

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

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

**PRE-HEARING DISPOSITIONS**

**DAY: THURSDAY**  
**DATE: NOVEMBER 19, 2015**  
**CALENDAR: 9:00 A.M. CHAPTERS 13 AND 12 CASES**

**GENERAL DESIGNATIONS**

Each pre-hearing disposition is prefaced by the words "Final Ruling," "Tentative Ruling" or "No Tentative Ruling." Except as indicated below, matters designated "Final Ruling" will not be called and counsel need not appear at the hearing on such matters. Matters designated "Tentative Ruling" or "No Tentative Ruling" will be called.

**COURT'S ERRORS IN FINAL RULINGS**

If a party believes that a final ruling contains an error that would, if reflected in the order or judgment, warrant a motion under Federal Rule of Civil Procedure 60(a), as incorporated by Federal Rules of Bankruptcy Procedure 9024, then the party affected by such error shall, not later than 4:00 p.m. (PST) on the day before the hearing, inform the following persons by telephone that they wish the matter either to be called or dropped from calendar, as appropriate, notwithstanding the court's ruling: (1) all other parties directly affected by the motion; and (2) Kathy Torres, Judicial Assistant to the Honorable Fredrick E. Clement, at (559) 499-5860. Absent such a timely request, a matter designated "Final Ruling" will not be called.

1. [15-13002](#)-A-13 KARLA DAY MOTION TO CONFIRM PLAN  
VRP-2 10-1-15 [[32](#)]  
KARLA DAY/MV  
VARDUHI PETROSYAN/Atty. for dbt.

**Final Ruling**

**Motion:** Confirm Chapter 13 Plan

**Notice:** LBR 3015-1(d)(1), 9014-1(f)(1); written opposition required

**Disposition:** Granted

**Order:** Prepared by debtor's counsel using Form EDC 3-081 and signed by the trustee

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)(1), 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

Chapter 13 plan confirmation is governed by 11 U.S.C. §§ 1322, 1325 and by Federal Rule of Bankruptcy Procedure 2002(b) and Local Bankruptcy Rule 3015-1. The debtor bears the burden of proof as to each element. *In re Barnes*, 32 F.3d 405, 407 (9th Cir. 1994). The court finds that the debtor has sustained that burden, and the court will approve confirmation of the plan.

2. [14-14703](#)-A-13 BEATRICE PENA MOTION TO DISMISS CASE  
MHM-1 10-7-15 [[25](#)]  
MICHAEL MEYER/MV  
TIMOTHY SPRINGER/Atty. for dbt.  
WITHDRAWN

**Final Ruling**

The motion withdrawn, the matter is dropped as moot.

3. [15-13604](#)-A-13 MARIO/DIANA PEREZ CONTINUED MOTION TO USE CASH  
PBB-1 COLLATERAL  
MARIO PEREZ/MV 9-14-15 [[10](#)]  
PETER BUNTING/Atty. for dbt.  
RESPONSIVE PLEADING

**No tentative ruling.**

4. [13-14607](#)-A-13 GILBERT PEREZ CONTINUED MOTION TO DISMISS  
MHM-3 CASE  
MICHAEL MEYER/MV 8-20-15 [[66](#)]  
HENRY NUNEZ/Atty. for dbt.  
WITHDRAWN

**Final Ruling**

The motion withdrawn, the matter is dropped as moot.

5. [15-12611](#)-A-13 RAYMOND MARTINEZ MOTION TO CONFIRM PLAN  
SL-1 9-30-15 [[16](#)]  
RAYMOND MARTINEZ/MV  
SCOTT LYONS/Atty. for dbt.

**Final Ruling**

**Motion:** Confirm Chapter 13 Plan

**Notice:** LBR 3015-1(d)(1), 9014-1(f)(1); written opposition required

**Disposition:** Granted

**Order:** Prepared by debtor's counsel using Form EDC 3-081 and signed by the trustee

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)(1), 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

Chapter 13 plan confirmation is governed by 11 U.S.C. §§ 1322, 1325 and by Federal Rule of Bankruptcy Procedure 2002(b) and Local Bankruptcy Rule 3015-1. The debtor bears the burden of proof as to each element. *In re Barnes*, 32 F.3d 405, 407 (9th Cir. 1994). The court finds that the debtor has sustained that burden, and the court will approve confirmation of the plan.

6. [13-12512](#)-A-13 GARY ALEXANDER AND NANCY MOTION TO DISMISS CASE  
MHM-1 BAKER 10-8-15 [[60](#)]  
MICHAEL MEYER/MV  
TIMOTHY SPRINGER/Atty. for dbt.  
MICHAEL MEYER/Atty. for mv.  
WITHDRAWN

**Final Ruling**

The motion withdrawn, the matter is dropped as moot.

7. [13-17712](#)-A-13 RUBEN OLVERA AND GLORIA CONTINUED MOTION FOR  
PLF-4 CHAVEZ COMPENSATION FOR PETER L. FEAR,  
TRUSTEES ATTORNEY(S)  
9-16-15 [[135](#)]

THOMAS GILLIS/Atty. for dbt.

### **Final Ruling**

**Application:** Allowance of Final Compensation and Expense Reimbursement

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

**Disposition:** Approved

**Order:** Civil minute order

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

### **COMPENSATION AND EXPENSES**

In this Chapter 7 case, Fear Law Group, attorney for the trustee, has applied for an allowance of final compensation and reimbursement of expenses. The applicant requests that the court allow compensation in the amount of \$49,861.50 and reimbursement of expenses in the amount of \$2,135.32.

Section 330(a) of the Bankruptcy Code authorizes "reasonable compensation for actual, necessary services" rendered by a trustee, examiner or professional person employed under § 327 or § 1103 and "reimbursement for actual, necessary expenses." 11 U.S.C. § 330(a)(1). Reasonable compensation is determined by considering all relevant factors. See *id.* § 330(a)(3).

The court finds that the compensation and expenses sought are reasonable, and the court will approve the application on a final basis.

### **CIVIL MINUTE ORDER**

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

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

Fear Law Group'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 \$49,861.50 and reimbursement of expenses in the amount of \$2,135.32.

8. [15-12813](#)-A-13 MICHAEL/LAURA LEA DAY CONTINUED MOTION TO CONFIRM  
MJH-3 PLAN  
MICHAEL DAY/MV 8-28-15 [[22](#)]  
MARK HANNON/Atty. for dbt.  
OPPOSITION WITHDRAWN

**Final Ruling**

**Motion:** Confirm Chapter 13 Plan

**Notice:** LBR 3015-1(d)(1), 9014-1(f)(1); written opposition required

**Disposition:** Granted

**Order:** Prepared by debtor's counsel using Form EDC 3-081 and signed by the trustee

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)(1), 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

Chapter 13 plan confirmation is governed by 11 U.S.C. §§ 1322, 1325 and by Federal Rule of Bankruptcy Procedure 2002(b) and Local Bankruptcy Rule 3015-1. The debtor bears the burden of proof as to each element. *In re Barnes*, 32 F.3d 405, 407 (9th Cir. 1994). The court finds that the debtor has sustained that burden, and the court will approve confirmation of the plan.

9. [11-17015](#)-A-13 LARRY/ANNIE ANDERSON MOTION TO DISMISS CASE  
MHM-2 10-6-15 [[159](#)]  
MICHAEL MEYER/MV  
M. ENMARK/Atty. for dbt.  
WITHDRAWN

**Final Ruling**

The motion withdrawn, the matter is dropped as moot.

10. [14-15825](#)-A-13 PAUL GONZALES MOTION TO DISMISS CASE  
MHM-1 10-7-15 [[48](#)]  
MICHAEL MEYER/MV  
DAVID JENKINS/Atty. for dbt.

**Final Ruling**

The motion withdrawn, the matter is dropped as moot.

11. [14-15736](#)-A-13 OMAR MARTINEZ AND JUDIT MOTION TO DISMISS CASE  
MHM-2 LOPEZ 10-7-15 [[60](#)]  
MICHAEL MEYER/MV  
GLEN GATES/Atty. for dbt.

### **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).

For the reasons stated in the motion, cause exists under § 1307(c)(1) and (6) to dismiss the case. The debtor has failed to make all payments due under the confirmed plan. Payments are delinquent in the amount of \$5303.50.

### **CIVIL MINUTE ORDER**

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

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

The trustee's motion to dismiss has been presented to the court. Having entered the default of the respondent debtor for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the motion,

IT IS ORDERED that the motion is granted. The debtor has failed to make all payments due under the confirmed chapter 13 plan in this case. Payments are delinquent in the amount of \$5303.50. This delinquency constitutes cause to dismiss this case. 11 U.S.C. § 1307(c)(1), (6). The court hereby dismisses this case.

12. [14-15936](#)-A-13 BRENT SCHAIBLE  
MHM-2  
MICHAEL MEYER/MV  
DAVID JENKINS/Atty. for dbt.

MOTION TO DISMISS CASE  
10-7-15 [[47](#)]

**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).

For the reasons stated in the motion, cause exists under § 1307(c)(1) and (6) to dismiss the case. The debtor has failed to make all payments due under the confirmed plan. Payments are delinquent in the amount of \$2240.

**CIVIL MINUTE ORDER**

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

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

The trustee's motion to dismiss has been presented to the court. Having entered the default of the respondent debtor for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the motion,

IT IS ORDERED that the motion is granted. The debtor has failed to make all payments due under the confirmed chapter 13 plan in this case. Payments are delinquent in the amount of \$2240. This delinquency constitutes cause to dismiss this case. 11 U.S.C. § 1307(c)(1), (6). The court hereby dismisses this case.

13. [15-10639](#)-A-13 RACHEL RIVERA  
TCS-4  
RACHEL RIVERA/MV  
TIMOTHY SPRINGER/Atty. for dbt.

MOTION TO MODIFY PLAN  
10-15-15 [[53](#)]

**Final Ruling**

The matter has been renoticed for December 16, 2015, at 9:00 a.m. for hearing on the Corrected Second Modified Plan.

14. [12-14743](#)-A-13 DAVID LARSON AND TINA MOTION TO DISMISS CASE  
MHM-2 MEDEIROS-LARSON 10-6-15 [[61](#)]  
MICHAEL MEYER/MV  
THOMAS ARMSTRONG/Atty. for dbt.

**Tentative Ruling**

**Motion:** Dismiss Case

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

**Disposition:** Granted

**Order:** Civil minute order

The chapter 13 trustee moves to dismiss this case, asserting that cause exists under § 1307(c)(1) and (6) as the debtor has failed to make all payments due under the plan. The trustee contends that the debtor is delinquent in the amount of \$9680 under the confirmed plan and \$452 pursuant to the proposed modified plan filed on November 3, 2015.

Although the debtor has filed a modified plan, the debtor has not opposed the motion and the modified plan therefore does not fully resolve the grounds for dismissal. A delinquency still exists as of the date of the opposition. The court is unable to deny the motion given the outstanding delinquency.

**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, the opposition, responses, and oral argument at the hearing, if any, and good cause appearing,

IT IS ORDERED that the motion is granted. The debtor has failed to make all payments due under the confirmed chapter 13 plan in this case. Payments are delinquent in the amount of \$452. This delinquency constitutes cause to dismiss this case. 11 U.S.C. § 1307(c)(1), (6). The court hereby dismisses this case.

15. [14-10145](#)-A-13 CHRISTOPHER/MELODIE SMITH MOTION TO DISMISS CASE  
MHM-1 10-6-15 [[37](#)]  
MICHAEL MEYER/MV  
JOSEPH ARNOLD/Atty. for dbt.  
WITHDRAWN

**Final Ruling**

The motion withdrawn, the matter is dropped as moot.



16. [13-13646](#)-A-13 JANELLE JAMES MOTION TO DISMISS CASE  
MHM-2 10-7-15 [[61](#)]  
MICHAEL MEYER/MV  
PETER BUNTING/Atty. for dbt.  
RESPONSIVE PLEADING

**Final Ruling**

The motion withdrawn, the matter is dropped as moot.

17. [12-18847](#)-A-13 SERGIO/MARIA GONZALEZ MOTION TO DISMISS CASE  
MHM-1 10-6-15 [[26](#)]  
MICHAEL MEYER/MV  
PETER BUNTING/Atty. for dbt.  
WITHDRAWN

**Final Ruling**

The motion withdrawn, the matter is dropped as moot.

18. [15-12949](#)-A-13 KENNETH/JULIE SCOTT OBJECTION TO CONFIRMATION OF  
MHM-1 PLAN BY TRUSTEE MICHAEL H.  
MEYER  
11-2-15 [[26](#)]

JERRY LOWE/Atty. for dbt.

**Tentative Ruling**

**Objection:** Trustee's Objection to Confirmation of Plan

**Notice:** LBR 3015-1(c)(4), 9014-1(f)(2); no written opposition required

**Disposition:** Sustained

**Order:** Civil minute order

No responding party is required to file written opposition to the objection; opposition may be presented at the hearing. LBR 3015-1(c)(4), 9014-1(f)(2)(C). If opposition is presented at the hearing, the court may rule on the merits or set a briefing schedule. Absent such opposition, the court will adopt this tentative ruling.

**CONFIRMATION OF PLAN**

The chapter 13 trustee objects on several grounds, including the plan's failure to fund, its failure to meet liquidation based on a preference payment, and its failure to fund within 60 months.

But the objection may be resolved on a different ground raised by the trustee. Such ground is that the debtors' plan reduces the class 2 claim of TD Auto Finance (secured by a 2011 Nissan Cube Wagon) based on the value of the collateral. The court takes judicial notice of the docket in this case under Fed. R. Evid. 201(b). No motion to value collateral has been filed.

The plan proposes to reduce a Class 2 secured claim based on the value of the collateral. But the failure to file a motion to value such collateral that is granted before or in conjunction with the hearing on confirmation warrants denial of confirmation of the plan. LBR 3015-1(j); see also Ch. 13 Plan § 2.09(c).

#### **CIVIL MINUTE ORDER**

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

The chapter 13 trustee's objection to confirmation has been presented to the court. Having considered the objection and the terms of the plan, and having taken judicial notice of the court's docket, and the absence of a motion to value collateral of Class 2 claimant TD Auto Finance,

IT IS ORDERED that the objection is sustained. Debtors' plan reduces a class 2 claim based on the value of the collateral, but Debtors have not obtained an order valuing such collateral.

19. [15-13253](#)-A-13 PEDRO/FELIPA GUTIERREZ MOTION TO DISMISS CASE  
MHM-1 11-5-15 [[28](#)]  
MICHAEL MEYER/MV  
SCOTT LYONS/Atty. for dbt.

#### **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 debtors have failed to provide the trustee with required or requested documents. See 11 U.S.C. § 521(a)(3)-(4). The debtors have also failed to make their October 25, 2015 plan payment.

For the reasons stated in the motion, cause exists to dismiss the case. *Id.* § 1307(c)(1).

#### **CIVIL MINUTE ORDER**

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

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

The trustee's motion to dismiss has been presented to the court. Having entered the default of the respondent debtor for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the motion,

IT IS ORDERED that the motion is granted for unreasonable delay by the debtor that is prejudicial to creditors. The court hereby dismisses this case.

20. [15-13353](#)-A-13 LISA FREYTES  
PBB-1  
LISA FREYTES/MV  
PETER BUNTING/Atty. for dbt.

MOTION TO VALUE COLLATERAL OF  
CAPITAL ONE AUTO FINANCE  
10-20-15 [[17](#)]

### **Final Ruling**

**Motion:** Value Collateral [Personal Property; Motor Vehicle]

**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 respondent 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).

### **VALUATION OF COLLATERAL**

Chapter 13 debtors may value collateral by noticed motion. Fed. R. Bankr. P. 3012. Section 506(a) of the Bankruptcy Code provides, "An allowed claim of a creditor secured by a lien on property in which the estate has an interest . . . is a secured claim to the extent of the value of such creditor's interest in the estate's interest in such property" and is unsecured as to the remainder. 11 U.S.C. § 506(a). For personal property, value is defined as "replacement value" on the date of the petition. *Id.* § 506(a)(2). For "property acquired for personal, family, or household purposes, replacement value shall mean the price a retail merchant would charge for property of that kind considering the age and condition of the property at the time value is determined." *Id.* The costs of sale or marketing may not be deducted. *Id.*

A debtor's ability to value collateral consisting of a motor vehicle is limited by the terms of the hanging paragraph of § 1325(a). See 11 U.S.C. § 1325(a) (hanging paragraph). Under this statute, a lien secured by a motor vehicle cannot be stripped down to the collateral's value if: (i) the lien securing the claim is a purchase money security interest, (ii) the debt was incurred within the 910-day period preceding the date of the petition, and (iii) the motor vehicle was

acquired for the debtor's personal use. 11 U.S.C. § 1325(a) (hanging paragraph).

In this case, the debtor seeks to value collateral consisting of a motor vehicle described as a 2010 Hyundai Elantra GLS. The debt secured by the vehicle was not incurred within the 910-day period preceding the date of the petition. The court values the vehicle at \$8430.

#### **CIVIL MINUTE ORDER**

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

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

The debtor's motion to value collateral consisting of a motor vehicle 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 motion,

IT IS ORDERED that the motion is granted. The personal property collateral described as a Hyundai Elantra GLS has a value of \$8430. No senior liens on the collateral have been identified. The respondent has a secured claim in the amount of \$8430 equal to the value of the collateral that is unencumbered by senior liens. The respondent has a general unsecured claim for the balance of the claim.

21. [15-13653](#)-A-13 BRADLEY JAURIQUE  
MHM-1

OBJECTION TO CONFIRMATION OF  
PLAN BY TRUSTEE MICHAEL H.  
MEYER  
11-2-15 [[24](#)]

JERRY LOWE/Atty. for dbt.

#### **Tentative Ruling**

**Objection:** Trustee's Objection to Confirmation of Plan

**Notice:** LBR 3015-1(c)(4), 9014-1(f)(2); no written opposition required

**Disposition:** Sustained

**Order:** Civil minute order

No responding party is required to file written opposition to the objection; opposition may be presented at the hearing. LBR 3015-1(c)(4), 9014-1(f)(2)(C). If opposition is presented at the hearing, the court may rule on the merits or set a briefing schedule. Absent such opposition, the court will adopt this tentative ruling.

#### **CONFIRMATION OF PLAN**

The chapter 13 trustee objects to confirmation on several grounds. These grounds include the plan's (i) failure to provide for the full payment of all priority claims, (ii) lack of feasibility based on a delinquency, (iii) a term that exceeds 60 months based on a discrepancy between the plan's provision for priority claims and the filed priority claims, and (iv) failure to provide for all projected

disposable income of the debtor to unsecured creditors. The objection also raises an issue under § 1325(a)(9).

But the objection may be resolved on a different ground raised by the trustee. Such ground is that the debtors' plan reduces the class 2 claim of City Loan, secured by a 2005 Hummer, based on the value of the collateral. The court takes judicial notice of the docket in this case under Fed. R. Evid. 201(b). No motion to value collateral has been filed.

Thus, the plan proposes to reduce a Class 2 secured claim based on the value of the collateral. But the failure to file a motion to value such collateral that is granted before or in conjunction with the hearing on confirmation warrants denial of confirmation of the plan. LBR 3015-1(j); see also Ch. 13 Plan § 2.09(c).

#### **75-DAY ORDER**

This case was filed September 17, 2015. The trustee has requested a bar date for achieving confirmation of a plan in this case.

A Chapter 13 plan must be confirmed no later than the first hearing date available after the 75-day period that commences on the date of this hearing. If a Chapter 13 plan has not been confirmed by such date, the court may dismiss the case on the trustee's motion. See 11 U.S.C. § 1307(c)(1).

#### **CIVIL MINUTE ORDER**

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

The chapter 13 trustee's objection to confirmation has been presented to the court. Having considered the objection and the terms of the plan, and having taken judicial notice of the court's docket, and the absence of a motion to value collateral of Class 2 claimant City Loan,

IT IS ORDERED that the objection is sustained. Debtors' plan reduces a class 2 claim based on the value of the collateral, but Debtors have not obtained an order valuing such collateral.

IT IS FURTHER ORDERED that a Chapter 13 plan must be confirmed no later than the first hearing date available after the 75-day period that commences on the date of this hearing. If a Chapter 13 plan has not been confirmed by such date, the court may dismiss the case on the trustee's motion.

22. [15-14153](#)-A-13 KEVIN/MACKENZIE FERREIRA MOTION TO EXTEND AUTOMATIC STAY  
CAH-1 10-28-15 [[8](#)]  
KEVIN FERREIRA/MV  
C. HUGHES/Atty. for dbt.

### **Tentative Ruling**

**Motion:** Extend the Automatic Stay

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

**Disposition:** Granted except as to any creditor without proper notice of this motion

**Order:** Prepared by moving party pursuant to the instructions below

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).

Upon request of a party in interest, the court may extend the automatic stay where the debtor has had one previous bankruptcy case that was pending within the 1-year period prior to the filing of the current bankruptcy case but was dismissed. See 11 U.S.C. § 362(c)(3)(B). Procedurally, the automatic stay may be extended only "after notice and a hearing *completed* before the expiration of the 30-day period" after the filing of the petition in the later case. *Id.* (emphasis added). To extend the stay, the court must find that the filing of the *later case* is in good faith as to the creditors to be stayed, and the extension of the stay may be made subject to conditions or limitations the court may impose. *Id.*

For the reasons stated in the motion and supporting papers, the court finds that the filing of the current case is in good faith as to the creditors to be stayed. The motion will be granted except as to any creditor without proper notice of this motion.

23. [15-12157](#)-A-13 ALFONSO JURADO GONZALES MOTION TO DISMISS CASE  
MHM-2 10-7-15 [[36](#)]  
MICHAEL MEYER/MV  
SCOTT LYONS/Atty. for dbt.  
WITHDRAWN

### **Final Ruling**

The motion withdrawn, the matter is dropped as moot.

24. [15-12763](#)-A-13 FRANK MOOSIOS  
DRJ-1  
LOUIS MOOSIOS/MV

CONTINUED OBJECTION TO  
CONFIRMATION OF PLAN BY LOUIS  
MOOSIOS  
9-1-15 [[28](#)]

TRUDI MANFREDO/Atty. for dbt.  
DAVID JENKINS/Atty. for mv.  
RESPONSIVE PLEADING

**No tentative ruling.**

25. [12-11265](#)-A-13 EDWARD/TRACY AUSERMAN  
MHM-3  
MICHAEL MEYER/MV  
SCOTT LYONS/Atty. for dbt.

MOTION TO DISMISS CASE  
10-6-15 [[43](#)]

### **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).

For the reasons stated in the motion, cause exists under § 1307(c)(1) and (6) to dismiss the case. The debtor has failed to make all payments due under the confirmed plan. Payments are delinquent in the amount of \$3640.

### **CIVIL MINUTE ORDER**

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

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

The trustee's motion to dismiss has been presented to the court. Having entered the default of the respondent debtor for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the motion,

IT IS ORDERED that the motion is granted. The debtor has failed to make all payments due under the confirmed chapter 13 plan in this case. Payments are delinquent in the amount of \$3640. This delinquency constitutes cause to dismiss this case. 11 U.S.C. § 1307(c)(1), (6). The court hereby dismisses this case.

26. [13-11767](#)-A-13 CHARLES/RITA SCHROEDER MOTION TO DISMISS CASE  
MHM-1 10-6-15 [[34](#)]  
MICHAEL MEYER/MV  
JEFFREY ROWE/Atty. for dbt.  
RESPONSIVE PLEADING  
WITHDRAWN

**Final Ruling**

The motion withdrawn, the matter is dropped as moot.

27. [13-16468](#)-A-13 SAM/DONNA BOGDANOVICH MOTION TO MODIFY PLAN  
FLG-1 10-7-15 [[27](#)]  
SAM BOGDANOVICH/MV  
PETER FEAR/Atty. for dbt.

**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 debtor's counsel using Form EDC 3-081 and signed by the trustee

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 confirmation 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. The debtor bears the burden of proof as to each element. *In re Barnes*, 32 F.3d 405, 407 (9th Cir. 1994). The court finds that the debtor has sustained that burden. The court will grant the motion and approve the modification of the plan.



28. [15-12776](#)-A-13 TONY/CHRISTINA BONILLA  
MHM-2

OBJECTION TO CONFIRMATION OF  
PLAN BY TRUSTEE MICHAEL H.  
MEYER  
11-2-15 [[33](#)]

JERRY LOWE/Atty. for dbt.

### **Tentative Ruling**

**Objection:** Trustee's Objection to Confirmation of Plan

**Notice:** LBR 3015-1(c)(4), 9014-1(f)(2); no written opposition required

**Disposition:** Sustained

**Order:** Civil minute order

No responding party is required to file written opposition to the objection; opposition may be presented at the hearing. LBR 3015-1(c)(4), 9014-1(f)(2)(C). If opposition is presented at the hearing, the court may rule on the merits or set a briefing schedule. Absent such opposition, the court will adopt this tentative ruling.

### **CONFIRMATION OF PLAN**

The chapter 13 trustee objects to confirmation on several grounds, including (i) that the plan fails to provide for all debtors' projected disposable income towards payments to unsecured creditors under the plan, and (ii) that the plan fails to provide more than a 0% interest on a secured claim that is proposed to be paid in full.

But the objection may be resolved on a different ground raised by the trustee. Such ground is that the debtors' plan reduces the class 2 claim of GM Financial (secured by a 2012 Chevrolet Cruze) based on the value of the collateral. The court takes judicial notice of the docket in this case under Fed. R. Evid. 201(b). No motion to value collateral has been filed.

Thus, the plan proposes to reduce a Class 2 secured claim based on the value of the collateral. But the failure to file a motion to value such collateral that is granted before or in conjunction with the hearing on confirmation warrants denial of confirmation of the plan. LBR 3015-1(j); see also Ch. 13 Plan § 2.09(c).

### **75-DAY ORDER**

This case was filed July 14, 2015. The trustee has requested a bar date for achieving confirmation of a plan in this case.

A Chapter 13 plan must be confirmed no later than the first hearing date available after the 75-day period that commences on the date of this hearing. If a Chapter 13 plan has not been confirmed by such date, the court may dismiss the case on the trustee's motion. See 11 U.S.C. § 1307(c)(1).

### **CIVIL MINUTE ORDER**

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

The chapter 13 trustee's objection to confirmation has been presented to the court. Having considered the objection and the terms of the plan, and having taken judicial notice of the court's docket, and the

absence of a motion to value collateral of Class 2 claimant GM Financial,

IT IS ORDERED that the objection is sustained. Debtors' plan reduces a class 2 claim based on the value of the collateral, but Debtors have not obtained an order valuing such collateral.

IT IS FURTHER ORDERED that a Chapter 13 plan must be confirmed no later than the first hearing date available after the 75-day period that commences on the date of this hearing. If a Chapter 13 plan has not been confirmed by such date, the court may dismiss the case on the trustee's motion.

29. [10-63277](#)-A-12 DELVIN/DEBORAH GEORGESON CONTINUED MOTION TO DISMISS  
MNE-3 CASE  
M. ENMARK/MV 5-27-15 [[69](#)]  
HILTON RYDER/Atty. for dbt.  
RESPONSIVE PLEADING

**No tentative ruling.**

30. [14-12777](#)-A-13 RAY/SANDY TOLLISON CONTINUED MOTION TO DISMISS  
MHM-2 CASE  
MICHAEL MEYER/MV 9-10-15 [[50](#)]  
URSULA BARRIOS/Atty. for dbt.  
WITHDRAWN

**Final Ruling**

The motion withdrawn, the matter is dropped as moot.

31. [14-12777](#)-A-13 RAY/SANDY TOLLISON MOTION TO MODIFY PLAN  
UGB-78 10-18-15 [[58](#)]  
RAY TOLLISON/MV  
URSULA BARRIOS/Atty. for dbt.  
RESPONSIVE PLEADING

**Final Ruling**

**Motion:** Modification of a Chapter 13 Plan

**Disposition:** Denied without prejudice

**Order:** Civil minute order

**NOTICE NOT SENT TO ALL CREDITORS AND PARTIES IN INTEREST**

All creditors and parties in interest have not received the notice required by Federal Rules of Bankruptcy Procedure 3015(g). The certificate of service shows that several creditors or parties in interest have not received notice or have not received notice at the correct address.

For matters requiring notice to all creditors and parties in interest, the court prefers that a current copy of the ECF master mailing list, accessible through PACER, be attached to the certificate of service to indicate that notice has been transmitted to all creditors and parties in interest. The copy of the master mailing list should indicate a date near in time to the date of service of the notice. In addition, governmental creditors must be noticed at the address provided on the Roster of Governmental Agencies, Form EDC 2-785, so the master address list and schedule of creditors must be completed using the correct addresses shown on such roster. See Fed. R. Bankr. P. 2002(j), 5003(e); LBR 2002-1.

#### **NOTICE PERIOD WAS INSUFFICIENT**

The moving party did not provide a sufficient period of notice of the hearing on the motion or the time fixed for filing objections. Federal Rule of Bankruptcy Procedure 3015(g) requires not less than 21 days' notice of the time fixed for filing objections and the hearing to consider a proposed modification of a chapter 13 plan. To comply with both Federal Rule of Bankruptcy Procedure 3015(g) and Local Bankruptcy Rule 9014-1(f)(1), creditors and parties in interest must be given at least 35 days' notice of the motion. LBR 3015-1(d).

For this matter, the motion was served and filed on October 18, 2015. Thirty-five days before the hearing was October 15, 2015. Thus, creditors and parties in interest received less than 21 days' notice of the time fixed for filing objections, and the motion and notice of hearing were filed and served less than 35 days prior to the hearing.

#### **CIVIL MINUTE ORDER**

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

The debtors' motion for modification of their chapter 13 plan has been presented to the court. Given the procedural deficiencies discussed by the court in its ruling,

IT IS ORDERED that the motion is denied without prejudice.

32. <a href="#">13-12379</a> -A-13 DONALD/PAMELA GARCIA MHM-1 DONALD GARCIA/MV PETER BUNTING/Atty. for dbt. WITHDRAWN	MOTION TO DISMISS CASE 10-7-15 [ <a href="#">42</a> ]
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#### **Final Ruling**

The motion withdrawn, the matter is dropped as moot.

33. [15-13582](#)-A-13 DAVID/SHEREE PIEPER  
SW-1  
ALLY FINANCIAL/MV  
TIMOTHY SPRINGER/Atty. for dbt.  
TORIANA HOLMES/Atty. for mv.  
ORDER, ECF NO. 35
- OBJECTION TO CONFIRMATION OF  
PLAN BY ALLY FINANCIAL  
10-14-15 [[23](#)]

**Final Ruling**

The objection resolved by Order, ECF #35, the matter is dropped as moot.

34. [15-13184](#)-A-13 DEBBY RENNA  
FJG-2  
DEBBY RENNA/MV  
F. GIST/Atty. for dbt.  
RESPONSIVE PLEADING
- CONTINUED MOTION TO CONFIRM  
PLAN  
9-3-15 [[22](#)]

**No tentative ruling.**

35. [11-18789](#)-A-13 DAVID/BONNIE WHITEHEAD  
MHM-2  
MICHAEL MEYER/MV  
SCOTT LYONS/Atty. for dbt.
- MOTION TO DISMISS CASE  
10-6-15 [[57](#)]

**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).

For the reasons stated in the motion, cause exists under § 1307(c)(1) and (6) to dismiss the case. The debtor has failed to make all payments due under the confirmed plan. Payments are delinquent in the amount of \$11,412.

**CIVIL MINUTE ORDER**

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

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

The trustee's motion to dismiss has been presented to the court. Having entered the default of the respondent debtor for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the motion,

IT IS ORDERED that the motion is granted. The debtor has failed to make all payments due under the confirmed chapter 13 plan in this case. Payments are delinquent in the amount of \$11,412. This delinquency constitutes cause to dismiss this case. 11 U.S.C. § 1307(c)(1), (6). The court hereby dismisses this case.

36. [15-13291](#)-A-13 JASON/ASHLEY WILLIAMS  
MHM-1

OBJECTION TO CONFIRMATION OF  
PLAN BY TRUSTEE MICHAEL H.  
MEYER  
11-2-15 [[27](#)]

RANDY RISNER/Atty. for dbt.

### **Tentative Ruling**

**Objection:** Trustee's Objection to Confirmation of Plan

**Notice:** LBR 3015-1(c)(4), 9014-1(f)(2); no written opposition required

**Disposition:** Sustained

**Order:** Civil minute order

No responding party is required to file written opposition to the objection; opposition may be presented at the hearing. LBR 3015-1(c)(4), 9014-1(f)(2)(C). If opposition is presented at the hearing, the court may rule on the merits or set a briefing schedule. Absent such opposition, the court will adopt this tentative ruling.

### **CONFIRMATION OF PLAN**

The chapter 13 trustee objects to confirmation on several grounds, including (i) that the plan payment proposed to be made by the debtors is insufficient to cover the plan dividends to creditors, (ii) that the debtor has failed to provide notice to the holder of a domestic support obligation of the bankruptcy or the plan, and (iii) that the plan fails to provide for all the debtors' projected disposable income to be paid to unsecured creditors.

But the objection may be resolved on a different ground raised by the trustee. Such ground is that the debtors' plan reduces the class 2 claims of Santander (secured by a Dodge Caravan) and GM Financial (secured by a Chevrolet Sonic) based on the value of each claimholder's collateral. The court takes judicial notice of the docket in this case under Fed. R. Evid. 201(b). No motion to value collateral has been filed.

Thus, the plan proposes to reduce Class 2 secured claims based on the value of the collateral. But the failure to file a motion to value such collateral that is granted before or in conjunction with the hearing on confirmation warrants denial of confirmation of the plan. LBR 3015-1(j); see also Ch. 13 Plan § 2.09(c).

## **75-DAY ORDER**

This case was filed August 19, 2015. The trustee has requested a bar date for achieving confirmation of a plan in this case.

A Chapter 13 plan must be confirmed no later than the first hearing date available after the 75-day period that commences on the date of this hearing. If a Chapter 13 plan has not been confirmed by such date, the court may dismiss the case on the trustee's motion. See 11 U.S.C. § 1307(c)(1).

## **CIVIL MINUTE ORDER**

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

The chapter 13 trustee's objection to confirmation has been presented to the court. Having considered the objection and the terms of the plan, and having taken judicial notice of the court's docket, and the absence of motions to value collateral of Class 2 claimants Santander and GM Financial,

IT IS ORDERED that the objection is sustained. Debtors' plan reduces a class 2 claim based on the value of the collateral, but Debtors have not obtained an order valuing such collateral.

IT IS FURTHER ORDERED that a Chapter 13 plan must be confirmed no later than the first hearing date available after the 75-day period that commences on the date of this hearing. If a Chapter 13 plan has not been confirmed by such date, the court may dismiss the case on the trustee's motion.

37.	<a href="#"><u>14-15493</u></a> -A-13 DANIEL/LYDIA WILLIAMS MHM-2 MICHAEL MEYER/MV PETER FEAR/Atty. for dbt. WITHDRAWN	MOTION TO DISMISS CASE 10-7-15 [ <a href="#"><u>30</u></a> ]
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## **Final Ruling**

The motion withdrawn, the matter is dropped as moot.

38.	<a href="#"><u>15-12996</u></a> -A-13 NIGEL MARIN	ORDER TO SHOW CAUSE - FAILURE TO PAY FEES 11-2-15 [ <a href="#"><u>48</u></a> ]
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## **Tentative Ruling**

Should the balance of \$65 due October 27, 2015, remain unpaid by the time of the hearing, the case may be dismissed without further notice or hearing.

39. [15-13099](#)-A-13 MARDONIO CRUZ  
MHM-1  
MICHAEL MEYER/MV  
GEOFFREY ADALIAN/Atty. for dbt.

MOTION TO DISMISS CASE  
10-8-15 [[29](#)]

**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 \$1000 as of September 30, 2015.

**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.

40. [13-17712](#)-A-13 RUBEN OLVERA AND GLORIA  
FLG-5 CHAVEZ  
PETER FEAR/MV

CONTINUED OBJECTION TO  
CONFIRMATION OF PLAN BY FEAR  
LAW GROUP, P.C.  
10-20-15 [[154](#)]

THOMAS GILLIS/Atty. for dbt.  
PETER FEAR/Atty. for mv.

**No tentative ruling.**