



**UNITED STATES BANKRUPTCY COURT
Eastern District of California
Honorable René Lastreto II
Department B – Courtroom #13
Fresno, California**

Hearing Date: Wednesday, December 11, 2024

Unless otherwise ordered, all matters before the Honorable René Lastreto II, shall be simultaneously: (1) **In Person** at, Courtroom #13 (Fresno hearings only), (2) via **ZoomGov Video**, (3) via **ZoomGov Telephone**, and (4) via **CourtCall**. You may choose any of these options unless otherwise ordered or stated below.

All parties or their attorneys who wish to appear at a hearing remotely must sign up by **4:00 p.m. one business day** prior to the hearing. Information regarding how to sign up can be found on the **Remote Appearances** page of our website at <https://www.caeb.uscourts.gov/Calendar/CourtAppearances>. Each party/attorney who has signed up will receive a Zoom link or phone number, meeting I.D., and password via e-mail.

If the deadline to sign up has passed, parties and their attorneys who wish to appear remotely must contact the Courtroom Deputy for the Department holding the hearing.

Please also note the following:

- Parties in interest and/or their attorneys may connect to the video or audio feed free of charge and should select which method they will use to appear when signing up.
- Members of the public and the press who wish to attend by ZoomGov may only listen in to the hearing using the Zoom telephone number. Video participation or observing are not permitted.
- Members of the public and the press may not listen in to trials or evidentiary hearings, though they may attend in person unless otherwise ordered.

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

1. Review the [Pre-Hearing Dispositions](#) prior to appearing at the hearing.
2. Parties appearing via CourtCall are encouraged to review the [CourtCall Appearance Information](#). If you are appearing by ZoomGov phone or video, please join at least 10 minutes prior to the start of the calendar and wait with your microphone muted until the matter is called.

Unauthorized Recording is Prohibited: Any recording of a court proceeding held by video or teleconference, including "screen shots" or other audio or visual copying of a hearing is prohibited. Violation may result in sanctions, including removal of court-issued media credentials, denial of entry to future hearings, or any other sanctions deemed necessary by the court. For more information on photographing, recording, or broadcasting Judicial Proceedings, please refer to Local Rule 173(a) of the United States District Court for the Eastern District of California.

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.

Post-Publication Changes: 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 any possible updates.

9:30 AM

1. [24-12903](#)-B-7 **IN RE: ROCHELLE FISHER**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES
11-12-2024 [\[19\]](#)

THOMAS AMBERG/ATTY. FOR DBT.
CONVERTED TO CHAPTER 7 ON 11/15/24

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 installment fees now due have been paid.
Accordingly, the order to show cause will be VACATED.

The order permitting the payment of filing fees in installments will
be modified to provide that if future installments are not received by
the due date, the case will be dismissed without further notice or
hearing.

2. [24-12305](#)-B-13 **IN RE: PAMELA FLEMING**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES
11-15-2024 [\[36\]](#)

BENNY BARCO/ATTY. FOR DBT.
\$79.00 INSTALLMENT FILING FEE 11/19/24

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 installment fees now due have been paid.
Accordingly, the order to show cause will be VACATED.

The order permitting the payment of filing fees in installments will
be modified to provide that if future installments are not received by
the due date, the case will be dismissed without further notice or
hearing.

3. [24-12305](#)-B-13 **IN RE: PAMELA FLEMING**
[KMM-1](#)

CONTINUED OBJECTION TO CONFIRMATION OF PLAN
BY CREDITOR SERVBANK, SB
9-30-2024 [[21](#)]

SERVBANK, SB/MV
BENNY BARCO/ATTY. FOR DBT.
KIRSTEN MARTINEZ/ATTY. FOR MV.

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

DISPOSITION: Withdrawn.

No order is required.

On December 6, 2024, Servbank, SB as attorney-in-fact, Castle & Cooke Mortgage ("Secured Creditor") withdrew the Objection. Accordingly, this Objection is WITHDRAWN.

4. [24-12714](#)-B-13 **IN RE: SEBASTIAN GUTIERREZ**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES
11-25-2024 [[36](#)]

PETER MACALUSO/ATTY. FOR DBT.

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 installment fees have been paid in full. Accordingly, the order to show cause will be VACATED.

5. [24-10933](#)-B-13 **IN RE: JONATHAN BOYKIN**
[TCS-1](#)

MOTION TO MODIFY PLAN
11-6-2024 [\[18\]](#)

JONATHAN BOYKIN/MV
TIMOTHY SPRINGER/ATTY. FOR DBT.

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Granted.

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

Jonathan Boykin ("Debtor") moves for an order confirming the *First Modified Chapter 13 Plan* dated November 6, 2024. Docs. #18, #23. Debtor's current plan was confirmed on July 7, 2024. Doc. #15.

This motion was set for hearing on 35 days' notice as required by Local Rule of Practice ("LBR") 3015-1(d)(1). The failure of any party in interest, including but not limited to creditors, the U.S. Trustee, and the case Trustee, 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). Therefore, the defaults of the above-mentioned parties in interest are entered. Upon default, factual allegations will be taken as true (except those relating to amounts of damages). *Televideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917 (9th Cir. 1987).

No party has timely objected. Nevertheless, this matter will proceed as scheduled for the reasons outlined below.

The motion requests that the confirmed plan be modified as follows:

1. Debtor's plan payments to be an aggregate total of \$10,903.86 for months 1-6. Debtor's plan payments to be \$2,625.00 for months 7-60. This is the same monthly payment Debtor was to have made under the original plan.
2. Debtor's Class 1 Creditor (Shellpoint Mortgage Servicing) to receive 60 payments by month 60.
3. A post-petition arrearage claim will be created and paid to address any missed payments prior to the filing of this Amended Plan. The Amended Plan is silent as to what the arrearage is or how it is to be paid through the Amended Plan.
4. The plan provisions are otherwise unchanged.

Doc. #23.

Debtor avers that this modification is necessary because Debtor became delinquent in plan payments due to unspecified "difficulties with [his] bank account." Doc. #20. Debtor avers that he does not presently have the funds to cure his delinquency. *Id.* Debtor's Schedule I&J indicate that he can afford the proposed monthly plan payment. Doc. #22.

No party in interest has objected, and the defaults of all non-responding parties in interest are entered. However, the court is reticent to allow the modification based on the assertion that Debtor can afford the payments when there is an unknown arrearage amount. Accordingly, this matter will proceed as scheduled.

If the Debtor can assuage the court's concerns about the feasibility of the modified plan, the court is inclined to GRANT this motion. If so, the order shall include the docket control number of the motion, shall reference the plan by the date it was filed, and shall be approved as to form by Trustee.

6. [24-12658](#)-B-13 **IN RE: GILBERT/REYNA VALLE**
[PBB-2](#)

MOTION TO VALUE COLLATERAL OF DRIVEWAY FINANCE CORPORATION
11-8-2024 [[39](#)]

REYNA VALLE/MV
PETER BUNTING/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.

Gilbert ("Gilbert") and Reyna Valle (collectively "Debtors") move for an order valuing a 2021 Toyota Tundra TRD Pro with 52,100 miles ("Vehicle") at \$46,513.00 under 11 U.S.C. § 506(a). Doc. #39 *et seq.* Vehicle is encumbered by a purchase money security interest in favor of Driveway Finance Corporation ("Creditor"). *Id.*; *cf.* Proof of Claim No. 10-1. Debtors complied with Fed. R. Bankr. P. 3012(b) and 7004(b)(3) by serving Creditor's Registered Agent and also Creditor at the address listed in Creditor's proof of claim on June 22, 2023. Doc. #41.

No party in interest timely filed written opposition. This motion will be GRANTED.

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 the creditors, the chapter 13 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 amounts of damages). *Televideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires that a plaintiff make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

11 U.S.C. § 1325(a)(*) (the hanging paragraph) states that 11 U.S.C. § 506 is not applicable to claims described in that paragraph if (1) the creditor has a purchase money security interest securing the debt that is the subject of the claim, (2) the debt was incurred within 910 days preceding the filing of the petition, and (3) the collateral is a motor vehicle acquired for the personal use of the debtor.

11 U.S.C. § 506(a)(1), which applies to all debtors under this title, states:

An allowed claim of a creditor secured by a lien on property in which the estate has an interest, or that is subject to setoff under section 553 of this title, is a secured claim to the extent of the value of such creditor's interest in the estate's interest in such property, or to the extent of the amount subject to setoff, as the case may be, and is an unsecured claim to the extent that the value of such creditor's interest or the amount so subject to set off is less than the amount of such allowed claim. Such value shall be determined in light of the purpose of the valuation and of the proposed disposition or use of such property, and in conjunction with any hearing on such disposition or use or on a plan affecting such creditor's interest.

11 U.S.C. § 506(a)(2) states:

If the debtor is an individual in a case under chapter 7 or 13, such value with respect to personal property securing an allowed claim shall be determined based on the replacement value of such property as of the date of the filing of the petition without deduction for costs of sale or marketing. With respect to 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.

Here, Gilbert borrowed money from Creditor to purchase Vehicle on or about September 5, 2021, which is more than 910 days preceding the September 12, 2024, petition date. Docs. #1, #41; POC #10-1 at pg. 11. Thus, the elements of § 1325(a) (*) are not met and § 506 is applicable.

Gilbert declares Vehicle has a replacement value of \$46,513.00. Doc. #41. Debtor is competent to testify as to the value of the Vehicle. Given the absence of contrary evidence, the debtor's opinion of value may be conclusive. *Enewally v. Wash. Mut. Bank (In re Enewally)*, 368 F.3d 1165, 1173 (9th Cir. 2004).

No party in interest timely filed written opposition. Accordingly, this motion will be GRANTED. Creditor's secured claim will be fixed at \$46,513.00. The proposed order shall specifically identify the collateral and the proof of claim to which it relates. The order will be effective upon confirmation of the chapter 13 plan.

7. [24-10161](#)-B-13 **IN RE: ERNESTO/ASHLEY ARELLANO**
[SL-3](#)

MOTION TO MODIFY PLAN
10-21-2024 [\[54\]](#)

ASHLEY ARELLANO/MV
SCOTT LYONS/ATTY. FOR DBT.

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

DISPOSITION: Granted.

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

Ernesto and Ashley Arellano ("Debtors") move for an order confirming the *First Modified Chapter 13 Plan* dated October 21, 2024. Docs. #54, #58. Debtor's current plan was confirmed on July 5, 2022. Doc. #42.

No party has timely objected.

This motion was set for hearing on 35 days' notice as required by Local Rule of Practice ("LBR") 3015-1(d)(1). The failure of any party in interest, including but not limited to creditors, the U.S. Trustee, and the case Trustee, 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). Therefore, the defaults of the above-mentioned parties in interest are entered. Upon default, factual allegations will be taken as true (except those relating to

amounts of damages). *Televideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917 (9th Cir. 1987).

The motion requests that the confirmed plan be modified as follows:

1. Debtors will pay no less than \$30,480.00 in the aggregate in plan payments for months 1-8. Plan payments will be reduced from \$3,600.00 per month down to \$3,400.00 per month during months 9-60.
2. The payment to Class 1 Creditor LoanCare LLC be reduced to \$126.97 for the arrearage and \$1,849.15 for ongoing payments due to a reduction in the amount of the arrearage.
3. The distribution to general unsecured creditors remains at 4%, but the estimated total of the approved claims has dropped from \$105,850.06 down to \$87,843.47.

Doc. #58.

Debtors aver that this modification is necessary because increased household expenses due to an unexpected and necessary roof repair. Doc. #56. No party in interest has objected, and the defaults of all non-responding parties in interest are entered. This motion is GRANTED. The order shall include the docket control number of the motion, shall reference the plan by the date it was filed, and shall be approved as to form by Trustee.

8. [24-10276](#)-B-13 **IN RE: LESLIE GALVIN**
[FW-1](#)

MOTION FOR COMPENSATION BY THE LAW OFFICE OF FEAR
WADDELL, P.C. DEBTORS ATTORNEY(S)
11-1-2024 [\[29\]](#)

GABRIEL WADDELL/ATTY. FOR DBT.

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

DISPOSITION: Granted.

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

Gabriel J. Waddell of Fear Waddell, P.C. ("Applicant"), attorney for Leslie Galvin ("Debtor"), seeks interim compensation in the sum of **\$6,126.55** under 11 U.S.C. § 331, subject to final review pursuant to § 330. Doc. #29. This amount consists of **\$8,108.50** in fees and **\$518.05** in expenses from November 20, 2023, through October 29, 2024, minus the prepetition retainer of **\$2,500.00**. *Id.*

Debtor executed a statement of consent dated October 30, 2024, indicating that Debtor has read the fee application and approves the same. Doc. #31 (*Exhib. E*).

No party in interest timely filed written opposition. This motion will be GRANTED.

This motion was set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1). Thus, pursuant to LBR 9014-1(f)(1)(B), the failure of any party in interest (including but not limited to creditors, the debtor, the U.S. Trustee, or any other properly-served party in interest) to file written opposition at least 14 days prior to the hearing may be deemed a waiver of any such opposition to the granting of the motion. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). When there is no opposition to a motion, the defaults of all parties in interest who failed to timely respond will be entered, and, in the absence of any opposition, the movant's factual allegations will be taken as true (except those relating to amounts of damages). *Televideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917 (9th Cir. 1987). Because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary when an unopposed movant has made a prima facie case for the requested relief. *See Boone v. Burk (In re Eliapo)*, 468 F.3d 592 (9th Cir. 2006).

Section 3.05 of Debtor's confirmed chapter 13 plan provides Debtor's attorney was paid \$2,187.00 prior to filing the case and, subject to court approval, additional fees of \$15,000.00 shall be paid through the plan by filing and serving a motion in accordance with 11 U.S.C. §§ 329 & 330 and Fed. R. Bankr. P. 2002, 2016-17. Doc. #4. This is Applicant's first interim fee application.

Applicant's firm provided **29.50** billable hours of legal services at the following rates, totaling **\$8,108.50** in fees:

Professional	Rate	Hours	Fees
Gabriel J. Waddell (2023)	\$360.00	0.50	\$180.00
Gabriel J. Waddell (2024)	\$380.00	14.70	\$5,586.00
Katie Waddell (2024)	\$280.00	0.70	\$196.00
Kayla Schlaak (2024)	\$160.00	12.50	\$2,000.00
Laurel Guenther (2023)	\$115.00	0.10	\$11.50
Laurel Guenther (2024)	\$135.00	1.00	\$135.00
Total Hours & Fees		29.5	\$8,108.50

Doc. #31. Applicant also incurred **\$518.05** in expenses for photocopying, postage and the Chapter 13 filing fee and the filing fee for an amendment. *Id.* These combined fees and expenses total **\$8,626.55**. After application of the \$2,500.00 retainer, the outstanding balance is **\$6,126.55**.

11 U.S.C. § 330(a)(1)(A) and (B) permit approval of "reasonable compensation for actual, necessary services rendered by . . . [a] professional person, or attorney" and "reimbursement for actual, necessary expenses." In determining the amount of reasonable compensation to be awarded to a professional person, the court shall consider the nature, extent, and value of such services, considering all relevant factors, including those enumerated in subsections (a)(3)(A) through (E). § 330(a)(3).

Applicant's services here included, without limitation: prepetition consultation and fact gathering; preparation of the voluntary petition, schedules, and Form 22C; independent verification of information; amendments to petitions and/or schedules; 341 preparation and attendance; claim administration and claim objections; original plan, hearings, objections; first modified plan, motion, objections; fee applications; and case administration. Doc. #31. The court finds the services and expenses reasonable, actual, and necessary. As noted above, Debtor reviewed the fee application and consents to payment of the requested compensation. *Id.*

No party in interest timely filed written opposition. Accordingly, this motion will be GRANTED. Applicant will be awarded **\$8,108.50** in fees as reasonable compensation for services rendered and **\$518.05** in reimbursement for actual, necessary expenses on an interim basis under 11 U.S.C. § 331, subject to final review pursuant to § 330. After application of the prepetition retainer, the chapter 13 trustee will be authorized, in the trustee's discretion, to pay Applicant **\$6,125.55** for services rendered and costs incurred between November 20, 2023, and October 29, 2024.

9. [24-10276](#)-B-13 **IN RE: LESLIE GALVIN**
[FW-2](#)

MOTION TO MODIFY PLAN
10-22-2024 [\[22\]](#)

LESLIE GALVIN/MV
GABRIEL WADDELL/ATTY. FOR DBT.

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

DISPOSITION: Granted.

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

Leslie Galvin ("Debtor") moves for an order confirming the *First Modified Chapter 13 Plan* dated October 25, 2024. Docs. #22, #25. Debtor's current plan was confirmed on May 18, 2024. Doc. #17

No party has timely objected.

This motion was set for hearing on 35 days' notice as required by Local Rule of Practice ("LBR") 3015-1(d)(1). The failure of any party in interest, including but not limited to creditors, the U.S. Trustee, and the case Trustee, 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). Therefore, the defaults of the above-mentioned parties in interest are entered. Upon default, factual allegations will be taken as true (except those relating to amounts of damages). *Televideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917 (9th Cir. 1987).

The motion requests that the confirmed plan be modified as follows:

1. Plan payments will be \$1,890.00 for months 1-8 and drop to \$1,120.00 for months 9-60.
2. The dividend to unsecured creditors will increase from 87.50% to 100%.
3. The plan is otherwise unchanged.

Doc. #22.

Debtors aver that this modification is necessary because paying the previous \$1,890.00 monthly payment required him to work significant overtime and he has developed health issues because of his work schedule. Doc. #24. The deadline for filing proofs of claim has passed, and based on the approved claims, Debtor believes that he can increase the distribution to general unsecured creditors to 100% while still reducing the monthly payment. *Id.* This is confirmed by Debtor's *Amended Schedule I & J*, which reflects a monthly net income of \$1,187.55, down from \$1,904.79 which was his monthly net income as calculated in the petition documents. Doc. #1, #26.

No party in interest has objected, and the defaults of all non-responding parties in interest are entered. This motion is GRANTED. The order shall include the docket control number of the motion, shall reference the plan by the date it was filed, and shall be approved as to form by Trustee.

10. [23-12481](#)-B-13 **IN RE: CAROL DEYON**
[NES-3](#)

MOTION TO MODIFY PLAN
11-8-2024 [\[51\]](#)

CAROL DEYON/MV
NEIL SCHWARTZ/ATTY. FOR DBT.
RESPONSIVE PLEADING

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

DISPOSITION: Continued to February 12, 2025, at 9:30 a.m.

ORDER: The court will issue an order.

Carol Deyon ("Debtor") moves for an order confirming the *Third Modified Chapter 13 Plan* dated November 8, 2024. Docs. #51, #54. Debtor's current plan was confirmed on December 22, 2023. Doc. #13. Chapter 13 trustee Lilian G. Tsang ("Trustee") timely objected to confirmation of the plan for the following reason(s):

1. The plan proposes to reclassify Essex Mortgage from Class 4 to Class 1 but fails to give a start date for the ongoing post-petition monthly payments. In the absence of a start date, the ongoing payments begin retroactively in month 1, thereby creating a substantial delinquency.
2. Debtor has not filed a Declaration in support of the motion.

Doc. #58.

This motion to confirm plan will be **CONTINUED to February 12, 2025, at 9:30 a.m.** Unless this case is voluntarily converted to chapter 7, dismissed, or all objections to confirmation are withdrawn, the Debtor shall file and serve a written response to the objections no later than fourteen (14) days before the continued hearing date. The response shall specifically address each issue raised in the objection(s) to confirmation, state whether each issue is disputed or undisputed, and include admissible evidence to support the Debtor's position. Any replies shall be filed and served no later than seven (7) days prior to the hearing date.

If the Debtor elects to withdraw the plan and file a modified plan in lieu of filing a response, then a confirmable, modified plan shall be filed, served, and set for hearing not later than seven (7) days before the continued hearing date. If the Debtor does not timely file a modified plan or a written response, the objection will be sustained on the grounds stated, and the motion will be denied without further hearing.

11. [19-14783](#)-B-13 **IN RE: CLYDE ABLES AND RACHEL SERNA ABLES**

MOTION TO WAIVE FINANCIAL MANAGEMENT COURSE
REQUIREMENT, WAIVE SECTION 1328 CERTIFICATE
REQUIREMENT, CONTINUE CASE ADMINISTRATION, SUBSTITUTE PARTY,
AS TO JOINT DEBTOR AND/OR NOTICE OF DEATH OF A DEBTOR
11-6-2024 [\[49\]](#)

RACHEL SERNA ABLES/MV
SCOTT LYONS/ATTY. FOR DBT.

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Granted.

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

On September 19, 2021, Rachel Serna Ables ("Decedent") passed away. Doc. #49 *et seq.* She is survived by her wife, joint debtor Clyde Leroy Ables ("Debtor"). *Id.* Debtor seeks to (1) be substituted as the representative for or successor to Decedent for this joint chapter 13 case; (2) authorize the continued administration of the chapter 13 case after Decedent's death; and (3) waive the § 1328 certification requirements for entry of discharge with respect to Decedent. *Id.* The motion is supported by a Declaration from Debtor and an Exhibit consisting of Decedent's death certificate. Docs. ##51-52.

This motion was set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1) and will proceed as scheduled. The failure of the creditors, the chapter 13 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 granting of the motion. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995).

No party in interest has responded and the defaults of all non-responding parties are entered. Nevertheless, for the reasons outlined below, the hearing on this matter will proceed as scheduled.

Upon the death of a debtor in a bankruptcy case that has not been closed, LBR 1016-1(a) provides that a notice of death shall be filed within sixty (60) days of the death of a debtor by counsel or the person intending to be appointed as the representative for or successor to a deceased debtor pursuant to Fed. R. Civ. P. ("Civ. Rule") 25(a) (Fed. R. Bankr. P. ("Rule") 7025). The notice of death shall be served on all other parties in interest, and a redacted copy of the death certificate shall be filed as an exhibit to the notice of death.

LBR 1016-1(b) permits the notice of death and requests for the following relief to be combined into a single motion for omnibus relief under Civ. Rule 18(a) (Rules 7018, 9014(c)):

- 1) Substitution as the representative for or successor to the deceased debtor in the bankruptcy case pursuant to Civ. Rule 25(a);
- 2) Continued administration of the case under chapter 13 pursuant to Rule 1016; and
- 3) Waiver of the post-petition education requirement for entry of discharge under 1328, including the post-petition education requirement under subsection (g).

Here, Debtor filed this motion for omnibus relief as required with a notice of death and redacted death certificate for Decedent. Docs. #49, #52. However, the Notice of Death was not filed until more than three years after Decedent's passing. No explanation for this substantial delay is provided in the moving papers.

If a reorganization or individual's debt adjustment case is pending under chapter 13, Rule 1016 permits the case to proceed and be concluded in the same manner, so far as possible, as though the death had not occurred if two pre-requisites are met: (1) further administration is possible and (2) administration is in the best interest of all parties. However, Rule 1016 also allows the case to be dismissed.

Courts have held that chapter 13 cases do not need to be dismissed and may continue if (1) the debtor proposed a confirmable plan before the debtor's death; and (2) the plan is feasible after the debtor's death. *In re Perkins*, 381 B.R. 520, 537 (Bankr. S.D. Ill. 2007) (permitting further administration because it is both possible and in the best interests of parties); *In re Stewart*, 2004 Bankr. LEXIS 1042 (Bankr. D. Or. Mar. 2, 2004) (continued administration permitted if a personal representative is appointed and the confirmed plan is made current and paid through completion); *cf. In re Spider*, 232 B.R. 669, 674 (Bankr. N.D. Tex. 1999) (further administration deemed not possible because debtors' chapter 13 plan was not confirmed before death).

Here, the Debtor and his late spouse filed Chapter 13 bankruptcy on November 15, 2019, and their Chapter 13 plan dated that same day was confirmed on February 12, 2020. Docs. #1, #2, #36. According to their Schedule I&J, the two debtors had a combined monthly income of \$4,153.70, of which the Decedent contributed only \$513.00 from her Social Security income. Doc. #1 (*Sched. I&J*). Under the confirmed 60-month plan (which should have been completed in November of 2024), Debtor and Decedent were to pay \$1,490.00 per month. Doc. #2. Thus, the loss of Decedent's \$513.00 contribution to the couple's monthly income would not have impaired Debtor's ability to make the required payments under the plan.

While Decedent's passing appears not to impact the feasibility of allowing the case to proceed, another factor gives the court pause: the motion calls for substitution of *Debtor's attorney Scott Lyons* as the representative for or successor to the Decedent. Doc. #49. The Confirmed Plan states that Lyons is to receive the No-Look Fee for his representation and, presumably, has already been paid in full for his services. See Doc. #2. But the court nevertheless has concerns about whether Lyons plans to seek additional fees for any legal work performed in his capacity as Substituted Party.

Finally, the motion seeks "[w]aiver of the certification requirements entry of discharge in a Chapter 13 case, pursuant to 11 U.S.C. § 1328." Doc. #49. As written, this suggests that the motion seeks a waiver for both Decedent and the surviving Debtor. In fact, it appears that both Debtor and Decedent completed Debtor Education courses on December 30, 2019. Docs. ##16-17. However, even if the requested relief is granted, the court perceives no basis for granting any waiver of both Debtor's obligations under § 1328.

This matter will be called and proceed as scheduled to inquire about the delay in filing the Notice of Death and to answer questions about the propriety of Debtor's counsel acting as the Substituted Party in this case. If the court's reservations on those two issues are assuaged, the court is inclined to GRANT this motion.

11:00 AM

1. [24-11702](#)-B-7 **IN RE: AL HAYTHAM DOSOUQI**
[24-1026](#) [CAE-1](#)

STATUS CONFERENCE RE: COMPLAINT
8-20-2024 [[1](#)]

DOSOUQI V. MOHELA

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

DISPOSITION: Dropped from calendar.

ORDER: The court will prepare the order

The docket reflects that the Plaintiff has not timely obtained service against the Defendant, and the summons is stale. Accordingly, this matter will be dropped from the calendar.

2. [22-11403](#)-B-7 **IN RE: STANFORD CHOPPING, INC.**
[24-1024](#) [CAE-1](#)

STATUS CONFERENCE RE: COMPLAINT
8-19-2024 [[1](#)]

HOLDER V. SILVA AUTO GROUP, INC. ET AL
RAMANDEEP MAHAL/ATTY. FOR PL.
RESPONSIVE PLEADING

NO RULING.

3. [22-11403](#)-B-7 **IN RE: STANFORD CHOPPING, INC.**
[24-1025](#) [CAE-1](#)

STATUS CONFERENCE RE: COMPLAINT
8-19-2024 [[1](#)]

HOLDER V. STYLES ET AL
LISA HOLDER/ATTY. FOR PL.
RESPONSIVE PLEADING

NO RULING.

4. [20-10809](#)-B-11 **IN RE: STEPHEN SLOAN**
[21-1039](#) [CAE-1](#)

CONTINUED STATUS CONFERENCE RE: AMENDED COMPLAINT
10-27-2022 [\[58\]](#)

SANDTON CREDIT SOLUTIONS
MASTER FUND IV, LP V. SLOAN ET
KURT VOTE/ATTY. FOR PL.

NO RULING.

5. [24-11739](#)-B-7 **IN RE: SAMUEL GAMERO AND YESENIA GARNICA**
[24-1044](#) [CAE-2](#)

ORDER TO SHOW CAUSE RE: FAILURE TO FILE CORPORATE
OWNERSHIP STATEMENT
11-5-2024 [\[7\]](#)

TRUCK.NET, LLC V. GAMERO ET AL

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

DISPOSITION: The OSC will be vacated.

ORDER: The court will issue an order.

Plaintiff Truck.Net, LLC filed a Corporate Ownership Statement (Doc. #10) on November 12, 2024, as required by Fed. R. Bankr. P. 7007.1 and the *Order to Show Cause* ("OSC"). Doc. #7. Accordingly, the OSC will be VACATED.

6. [24-10546](#)-B-12 **IN RE: MAXIMINIO/MARIE SILVEIRA**
[24-1038](#) [CAE-1](#)

STATUS CONFERENCE RE: COMPLAINT
10-15-2024 [[1](#)]

SILVEIRA ET AL V. UNITED AG SOLUTIONS, LLC
PETER SAUER/ATTY. FOR PL.

After posting the original pre-hearing dispositions, the court has supplemented its intended ruling on this matter.

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

DISPOSITION: Concluded and dropped from calendar.

ORDER: The court will prepare the order.

On December 3, 2024, the court entered an Order approving the *Joint Ex Parte Application to Enter Stipulated Judgment* in the above-styled adversary proceeding. Doc. #13. On December 10, 2024, the court signed a proposed judgment which allows this adversary proceeding to be closed. Accordingly, this Status Conference is CONCLUDED and DROPPED from the calendar.

7. [18-11651](#)-B-11 **IN RE: GREGORY TE VELDE**
[19-1007](#) [SLC-2](#)

MOTION BY SARA L. CHENETZ TO WITHDRAW AS ATTORNEY
11-21-2024 [[188](#)]

SUGARMAN V. BOARDMAN TREE FARM, LLC ET AL
SARA CHENETZ/ATTY. FOR MV.

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 will submit a proposed order after hearing.

Sarah Chenetz ("Chenetz") of the law firm of Perkins Coie LLP ("the Firm"), counsel of record for Boardman Tree Farm, LLC ("BTF"), moves for authorization to withdraw as counsel for BTF. Doc. #188. The debtor is Gregory Te Velde ("Debtor"), and the Chapter 11 Trustee is Randall Sugarman ("Trustee").

The Firm filed a prior motion to withdraw which the court denied without prejudice on procedural grounds at a hearing conducted on November 20, 2024. Doc. #180, 185. At the hearing, the court directed

Chenetz to file and serve no later than November 22, 2024, a motion to withdraw which would be set for hearing on December 12, 2024. Doc. #185. It appears that this second motion was properly served and is procedurally sound.

Written opposition was not required and may be presented at the hearing. In the absence of opposition, this motion will be GRANTED.

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

According to the moving papers, the Firm seeks to withdraw as counsel for BTF because BTF is no longer a party to the case. Doc. #185 et seq. In support of its motion, the Firm has filed (1) a Stipulation between the Firm and Cedar Glade, assignee of BTF's claims against the Debtor; and (2) the Declaration from Chenetz, who is a partner in the Firm. The moving papers collectively aver as follows:

During the Trustee's oversight of the case, the Trustee sold certain real and personal property collectively known as "Lost Valley Farms" ("LVF"). BTF was one of Debtor's secured creditors, with its claim secured by the LVF assets. The disposition of the LVF assets is currently the subject of two adversary proceedings, with BTF and IRZ Consulting, Inc. ("IRZ") both asserting first priority liens. In December 2021, BTF sold its rights to any distributions on its allowed claim to Cedar Glade, but to date, Cedar Glade has not been substituted into either of the adversary proceedings in place of BTF.

As the Firm notes,

The U.S. District Court for the Eastern District of California has held that withdrawal is appropriate if the client's interest will not be unduly prejudiced or delayed. The following factors are considered to determine if withdrawal is appropriate: 1) the reasons why the withdrawal is sought; 2) the prejudice withdrawal may cause to other litigants; 3) the harm withdrawal might cause to the administration of justice; and 4) the degree to which withdrawal will delay the resolution of the case. *Williams v. Troehler*, No. 1:08cv01523 OWW GSA, 2010 U.S. Dist. LEXIS 69757 at *5 (E.D. Cal. June 23, 2010).

Doc. #188.

The Firm argues that the *Williams* standard is met because BTF no longer holds any interest in either of the adversary proceedings, one of which has already been resolved. In the Chenetz Declaration, the

Firm also states that as of July 14, 2022, BTF's existence was voluntarily canceled, and it is effectively defunct. Doc. #183. The Firm asserts that it has not had a client with any interest in the adversary proceedings since the Assignment Notice was filed in December 2021, and it has not been paid for any time spent by its professionals since then. *Id.*

Cedar Glade consents to the Firms' withdrawal. Doc. #191.

Written opposition was not required and may be presented at the hearing. In the absence of any opposition, the court is inclined to GRANT this motion and permit the Firm to withdraw from its representation of BTF.

8. [18-11651](#)-B-11 **IN RE: GREGORY TE VELDE**
[19-1037](#) [SLC-2](#)

MOTION BY SARA L. CHENETZ TO WITHDRAW AS ATTORNEY
11-21-2024 [\[192\]](#)

IRZ CONSULTING LLC V. TEVELDE
ET AL
SARA CHENETZ/ATTY. FOR MV.

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 will submit a proposed order after hearing.

Sarah Chenetz ("Chenetz") of the law firm of Perkins Coie LLP ("the Firm"), counsel of record for Boardman Tree Farm, LLC ("BTF"), moves for authorization to withdraw as counsel for BTF. Doc. #192. The debtor is Gregory Te Velde ("Debtor"), and the Chapter 11 Trustee is Randall Sugarman ("Trustee").

The Firm filed a prior motion to withdraw which the court denied without prejudice on procedural grounds at a hearing conducted on November 20, 2024. Doc. #176, 190. At the hearing, the court directed Chenetz to file and serve no later than November 22, 2024, a motion to withdraw which would be set for hearing on December 12, 2024. It appears that this second motion was properly served and is procedurally sound.

Written opposition was not required and may be presented at the hearing. In the absence of opposition, this motion will be GRANTED.

This motion was filed and served pursuant to Local Rule of Practice ("LBR") 9014 1(f)(2) and will proceed as scheduled. Unless opposition

is presented at the hearing, the court intends to enter the respondents' defaults and grant the motion. If opposition is presented at the hearing, the court will consider the opposition and whether further hearing is proper pursuant to LBR 9014 1(f)(2). The court will issue an order if a further hearing is necessary.

According to the moving papers, the Firm seeks to withdraw as counsel for BTF because BTF is no longer a party to the case. Doc. #192 et seq. In support of its motion, the Firm has filed (1) a Stipulation between the Firm and Cedar Glade, assignee of BTF's claims against the Debtor; and (2) the Declaration from Chenetz, who is a partner in the Firm. The moving papers collectively aver as follows:

During the Trustee's oversight of the case, the Trustee sold certain real and personal property collectively known as "Lost Valley Farms" ("LVF"). BTF was one of Debtor's secured creditors, with its claim secured by the LVF assets. The disposition of the LVF assets is currently the subject of two adversary proceedings, with BTF and IRZ Consulting, Inc. ("IRZ") both asserting first priority liens. In December 2021, BTF sold its rights to any distributions on its allowed claim to Cedar Glade, but to date, Cedar Glade has not been substituted into either of the adversary proceedings in place of BTF.

As the Firm notes,

The U.S. District Court for the Eastern District of California has held that withdrawal is appropriate if the client's interest will not be unduly prejudiced or delayed. The following factors are considered to determine if withdrawal is appropriate: 1) the reasons why the withdrawal is sought; 2) the prejudice withdrawal may cause to other litigants; 3) the harm withdrawal might cause to the administration of justice; and 4) the degree to which withdrawal will delay the resolution of the case. *Williams v. Troehler*, No. 1:08cv01523 OWW GSA, 2010 U.S. Dist. LEXIS 69757 at *5 (E.D. Cal. June 23, 2010).

Doc. #192.

The Firm argues that the *Williams* standard is met because BTF no longer holds any interest in either of the adversary proceedings, one of which has already been resolved. In the Chenetz Declaration, the Firm also states that as of July 14, 2022, BTF's existence was voluntarily canceled, and it is effectively defunct. Doc. #194. The Firm asserts that it has not had a client with any interest in the adversary proceedings since the Assignment Notice was filed in December 2021, and it has not been paid for any time spent by its professionals since then. *Id.*

Cedar Glade consents to the Firms' withdrawal. Doc. #195.

Written opposition was not required and may be presented at the hearing. In the absence of any opposition, the court is inclined to GRANT this motion and permit the Firm to withdraw from its representation of BTF.

9. [24-12751](#)-B-11 **IN RE: BIKRAM SINGH AND HARSIMRAN SANDHU**
[24-1036](#) [CAE-1](#)

STATUS CONFERENCE RE: NOTICE OF REMOVAL
9-27-2024 [[1](#)]

BAUGHER RANCH ORGANICS, INC.
V. ARJUN FARMS, INC. ET AL
UNKNOWN TIME OF FILING/ATTY. FOR PL.
RESPONSIVE PLEADING

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

DISPOSITION: Continued to December 17, 2024, at 9:30 a.m.

ORDER: The court will prepare the order.

This Status Conference is hereby CONTINUED to December 17, 2024, at 9:30 a.m. to be heard in conjunction with the Motion to Compromise Controversy which is set for hearing on that date. See *Doc. #99*.

10. [24-12751](#)-B-11 **IN RE: BIKRAM SINGH AND HARSIMRAN SANDHU**
[24-1036](#) [CAE-2](#)

ORDER TO SHOW CAUSE RE: FAILURE TO FILE CORPORATE
OWNERSHIP STATEMENT
11-5-2024 [[10](#)]

BAUGHER RANCH ORGANICS, INC.
V. ARJUN FARMS, INC. ET AL

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

DISPOSITION: The OSC will be vacated.

ORDER: The court will issue an order.

Defendant Livingston Farms Association filed a Corporate Ownership Statement (Doc. #11) on November 7, 2024, as required by Fed. R. Bankr. P. 7007.1 and the *Order to Show Cause* ("OSC"). Doc. #10. Accordingly, the OSC will be VACATED.

11. [24-12751](#)-B-11 **IN RE: BIKRAM SINGH AND HARSIMRAN SANDHU**
[24-1037](#) [CAE-1](#)

STATUS CONFERENCE RE: COMPLAINT
10-2-2024 [1](#)

SINGH ET AL V. BAUGHER RANCH
ORGANICS, INC.
PETER SAUER/ATTY. FOR PL.

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

DISPOSITION: Continued to December 17, 2024, at 9:30 a.m.

ORDER: The court will prepare the order.

This Status Conference is hereby CONTINUED to December 17, 2024, at 9:30 a.m. to be heard in conjunction with the Motion to Compromise Controversy which is set for hearing on that date. *See Doc. #99.*

12. [23-12066](#)-B-13 **IN RE: DONALD/JOY RICKETTS**
[23-1038](#) [CAE-1](#)

CONTINUED STATUS CONFERENCE RE: COMPLAIN
9-21-2023 [1](#)

C.F. V. RICKETTS
CHANTAL TRUJILLO/ATTY. FOR PL.

NO RULING.

13. [23-12573](#)-B-7 **IN RE: JULIE BLACK**
[24-1019](#) [CAE-1](#)

CONTINUED STATUS CONFERENCE RE: COMPLAINT
7-11-2024 [1](#)

BLACK V. DEPARTMENT OF EDUCATION/AIDVANTAGE
NEIL SCHWARTZ/ATTY. FOR PL.

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

DISPOSITION: Dropped from calendar.

ORDER: The court will prepare the order

The docket reflects that the Plaintiff has not timely obtained service against the Defendant, and the summons is stale. Accordingly, this matter will be dropped from the calendar.