this court to approve a sale of any of the four unsold properties. There was a multi-month delay in closing the sale of Portillo Ranch after approval by this court. Based on the above, the court finds that Debtors have not met their burden of proving that sufficient real property will be sold on or before December 31, 2021, such that Debtors will be able to pay secured creditors in Classes 5, 6, 7, 8, 11 and 12 and unsecured creditors in Class 15 in full, with interest, as required by the terms of the Plan. Thus, Debtors have not shown that the Plan is feasible as required by 11 U.S.C. § 1129(a)(11), and confirmation of the Plan is denied. This ruling is without prejudice to Debtors proposing a new plan and disclosure statement for solicitation and confirmation.

MOTION FOR COMPENSATION FOR LEONARD K. WELSH, DEBTORS ATTORNEY(S)
10-5-2021 [\[750\]](#)

LEONARD WELSH/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.

The Law Offices of Leonard K. Welsh ("Movant"), counsel for the debtors and debtors in possession Eduardo Zavala Garcia and Amalia Perez Garcia (collectively, "DIP"), requests allowance of interim compensation in the amount of \$12,875.00 and reimbursement for expenses in the amount of \$267.47 for services rendered from August 1, 2021 through September 30, 2021. Doc. #750.

Section 330(a)(1) of the Bankruptcy Code authorizes "reasonable compensation for actual, necessary services rendered" and "reimbursement for actual, necessary expenses" to a professional person. 11 U.S.C. § 330(a)(1). According to the order authorizing employment of Movant, Movant may submit monthly applications for interim compensation pursuant to 11 U.S.C. § 331. Order, Doc. #33. In determining the amount of reasonable compensation to be awarded to counsel, 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).

Movant's services included, without limitation: (1) providing general case administration; (2) working with DIP's real estate broker, buyers, and agents for sale of Portillo Ranch and Hacienda 1 Ranch; (3) preparing and prosecuting fee and employment applications; (4) advising DIP on financing available in a chapter 11 case and a possible sale of additional 80 acres; (5) assisting DIP and special counsel regarding objections to claims; and (6) continued prosecution of confirmation of the amended plan. Decl. of Leonard K. Welsh, Doc. #753; Ex. B, Doc. #752. The court finds the compensation and reimbursement sought by Movant to be reasonable, actual, and necessary.

This motion is GRANTED. The court allows interim compensation in the amount of \$12,875.00 and reimbursement of expenses in the amount of \$267.47. Movant is allowed interim fees and costs pursuant to 11 U.S.C. § 331, subject to final

review and allowance pursuant to 11 U.S.C. § 330. Such allowed amounts shall be perfected, and may be adjusted, by a final application for allowance of compensation and reimbursement of expenses, which shall be filed prior to case closure. Movant may draw on any retainer held. DIP is authorized to pay the fees allowed by this order from available funds only if the estate is administratively solvent and such payment will be consistent with the priorities of the Bankruptcy Code.

6. [20-10010](#)-A-11 **IN RE: EDUARDO/AMALIA GARCIA**
[LKW-27](#)

MOTION TO SELL FREE AND CLEAR OF LIENS
10-14-2021 [[757](#)]

AMALIA GARCIA/MV
LEONARD WELSH/ATTY. FOR DBT.
WITHDRAWN

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

DISPOSITION: Dropped from calendar.

NO ORDER REQUIRED.

Movant withdrew the motion on October 28, 2021. Doc. #780.

1. [21-11698](#)-A-7 **IN RE: ANTONIO MELENA**

PRO SE REAFFIRMATION AGREEMENT WITH AMERICAN HONDA FINANCE CORP.
9-29-2021 [\[13\]](#)

VINCENT QUIGG/ATTY. FOR DBT.

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

DISPOSITION: Dropped.

ORDER: The court will issue an order.

Debtor's counsel will inform the debtor that no appearance is necessary.

The court is not approving or denying approval of the reaffirmation agreement. The debtor was represented by counsel when he entered into the reaffirmation agreement. Pursuant to 11 U.S.C. § 524(c)(3), if the debtor is represented by counsel, the agreement must be accompanied by an affidavit of the debtor's attorney attesting to the referenced items before the agreement will have legal effect. In re Minardi, 399 B.R. 841, 846 (Bankr. N.D. Okla. 2009). While the reaffirmation agreement contains the printed name of the debtor's attorney, the debtor's attorney did not sign the reaffirmation agreement. The reaffirmation agreement, in the absence of a declaration by the debtor's counsel, does not meet the requirements of 11 U.S.C. § 524(c) and is not enforceable. The debtor shall have 14 days to refile the reaffirmation agreement properly signed and endorsed by the attorney.