



**UNITED STATES BANKRUPTCY COURT
Eastern District of California
HONORABLE RENÉ LASTRETO II
Department B – Courtroom #13
Fresno, California**

Hearing Date: Wednesday, December 13, 2023

Unless otherwise ordered, all hearings before Judge Lastreto are simultaneously: (1) **IN PERSON** in Courtroom #13 (Fresno hearings only), (2) via **ZOOMGOV VIDEO**, (3) via **ZOOMGOV** to ZoomGov, free of charge, using the information provided:

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

1. Review the [Pre-Hearing Dispositions](#) prior to appearing at the hearing.
2. Review the court's [Zoom Procedures and Guidelines](#) for these and additional instructions.
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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. [21-12703](#)-B-13 **IN RE: TERESA DESATOFF**
[MHM-1](#)

OBJECTION TO CLAIM OF FIRST TECH FEDERAL CREDIT UNION, CLAIM
NUMBER 3 AND/OR OBJECTION TO WITHDRAWAL OF CLAIM OF FIRST
TECH FEDERAL CREDIT UNION, CLAIM NUMBER 3
10-18-2023 [\[43\]](#)

MICHAEL MEYER/MV
TIMOTHY SPRINGER/ATTY. FOR DBT.

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

DISPOSITION: Sustained.

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

Chapter 13 trustee Michael H. Meyer ("Trustee") objects to the
Withdrawal of Claim #3-2 which filed by First Tech Federal Credit
Union ("First Tech") on January 3, 2023, and to Claim 3-2 itself in
the amount of \$842.91 which was filed in the amount of \$842.91 on
December 28, 2021. Doc. #43. Trustee raises two issues:

1. That First Tech failed to properly file a motion to withdraw
its claim pursuant to Rule 3006 of the Federal Rules of
Bankruptcy Procedure after Creditor's significant
participation in this bankruptcy foreclosed its ability to
withdraw a claim as a matter of right; and
2. That the claim does not properly list the amount owed to First
Tech, and so Trustees seeks a court determination of same
pursuant to 11 U.S.C. § 502(b).

Id. In the Declaration (Doc. #45), Trustee notes the following
salient facts: The case was filed on November 24, 2021. The
confirmed plan provides for First Tech to be treated as a Class 2
creditor to be paid a monthly dividend of \$26.78 with interest at
4.53%. On December 28, 2021, First Tech filed a proof of claim in
the amount of \$842.91. From December 31, 2021, to December 30, 2022,
Trustee disbursed funds to First Tech totaling \$447.42 (\$417.38 for
principal and \$30.04 in interest. On January 3, 2023, First Tech
filed a Withdrawal of Claim which resulted in a showing of
overpayment in the Trustee's accounting system in the amount of
\$447.42 which First Tech has not returned to Trustee.

Trustee asserts that First Tech's procedurally improper withdrawal
of its claim has resulted in a \$447.42 shortfall which must be
accounted for and reconciled before this case can be closed. Doc.
#43. Trustee also argues that First Tech's withdrawal of its claim
is an admission that the debt is fully satisfied. *Id.* However, to
facilitate the reconciliation of the claim, Trustee asks the court
to sustain its objection to the Withdrawal and order that it be
given no effect and to sustain the objection to Claim 3-2 to the

extent it seeks recovery beyond the amount First Tech has already been paid by Trustee. *Id.*

This objection was set for hearing on 44 days' notice as required by Local Rule of Practice ("LBR") 3007-1(b)(1). The failure of the creditors, the debtor, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the sustaining of the objection. *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.

No party in interest has responded. Accordingly, this objection will be SUSTAINED. First Tech's Withdrawal of Claim #3-2 filed on January 3, 2023, shall be given no effect, and First Tech's allowed claim be reduced to \$417.38 in principal amount plus interest already paid. No further payment shall be made by Trustee to First Tech.

2. [19-10708](#)-B-13 **IN RE: ANTONIO/MARTHA AVILES**
[TMO-4](#)

MOTION TO RECONSIDER
11-27-2023 [[120](#)]

MARTHA AVILES/MV
T. O'TOOLE/ATTY. FOR DBT.
T. O'TOOLE/ATTY. FOR MV.

NO RULING.

3. [20-10508](#)-B-13 **IN RE: JAMES/VERONICA HOLT**
[TCS-5](#)

MOTION TO MODIFY PLAN
10-31-2023 [\[71\]](#)

VERONICA HOLT/MV
TIMOTHY SPRINGER/ATTY. FOR DBT.
DISMISSED 10/23/2023
RESPONSIVE PLEADING

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

DISPOSITION: Denied as moot.

No order is required.

On October 23, 2023, a *Notice of Entry of Order of Dismissal* was filed in this case. Doc. #61. On November 11, 2023, the court entered an order denying Debtors motion to vacate the dismissal and ordering that the dismissal remain in effect. Accordingly, this motion is DENIED as moot.

4. [20-10508](#)-B-13 **IN RE: JAMES/VERONICA HOLT**
[TCS-6](#)

MOTION TO MODIFY PLAN
11-6-2023 [\[80\]](#)

VERONICA HOLT/MV
TIMOTHY SPRINGER/ATTY. FOR DBT.
DISMISSED 10/23/2023

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

DISPOSITION: Denied as moot.

No order is required.

On October 23, 2023, a *Notice of Entry of Order of Dismissal* was filed in this case. Doc. #61. On November 11, 2023, the court entered an order denying Debtors motion to vacate the dismissal and ordering that the dismissal remain in effect. Accordingly, this motion is DENIED as moot.

5. [23-12210](#)-B-13 **IN RE: ROBERT/LUCY GARIBAY**
[CAS-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY CREDITOR BMW BANK OF
NORTH AMERICA
10-31-2023 [\[20\]](#)

BMW BANK OF NORTH AMERICA/MV
TIMOTHY SPRINGER/ATTY. FOR DBT.
CHERYL SKIGIN/ATTY. FOR MV.
RESPONSIVE PLEADING

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

DISPOSITION: Withdrawn subject to approved order confirming
Plan.

ORDER: The court will issue the order withdrawing the
objection.

Creditor BMW Bank of North America ("Creditor") objects to confirmation of Robert and Lucy Garibay's ("Debtors'") *Chapter 13 Plan* dated October 2, 2023, because the proposed plan fails to provide the proper "formula" discount rate in conformance with 11 U.S.C. § 1325(a)(5)(B)(ii) and *Till v. SCS Credit Corp.*, 124 S. Ct. 1951 (2004). Doc. #20.

This objection was filed and served pursuant to Local Rule of Practice ("LBR") 3015-1(c)(4). Although opposition was not required, the Debtors filed a *Response* on November 29, 2023. Doc. #36.

Creditor BMW Bank of North America ("Creditor") objected because the proposed plan fails to provide the proper "formula" discount rate in conformance with 11 U.S.C. § 1325(a)(5)(B)(ii) and *Till v. SCS Credit Corp.*, 124 S. Ct. 1951 (2004). Doc. #20. In *Till*, the Supreme Court determined that the appropriate interest rate for a secured claim should be determined by the 'formula approach,' which requires the court to take the national prime interest rate and adjust it to compensate for an increased risk of default. *Till*, 124 S. Ct. at 1957. Such factors include (1) circumstances of the estate, (2) the nature of the security, and (3) duration and feasibility of the reorganization plan. *Id.* at 1960.

Here, the Plan proposes to pay Creditor's claim in the amount of \$12,902.49 at 7.00% interest over the life of the plan. Creditor argues that the appropriate *Till* interest rate should be equal to the current prime rate of interest (which Creditor asserts is 8.500%) plus 1.000%, for a total applicable *Till* rate of 9.500%. *Id.*

In their *Response*, Debtors argue "[t]his objection can be addressed in the Debtors' Order Confirming Plan by increasing the interest rate to 9%." Doc. #36. The *Response* further avers that this would increase their plan payment to \$1,505.00 without impeding or impairing the interests of any other creditor under the plan. *Id.* The court is unclear as to what the Debtors mean by that as the plan

to which Creditor objects already calls for a monthly payment of \$3,008.00. Doc. #3.

On December 7, 2023 BMW filed a *Reply* stating that it will withdraw the *Objection* if the plan is amended to provide a 9% interest rate on BMW's claim or, alternatively, if the confirmation order specifically provides for an increase in the interest rate to 9%.

Accordingly, the *Objection* is withdrawn. BMW shall approve the Order Confirming Plan.

6. [23-12210](#)-B-13 **IN RE: ROBERT/LUCY GARIBAY**
[MHM-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY TRUSTEE MICHAEL H.
MEYER
11-15-2023 [\[28\]](#)

TIMOTHY SPRINGER/ATTY. FOR DBT.
WITHDRAWN

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

DISPOSITION: Withdrawn by Trustee.

No order is required.

On November 15, 2023, the Trustee withdrew the *Objection to Confirmation*. Doc. #31. Accordingly, the motion is WITHDRAWN.

7. [23-12210](#)-B-13 **IN RE: ROBERT/LUCY GARIBAY**
[RAS-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY U.S. BANK, NATIONAL
ASSOCIATION
11-21-2023 [\[33\]](#)

U.S. BANK NATIONAL
ASSOCIATION/MV
TIMOTHY SPRINGER/ATTY. FOR DBT.
FANNY WAN/ATTY. FOR MV.

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

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

DISPOSITION: Continued to January 10, 2024, at 9:30 a.m.

ORDER: The court will issue an order.

U.S. Bank National Association ("Creditor") objects to confirmation of the *Chapter 13 Plan* filed by Robert and Lucy Garibay

(collectively "Debtors") on October 2, 2023, under 11 U.S.C. § 1322(b)(5) on the following basis:

Debtor's Plan fails to provide for any outstanding arrears on Secured Creditor's pre-petition claim. Secured Creditor has filed its Proof of Claim, and Creditor's claim states pre-petition arrears in the amount of \$439.23. Debtor's Plan fails to meet the requirements of section 1325(a)(1) because it does not provide to promptly cure the entire outstanding balance of Creditor's arrearage claim as required by section 1322(b)(5).

Doc. #33.

This objection will be CONTINUED to January 10, 2024, at 9:30 a.m. Unless this case is voluntarily converted to chapter 7, dismissed, or the objection to confirmation is withdrawn, the Debtors shall file and serve a written response to the objection not later than **14 days before the hearing**. The response shall specifically address each issue raised in the objection to confirmation, state whether the issue is disputed or undisputed, and include admissible evidence to support the Debtors' position. Objector shall file and serve a reply, if any, by **7 days before the hearing**.

As an aside, the court notes that Debtor filed a Certificate of Service for a *Response* to this *Objection* on November 30, 2023, even though the *Objection* was served pursuant to LBR 9014-1(f)(2), and no written response was initially required. However, no actual *Response* has been filed with the court.

If the Debtors elect 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 **7 days before the hearing**. If the Debtors do not timely file a modified plan or a written response, this objection will be sustained on the grounds stated in the objection without further hearing.

8. [23-12228](#)-B-13 **IN RE: KURT/AMANDA LOUISE RATHJENS**
[MHM-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY TRUSTEE MICHAEL H.
MEYER
11-15-2023 [\[14\]](#)

TIMOTHY SPRINGER/ATTY. FOR DBT.
RESPONSIVE PLEADING

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

DISPOSITION: Overruled as moot. Plan withdrawn.

ORDER: The court will issue the order.

On November 29, 2023, the Debtors filed a *Response* to the instant *Objection* in which they announced that they were withdrawing the Chapter 13 plan at issue and have filed a First Modified Chapter 13 Plan to address Trustee's concerns, and which will be confirmable. Doc. # 24. Debtors filed a Modified Plan on November 15, 2023, which is scheduled for hearing on December 20, 2023. Accordingly, this *Objection* is moot since the Debtors withdrew the Plan that was the subject of the objection.

9. [21-10541](#)-B-13 **IN RE: CHRISTINE THORNTON**
[TCS-2](#)

MOTION FOR COMPENSATION BY THE LAW OFFICE OF TIMOTHY C.
SPRINGER FOR TIMOTHY C. SPRINGER, DEBTORS ATTORNEY(S)
11-14-2023 [\[42\]](#)

TIMOTHY SPRINGER/ATTY. FOR DBT.

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

DISPOSITION: Granted with modification.

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

Timothy C. Springer ("Applicant"), attorney for Christine Thornton ("Debtor"), requests interim compensation in the sum of \$10,040.00 under 11 U.S.C. § 331. Doc. #42. This amount consists of \$10,040.00 in fees and \$0.00 in expenses from October 2, 2020, through November 1, 2023. *Id.* Debtor executed a statement of consent dated November 1, 2023, indicating that Debtor has read the fee application and approves the same. *Id.* at (7).

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) and Fed. R. Bankr. P.

("Rule") 2002(a)(6). 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.

Section 3.05 of the *Chapter 13 Plan* dated September 2, 2021, confirmed November 42, 2021, indicates that Applicant was paid \$212.00 prior to filing the case and, subject to court approval, additional fees of \$9,788.00 to be paid through the plan upon court approval by filing and serving a motion in accordance with 11 U.S.C. §§ 329 and 330, and Rules 2002, 2016-17. Doc. #23, 37.

This is Applicant's first fee application. Doc. #32. Applicant's firm provided 29.6 billable hours (erroneously stated as 30.1 hours in the motion but accurate elsewhere in the motion and exhibits) at the following rates, totaling **\$10,040.00** in fees:

Professional	Rate	Billed	Total
Timothy C. Springer	\$400.00	3.6	\$1,440.00
Nancy D. Klepac	\$400.00	18.8	\$7,520.00
Virginia Ellis	\$150.00	7.2	\$1,080.00
Total Hours & Fees		29.6	\$10,040.00

Doc. #42. Applicant does not seek expense reimbursement.

11 U.S.C. § 330(a)(1)(A) & (B) permits approval of "reasonable compensation for actual necessary services rendered by . . . [a] professional person" 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: (1) prepetition consultation and fact-gathering; (2) preparation of the petition, schedules and Form 22C; (3) independent verification of information; (4) drafting of the plan and participation in hearings and objections regarding same; (5) preparation and attendance at the §341 meeting; (6) matters pertaining to the 1st Amended/Modified Plan; (7) fee applications; and (8) case administration matters. Docs. ##42, 44, The court finds these services and expenses

reasonable, actual, and necessary. No party in interest timely filed written opposition and Debtor has consented to payment of the proposed fees.

This motion will be GRANTED, subject to one caveat. While the Application requests interim fees in the amount of \$10,040.00, the court notes that the employment agreement limits the total attorney fee award to \$10,000.00 (\$212.00 paid prepetition and \$9,788.00 through the plan). The court will not grant fees beyond what is contracted for by the attorney and debtor-client nor what is proposed by the confirmed plan absent an amendment to the plan.

10. [23-11047](#)-B-13 **IN RE: JOSE VERA AND ROSA LEON DE VERA**
[SLL-3](#)

MOTION TO CONFIRM PLAN
11-2-2023 [\[67\]](#)

ROSA LEON DE VERA/MV
STEPHEN LABIAK/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.

Jose Vera and Rosa Leon De Vera (collectively "Debtors") seek an order confirming the *Third Modified Chapter 13 Plan* dated November 2, 2023. Doc. #69. No plan has been confirmed so far. The 36-month plan proposes the following terms:

1. Debtor's aggregate payment for months 1-3 will be \$2,528.00. Debtor's payments for months 4-36 will be \$1,410.00 per month.
2. Outstanding Attorney's fees in the amount of \$3,500.00 to be paid through the plan.
3. Secured creditors to be sorted into appropriate Classes and paid as follows:
 - a. Pennymac (Class 1, Mortgage). \$3,122.01 in arrears at 0% interest to be paid at \$94.61 per month. Post-petition monthly payments of \$1,015.96.
 - b. Les Schwab (Class 2A, PMSI for "Tires." \$167.00 at 10% to be paid at \$5.39 per month.
 - c. All creditors listed in Class 4 to be paid outside the plan.
4. A dividend of 0% to unsecured creditors.

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 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.

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

11. [23-12347](#)-B-13 **IN RE: NANCY/STEVE WILLIAMS**
[MHM-1](#)

OBJECTION TO DEBTOR'S CLAIM OF EXEMPTIONS
11-13-2023 [\[13\]](#)

MICHAEL MEYER/MV
SUSAN SILVEIRA/ATTY. FOR DBT.
RESPONSIVE PLEADING

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

DISPOSITION: Sustained.

ORDER: The court will prepare the order.

On November 29, 2023, the Debtors filed a *Response* to the instant *Objection* stating their intention to file an *Amended Schedule C* which will resolve the Trustee's objection. The Debtors did not oppose the objection. Accordingly, the objection is SUSTAINED.

12. [23-10654](#)-B-13 **IN RE: JEREMY BONILLA**
[SL-1](#)

OBJECTION TO CLAIM OF WELLS FARGO BANK N.A., CLAIM NUMBER
6-1
10-19-2023 [[17](#)]

JEREMY BONILLA/MV
SCOTT LYONS/ATTY. FOR DBT.

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

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

DISPOSITION: Overruled as moot.

ORDER: The court will enter the order.

On December 11, 2023, Debtor Jeremy Belisco Bonilla ("Debtor") and Wells Fargo N.A. d/b/ Wells Fargo Auto ("Creditor") submitted a joint *Stipulation Resolving Debtor's Objection to Proof of Claim*. Doc. ##17, 28. Accordingly, this Objection is OVERRULED as moot.

13. [23-12260](#)-B-13 **IN RE: NAYELI LUNA**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES
11-15-2023 [[19](#)]

MARK ZIMMERMAN/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 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.

14. [23-12260](#)-B-13 **IN RE: NAYELI LUNA**
[MHM-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY TRUSTEE MICHAEL H.
MEYER
11-15-2023 [\[16\]](#)

MARK ZIMMERMAN/ATTY. FOR DBT.

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

DISPOSITION: Continued to January 10, 2024, at 9:30 a.m.

ORDER: The court will issue an order.

Chapter 13 trustee Michael H. Meyer ("Trustee") objects to confirmation of the *Chapter 13 Plan* filed by Nayeli Luna ("Debtor") on October 10, 2023, under 11 U.S.C. § 1325(a)(8) and BR 2016-1(c) on the following basis:

1. Debtor testified at the 341 meeting of creditors on November 14, 2023, that she is post-petition delinquent on her child support payments.
2. The attorney fee dividend must be reduced to \$75.00.

Doc. #16. The *Objection* also states that Debtor must file a Rights and Responsibility EDC 3-096 (Rev. 8/29/2023), but the docket reflects that the Debtor did so on November 27, 2023.
Doc. #21.

This objection will be CONTINUED to January 10, 2024. at 9:30 a.m. Unless this case is voluntarily converted to chapter 7, dismissed, or the Trustee's objection to confirmation is withdrawn, the Debtors shall file and serve a written response to the objection not later than **14 days before the hearing**. The response shall specifically address each issue raised in Trustee's objection to confirmation, state whether the issue is disputed or undisputed, and include admissible evidence to support the Debtors' position. Trustee shall file and serve a reply, if any, by **7 days before the hearing**.

If the Debtors elect 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 **7 days before the hearing**. If the Debtors do not timely file a modified plan or a written response, this objection will be sustained on the grounds stated in the objection without further hearing.

15. [23-12268](#)-B-13 **IN RE: GREGORY GIANNOCCARO**
[MHM-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY TRUSTEE MICHAEL H.
MEYER
11-15-2023 [[12](#)]

DAVID BOONE/ATTY. FOR DBT.

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

DISPOSITION: Continued to January 10, 2024, at 9:30 a.m.

ORDER: The court will issue an order.

Chapter 13 trustee Michael H. Meyer ("Trustee") objects to confirmation of the *Chapter 13 Plan* filed by Gregory Giannoccaro ("Debtor") on October 11, 2023, on the following basis:

1. The plan fails to provide for submission of all or such portion of future earnings or other future income to the supervision and control of the Trustee as is necessary for execution of the plan. [11 U.S.C. §1322(a)].
2. The plan provides for payments to creditors for a period longer than 5 years. [11 U.S.C. §1322(d)].
3. The plan fails to provide for the value, as of the effective date of the plan, of property to be distributed under the plan on account of each allowed unsecured claim is at least the amount that would be paid on such claim if the estate of the Debtor was liquidated under a Chapter 7 of this title on such date. [11 U.S.C. §1325(a)(4)].
4. The Debtor has not filed all applicable tax returns required by [11 U.S.C. §1325(a)(9)].
5. The plan does not provide for all of Debtor's projected disposable income to be applied to unsecured creditors under the plan. [11 U.S.C. §1325(b)(1)(B)].

Doc. #12.

This objection will be CONTINUED to January 10, 2024. at 9:30 a.m. Unless this case is voluntarily converted to chapter 7, dismissed, or the Trustee's objection to confirmation is withdrawn, the Debtors shall file and serve a written response to the objection not later than **14 days before the hearing**. The response shall specifically address each issue raised in Trustee's objection to confirmation, state whether the issue is disputed or undisputed, and include admissible evidence to support the Debtors' position. Trustee shall file and serve a reply, if any, by **7 days before the hearing**.

If the Debtors elect 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 **7 days before the hearing**. If the Debtors do not timely file a modified plan or a written response, this objection will be sustained on the grounds stated in the objection without further hearing.

16. [23-10075](#)-B-13 **IN RE: REFUJIO GUILLEN**
[JRL-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
11-15-2023 [\[199\]](#)

BETTY HOLTSNIDER/MV
ROBERT WILLIAMS/ATTY. FOR DBT.
CHINONYE UGORJI/ATTY. FOR MV.

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

DISPOSITION: Denied without prejudice.

ORDER: The court will issue an order.

Edward Holtsnider and Betty Holtsnider ("Movants") seek relief from the automatic stay under 11 U.S.C. § 362(d)(1), (d)(2) and (d)(4) with respect to real property commonly known as 44919 Deer Creek Mill Road, California Hot Springs, California. Doc. #199. Movants also request waiver of the 14-day of Federal Rule of Bankruptcy Procedure ("Rule") 4001(a)(3).

This motion will be DENIED WITHOUT PREJUDICE for failure to comply with Rule 4001(a)(1).

Chapter 13 trustee Michael Meyer ("Trustee") and Refugio Guillen ("Debtor") was not properly served. Rule 4001(a)(1) requires motions for relief from the automatic stay to be made in accordance with Rule 9014. Rule 9014(b) requires motions in contested matters to be served upon the parties against whom relief is being sought pursuant to Rule 7004. Since this motion will affect property of the estate, the Chapter 13 Trustee must be served in accordance with Rule 7004.

Rule 7004 allows service in the United States by first class mail by "mailing a copy of the summons and complaint to . . . the place where the individual regularly conducts a business[.]" Rule 7004(b)(1). Rule 7004(b)(9) requires service upon the debtor by mailing a copy of the pleadings to the address shown in the petition or to such other address as the debtor may designate in a filed writing. Electronic service is precluded here because Rule 9036 "does not apply to any paper required to be served in accordance with Rule 7004." Rule 9036(e).

Here, the certificate of service says that the Trustee was served by via email. Doc. #204. The Debtor was not served. Debtor's attorney, Robert Williams, was served by email in compliance with Local Rule of Practice 7005-1, but this is permissible under Rule 7004(g). Id.

Accordingly, this motion will be DENIED WITHOUT PREJUDICE because Debtor nor the Trustee was not properly served in accordance with Rule 4001(a)(1).

17. [23-12278](#)-B-13 **IN RE: MATTHEW QUALLS**
[SDS-1](#)

MOTION TO CONFIRM PLAN
11-7-2023 [\[19\]](#)

MATTHEW QUALLS/MV
SUSAN SILVEIRA/ATTY. FOR DBT.
RESPONSIVE PLEADING

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

DISPOSITION: Denied as moot.

ORDER: The court will issue the order

On November 29, 2023, the Debtor filed a *Response* to the Trustee's *Objection* in which he announced that he was withdrawing the Chapter 13 plan at issue and filing an Amended Chapter 13 Plan to address Trustee's concerns, and which will be confirmable. On December 1, 2023, the Debtor filed an Amended Plan. Doc. # 34. Accordingly, this *Motion* is DENIED as moot.

18. [23-12089](#)-B-13 **IN RE: FRANCISCO BECERRA**
[MHM-1](#)

MOTION TO DISMISS CASE
11-13-2023 [\[22\]](#)

GEORGE BURKE/ATTY. FOR DBT.
DISMISSED 11/16/23

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

DISPOSITION: Denied as moot.

ORDER: The court will issue an order.

An order dismissing this case was already entered on November 16, 2023. (Doc. #27). The motion will be DENIED AS MOOT.

19. [21-12394](#)-B-13 **IN RE: FELIX/RAMONA LEDESMA**
[JMP-1](#)

MOTION TO CONFIRM TERMINATION OR ABSENCE OF STAY
11-10-2023 [[90](#)]

WELLS FARGO BANK, N.A./MV
SCOTT LYONS/ATTY. FOR DBT.
JAVONNE PHILLIPS/ATTY. FOR MV.

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

DISPOSITION: Denied.

ORDER: The court will issue an order.

Creditor Wells Fargo Bank N.A. ("Movant") requests:

an Order stating there is no automatic stay in effect as to moving party (and the Trustee under the Deed of Trust securing moving party's claim) so that moving party and its Trustee may commence and continue all acts necessary to foreclose under the Deed of Trust secured by the Debtor(s') property, commonly known as 630 North Kensington Way, Porterville, CA 93257 ("Property" herein).

Doc. #90. As Movant notes, the confirmed plan in this case lists Movant as a Class 4 creditor and also contains the following language under § 3.11:

(a) Upon confirmation of the plan, the automatic stay of 11 U.S.C. § 362(a) and co-debtor stay of 11 U.S.C. § 1301(a) are ... (2) modified to allow the holder of a Class 4 secured claim to exercise its rights against its collateral and any nondebtor in the event of a default under applicable law or contract ...

Doc. #93 (*Exhibit 2*). The Modified Plan was confirmed November 18, 2022. Doc. # 86. The stay was modified as to Movant upon confirmation. Accordingly, the relief requested by Movant, the holder of the claim, is redundant and unnecessary, and this Motion will be DENIED.

11:00 AM

1. [23-11332](#)-B-11 **IN RE: TWILIGHT HAVEN, A CALIFORNIA**
NON-PROFIT CORPORATION
[23-1042](#) [CAE-1](#)

STATUS CONFERENCE RE: COMPLAINT
10-12-2023 [[1](#)]

TWILIGHT HAVEN, A CALIFORNIA
NON-PROFIT CORPORATIO V. FUDGE
RILEY WALTER/ATTY. FOR PL.

NO RULING.

2. [23-11537](#)-B-7 **IN RE: SAMANTHA SELMA**
[23-1043](#) [CAE-1](#)

STATUS CONFERENCE RE: COMPLAINT
10-13-2023 [[1](#)]

SELMA V. UNITED STATES
DEPARTMENT OF EDUCATION ET AL
JEFFREY ROWE/ATTY. FOR PL.

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

DISPOSITION: Continued to January 10, 2024, at 11:00 am.

ORDER: The court will issue an order.

Pursuant to a *Stipulation* of the parties extending response times for all parties by thirty (30) days (Doc. #7), this matter is continued to January 10, 2024, at 11:00 a.m.

3. [22-10352](#)-B-7 **IN RE: BRITTNEE STARLING**
[23-1014](#)

PRE-TRIAL CONFERENCE RE: COMPLAINT
2-10-2023 [[1](#)]

ALTAONE FEDERAL CREDIT UNION
V. STARLING
ALANA ANAYA/ATTY. FOR PL.
RESPONSIVE PLEADING

NO RULING.

4. [23-10457](#)-B-11 **IN RE: MADERA COMMUNITY HOSPITAL**
[23-1030](#) [CAE-1](#)

CONTINUED STATUS CONFERENCE RE: COMPLAINT
7-20-2023 [[1](#)]

MADERA COMMUNITY HOSPITAL V.
UNITED STATES DEPARTMENT OF
RILEY WALTER/ATTY. FOR PL.
CONT'D TO 1/31/24 PER ECF ORDER #17

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

DISPOSITION: Continued to January 31, 2024, at 11:00 a.m.

No order required.

Pursuant to the Stipulation of the parties approved by the court on November 13, 2023, (Doc. #17), this hearing is CONTINUED to January 31, 2024, at 11:00 a.m.

5. [23-10992](#)-B-13 **IN RE: ANGELITA MARQUEZ**
[23-1034](#) [CAE-1](#)

STATUS CONFERENCE RE: COMPLAINT
8-14-2023 [[1](#)]

MARQUEZ V. MARQUEZ
JUSTIN VECCHIARELLI/ATTY. FOR PL.

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

DISPOSITION: Closed.

ORDER: The court will enter the order.

This status conference will be closed. The original summons has become stale, and a new summons has issued. A status conference under the new summons will be heard on January 24, 2024, at 11:00 a.m. as directed under the re-issued summons.