



**UNITED STATES BANKRUPTCY COURT  
Eastern District of California  
Honorable René Lastreto II  
Wednesday, December 14, 2022  
Department B – Courtroom #13  
Fresno, California**

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 TELEPHONE**, and (4) via **COURTCALL**. You may choose any of these options unless otherwise ordered.

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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. [18-11201](#)-B-13     **IN RE: DOUGLAS PARKS**  
[MHM-3](#)

MOTION TO DISMISS CASE  
11-15-2022    [[155](#)]

MICHAEL MEYER/MV  
PETER FEAR/ATTY. FOR DBT.  
RESPONSIVE PLEADING

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

DISPOSITION:     Withdrawn; taken off calendar.

NO ORDER REQUIRED.

Chapter 13 trustee Michael H. Meyer withdrew this motion on December 2, 2022. Doc. #163. Accordingly, this motion to dismiss will be dropped and taken off calendar pursuant to the trustee's withdrawal.

2. [22-11408](#)-B-13     **IN RE: SARAH ALVARADO**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES  
11-21-2022    [[30](#)]

SCOTT LYONS/ATTY. FOR DBT.  
\$57.00 FINAL INSTALLMENT PAID 11/22/22

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, this order to show cause will be VACATED.

3. [22-11341](#)-B-13     **IN RE: ALEJANDRO/JULIA ZAMORA**  
[JDR-1](#)

CONTINUED MOTION TO CONFIRM PLAN  
9-14-2022    [[20](#)]

JULIA ZAMORA/MV  
JEFFREY ROWE/ATTY. FOR DBT.  
PLAN WITHDRAWN

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

DISPOSITION:     Withdrawn; taken off calendar.

NO ORDER REQUIRED.

Debtors Alejandro Orozco Zamora, Jr., and Julia Cerda Zamora withdrew this plan on November 14, 2022. Doc. #53. Accordingly, this motion to confirm plan will be dropped and taken off calendar pursuant to the debtors' withdrawal.

4. [22-11546](#)-B-13     **IN RE: MIGUEL PARRAS**  
[FAT-1](#)

MOTION TO CONFIRM PLAN  
10-31-2022    [[14](#)]

MIGUEL PARRAS/MV  
FLOR DE MARIA TATAJE/ATTY. FOR DBT.  
RESPONSIVE PLEADING

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

DISPOSITION:     Denied without prejudice.

ORDER:             The court will issue an order.

Miguel Angel Parras, Jr. ("Debtor"), moves for an order confirming the *First Amended Chapter 13 Plan* dated October 30, 2022. Doc. #24. The plan proposes that Debtor shall pay \$620.00 per month for months 1 through 50 and then \$1,240.00 per month for months 56 through 60. Doc. #13. Debtor's *Schedules I* and *J* filed with the petition indicate that Debtor receives \$507.00 in monthly net income, which appears to be insufficient to fund the proposed plan payment. Doc. #1.

Chapter 13 trustee Michael H. Meyer ("Trustee") timely objected to confirmation under 11 U.S.C. § 1325(a)(3), (a)(7), and (b) because the plan does not provide for all of Debtor's projected disposable income to be applied to unsecured creditors under the plan, and the plan has not been proposed in good faith and/or the filing of the petition was in bad faith. Doc. #18.

First, Trustee says that Debtor's disposable income in Form 122C-2 (Doc. #17) indicates that Debtor has monthly disposable income of \$2,213.72. So, Debtor is above over-median income and must pay 100% to unsecured creditors, which would require the plan to increase to \$1,508.00 per month for 60 months to fund. *Id.*

Second, if Debtor does not propose a 100% plan to unsecured creditors, Trustee objects to good faith in filing the case and the plan. Prior to filing bankruptcy, Debtor borrowed money from his 401K to fund a party for his niece and to pay down Debtor's 2022 Honda Civic. Now that Debtor is in chapter 13, he is proposing to pay a small amount to unsecured claims while paying a 401K loan in the amount of \$460.00 per month. Thus, Trustee contends that Debtor has failed to prove that the case and the plan were filed in good faith.

The court makes no ruling on Trustee's objection. Instead, this motion will be DENIED WITHOUT PREJUDICE for failure to comply with the Federal Rules of Bankruptcy Procedure ("Rules") and Local Rules of Practice ("LBR").

LBR 3015-1(d)(1) requires modified plans proposed prior to confirmation to comply with LBR 9014-1(f)(1) and Rule 2002(a)(9). LBR 9014-1(f)(1) requires a motion to give 28 days' notice that opposition must be filed 14 days before the hearing. Rule 2002(a)(9) requires all parties in interest to be given at least 21 days' notice of the time fixed for filing objections to confirmation of a chapter 13 plan. To comply with both LBR 9014-1(f)(1) and Rule 2002(a)(9), parties in interest must receive notice of the confirmation hearing at least 35 days before the hearing.

LBR 3015-1(d)(3) requires all proposed modified plans, the motion, and supporting documents, except when that plan that neither increases the duration nor decreases the dividend due to creditors holding general unsecured claims, to be served on (1) the U.S. Trustee ("UST"), (2) the chapter 13 trustee; (3) indentured trustees (if applicable), (4) the debtor and counsel, and (5) all creditors who have filed proofs of claims and creditors who are still permitted to file a proof of claim.

LBR 9014-1(e)(1) and (e)(2) require service of all pleadings filed in support of a motion to be made on or before the date they are filed with the court, and proof of service, in the form of a certificate of service, to be filed with the clerk concurrently with the documents served, or not more than three days after they are filed.

Here, Debtor did not file a certificate of service proving that the required parties in interest were served the motion, plan, and supporting documents or notified of the time fixed to file objections to confirmation of the plan. Accordingly, this motion will be DENIED WITHOUT PREJUDICE for the above procedural defects. Debtor is advised to consider Trustee's objection on Debtor's next attempt at plan confirmation.

5. [22-10857](#)-B-13     **IN RE: TEEBE KINFE**  
[SLL-1](#)

MOTION FOR COMPENSATION FOR STEPHEN LABIAK, DEBTORS  
ATTORNEY(S)  
11-10-2022    [\[19\]](#)

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.

Stephen L. Labiak ("Applicant"), attorney for Teebe G. Kinfe ("Debtor"), seeks compensation in the sum of \$5,013.95 on an interim basis under 11 U.S.C. § 331, subject to final review pursuant to § 330. Doc. #19. This amount consists of \$4,955.00 in fees as reasonable compensation for services rendered and of \$58.95 for reimbursement of actual, necessary expenses from May 11, 2022 through October 3, 2022. *Id.*

Debtor executed a statement in the application on October 15, 2022 stating that Debtor has reviewed the application and has no objection. *Id.* at § 9(7). Additionally, Debtor filed a supporting declaration indicating that Debtor reviewed the fee application, determined that the fee application reflects the services rendered and costs advanced by Applicant over the subject time period, and has no objections to allowing the chapter 13 trustee to pay the requested compensation. Doc. #22.

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.

Debtor filed chapter 13 bankruptcy on May 23, 2022. Doc. #1. The *Chapter 13 Plan* dated May 23, 2022, confirmed August 29, 2022 ("Plan"), is the operative plan in this case. Docs. #3; #16. Section 3.05 of the Plan provides that Debtor paid Applicant \$500.00 prior to the filing of the case, and subject to court approval, Applicant will be paid \$11,500.00 through the Plan by filing and serving a motion in conformance with 11 U.S.C. §§ 329 & 330, and Rules 2002, 2016, & 2017. Doc. #3. The *Disclosure of Compensation* Form B2030 reiterates the same: Applicant was paid \$500.00 pre-petition and the remaining balance due is \$11,500.00. Doc. #1.

This is Applicant's first interim fee application. Applicant's firm provided 17.30 billable hours of legal services at the following rates, totaling \$5,455.00 in fees:

Professional	Rate	Billed	Total
Stephen L. Labiak	\$350	14.30	\$5,005.00
Linda Fellner	\$150	3.00	\$450.00
<b>Total Hours &amp; Fees</b>		<b>17.30</b>	<b>\$5,455.00</b>
(-) Pre-petition payment			\$500.00
<b>Total Fees Requested</b>			<b>\$4,955.00</b>

Docs. #19; #21. Applicant also incurred **\$58.95** in expenses:

Computer Legal Research	\$34.20
Reproduction	\$24.75
<b>Total Costs</b>	<b>\$58.95</b>

*Id.* These combined requested fees and expenses total **\$5,013.95**.

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) consulting and fact gathering pre-petition, (2) preparing petition, schedules, and Form 22C, (3) independently verifying information, (4) amending the petitions and schedules, (5) confirming the original Plan, (6) reviewing proofs of claim and administering the case, and (7) preparing and filing this fee application. Docs. #19; #21. The court finds these services and expenses actual, reasonable, and necessary.

No party in interest timely filed written opposition and Debtor has consented to payment of the proposed fees and expenses. Doc. #22.

Accordingly, this motion will be GRANTED. Applicant shall be awarded \$5,513.95 in fees and \$58.95 in expenses on an interim basis under 11 U.S.C. § 331, subject to final review under § 330. After application of the \$500.00 pre-petition payment, the chapter 13 trustee, in the trustee's discretion, will be authorized to pay Applicant \$5,013.95 for services rendered to and expenses incurred from May 11, 2022 through October 3, 2022 in accordance with the Plan.

6. [22-11679](#)-B-13     **IN RE: DELANO/MONICA WILLIAMS**  
[AVN-1](#)

MOTION TO VALUE COLLATERAL OF WELLS FARGO BANK N.A.  
11-7-2022     [[22](#)]

MONICA WILLIAMS/MV  
ANH NGUYEN/ATTY. FOR DBT.

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

DISPOSITION:     Denied without prejudice.

ORDER:     The court will issue an order.

Delano Jamere Williams and Monica Marlene Williams (collectively "Debtors") request an order valuing a 2014 Cadillac XTS ("Vehicle") at \$15,757.00. Doc. #22. The Vehicle is the collateral of Wells Fargo Bank, N.A. dba Wells Fargo Auto ("Creditor"), and was purchased in August of 2019, which is more than 910 days preceding the petition date. Doc. #24.

This motion will be DENIED WITHOUT PREJUDICE. Constitutional due process requires that the movant make a *prima facie* showing that they are entitled to the relief sought. Here, the moving papers do not present "sufficient factual matter, accepted as true, to 'state a claim to relief that is plausible on its face.'" *In re Tracht Gut, LLC*, 503 B.R. 804, 811 (B.A.P. 9th Cir. 2014), citing *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) & *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007)).

First, the motion (Doc. #22) and joint debtor Monica Marlene Williams' declaration (Doc. #24) do not opine on the relevant valuation standard. 11 U.S.C. § 506(a)(2) states that the value of personal property securing an allowed claim shall be determined based on the replacement value of such property as of the petition filing date. "Replacement value" means "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."



Section 506(a)(2) requires the valuation standard to be "replacement value," not "Kelly Blue Book value" or "private party value." Other valuation standards are not specific enough. Also, the joint debtor is not an expert entitled to rely on Kelley Blue Book in formulating the basis of her opinion on Vehicle's value. Fed. R. Evid. 701-02.

The declaration refers to the "Kelly Blue Books valuation" and "Kelly Blue Book's private party valuation." Doc. #24. Nowhere in the declaration does Debtor provide an opinion as to Vehicle's "replacement value" on the petition date. Debtor does discuss the age, condition, mileage, and cosmetic defects of Vehicle, which are relevant. However, Debtor concludes by basing the "private party" valuation on Kelley Blue Book, which is not the appropriate standard under § 506(a)(2).

The joint debtor has not been established as an expert and cannot rely solely on Kelley Bluebook as a reliable method of valuing Vehicle. Fed. R. Evid. 702; *see also In re DaRosa*, 442 B.R. 172, 175 (Bankr. D. Mass. 2010); *Young v. Camelot Homes, Inc. (In re Young)*, 390 B.R. 480, 493 (Bankr. D. Me. 2008) ("[B]ecause [the debtor] used Kelley trade-in listings as the starting point of his analysis, his opinion will not be taken as convincing evidence of replacement value.").

The joint debtor is competent to testify as to the replacement of the Vehicle as its owner. In the absence of contrary evidence, the joint debtor's opinion of replacement value may be conclusive. *Enewally v. Wash. Mut. Bank (In re Enewally)*, 368 F.3d 1165, 1173 (9th Cir. 2004). But Debtors have not yet provided any evidence of replacement value. The court is looking for a declaration that unequivocally states Debtors' opinion of Vehicle's **replacement value**.

Second, Creditor was not properly served pursuant to Fed. R. Bankr. P. ("Rule") 3012. Rule 3012(b) provides that a request to determine the amount of a secured claim may be made by motion, in a claim objection, or in a plan filed in a chapter 13 case. When the request is made in a chapter 13 plan, the plan must be served in the manner provided in Rule 7004.

Rule 3012(b) is silent as to whether a determination of value by motion or claim objection requires Rule 7004 service. However, Rule 9014(b) requires contested matters to be served upon the parties against whom relief is being sought pursuant to Rule 7004. "Valuations pursuant to 11 U.S.C. § 506(a) and [Rule] 3012 are contested matters and do not require the filing of an adversary proceeding." *In re Well*, 2009 Bankr. LEXIS 5679 at \*4 (Cal. E.D. Bankr. May 7, 2009); *see also In re Johnson*, 2020 Bankr. LEXIS 1730 at \*1 (Bankr. D.D.C. July 2, 2020) (denying motion to value a motor vehicle because the debtor did not affect proper service under Rule 7004, which is required under Rule 9014); *In re Kelley*, 2020 Bankr. LEXIS 1276 at \*\*1-2 (Bankr. D.D.C. May 11, 2020) (reasoning that a motion to redeem a vehicle under § 722, which implicated § 506(a)(2) to the extent the vehicle was secured, initiated a contested matter requiring Rule 7004

service). On this basis, Creditor must either be served this motion or the chapter 13 plan in accordance with Rule 7004.

Creditor is a bank insured by the Federal Deposit Insurance Corporation ("FDIC"), so it is an insured depository institution under 11 U.S.C. § 101(35)(A) and 12 U.S.C. § 1813(c)(2) (an "insured depository institution" is any bank insured by the FDIC).<sup>1</sup>

Service on insured depository institutions is governed by Rule 7004(h), which requires service to be made by **certified mail and addressed to an officer**, unless one of three exceptions specified in subsections (h)(1) to (3) have been met. There is no indication that any of these exceptions apply. Under Rule 7004(i), an officer does not need to be named in the address if the envelope is addressed to the proper address and directed to the attention of the officer's position or title.

The court notes that the proposed *First Amended Chapter 13 Plan* dated November 7, 2022 ("Plan") is consistent with this motion and lists Creditor as Class 2(B) creditor "Wfds" for claims reduced based on the value of collateral. Doc. #17.

Creditor appears to have been served the Plan at the following two addresses:

1. Wells Fargo Bank N.A. d/b/a Wells Fargo  
Auto  
PO Box 130000  
Raleigh NC 27605
2. Wfds  
PO Box 19752  
Irvine, CA 92623

Doc. #20. Meanwhile, this motion was served on Creditor at:

1. Wells Fargo Bank N.A. d/b/a Wells Fargo  
Auto  
PO Box 130000  
Raleigh NC 27605
2. Wells Fargo NA  
101 N. Phillips Ave  
Sioux Falls, SD 57104

Doc. #26. Therefore, Debtors neither served the Plan nor the motion on Creditor in accordance with Rule 7004(h).

Debtor did serve the correct address in Creditor's Proof of Claim No. 5, but the proof of claim notice address is specifically for notices under Rule 2002 or objections to claims under Rule 3007(a)(2)(A).<sup>2</sup> Providing notice under Rule 2002 is not sufficient when Rule 7004

service is required. See *In re Ass'n of Volleyball Prof'ls*, 256 B.R. 313, 319-20 (Bankr. C.D. Cal. 2000).

For the above reasons, this motion will be DENIED WITHOUT PREJUDICE.

Third, though not presently a reason for denial, Debtors are advised that General Order 22-04 makes LBR 7005-1 effective as of November 1, 2022. See Gen. Order 22-04 (Oct. 6, 2022).

LBR 7005-1 requires service of pleadings and other documents in adversary proceedings, contested matters in the bankruptcy case, and all other pleadings in the Eastern District of California Bankruptcy Court by attorneys, trustees, or other Registered Electronic Filing System Users using the *Official Certificate of Service Form*, EDC 007-005. Unless six or fewer parties in interest are served, the form shall have attached to it the Clerk of the Court's Official Matrix, as appropriate: (1) for the case or adversary proceeding; (2) list of ECF Registered Users; (3) list of persons who have filed Requests for Special Notice; and/or (4) the list of Equity Security Holders. LBR 7005-1(a). The Clerk's Matrix of Creditors shall be downloaded not more than seven days prior to the date of serving the pleadings and other documents and shall reflect the date of download. LBR 7005-1(d).

According to the proof of service for this motion, Debtors served seven (7) parties. Doc. #26. Although Debtors correctly use Official Form EDC 007-05, they did not include an Official Matrix from the Clerk of the Court as required by LBR 7005-1(a) and Gen. Order 22-04. The Plan suffers from the same deficiency, except that approximately sixty-eight (68) parties were served. Doc. #20. The court has delayed enforcement of Rule 7005-1 and Gen. Order 22-04 for a short period, but in both instances, Applicant was required to attach the Clerk of the Court's Official Matrix. Replications of the matrix, as here, are insufficient.

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<sup>1</sup> See FDIC Cert. #27389, BankFind Suite, <https://banks.data.fdic.gov/bankfind-suite/bankfind> (visited Dec. 12, 2022). The court may take judicial notice *sua sponte* of information published on government websites. Fed. R. Evid. 201(c)(1); *Daniels-Hall v. Nat'l Educ. Ass'n*, 629 F.3d 992, 998-99 (9th Cir. 2010).

<sup>2</sup> Under Rule 3007(a)(2)(ii), if the claimant is an insured depository institution, the objection to claim must be served on both the person identified in the claim **and** pursuant to Rule 7004(h).

7. [22-11091](#)-B-13     **IN RE: MARIO/ISABEL SALINAS**  
[SLL-1](#)

MOTION FOR COMPENSATION FOR STEPHEN LABIAK, DEBTORS  
ATTORNEY(S)  
11-10-2022    [\[37\]](#)

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.

Stephen L. Labiak ("Applicant"), attorney for Mario A. Salinas and Isabel Salinas (collectively "Debtors"), seeks compensation in the sum of \$9,431.78 on an interim basis under 11 U.S.C. § 331, subject to final review pursuant to § 330. Doc. #37. This amount consists of \$9,270.00 in fees as reasonable compensation for services rendered and of \$161.78 for reimbursement of actual, necessary expenses from May 31, 2022 through November 8, 2022. *Id.*

Debtors executed a statement in the application on November 8, 2022 stating that Debtors have reviewed the application and have no objection. *Id.* at § 9(7). Additionally, joint debtor Isabel Salinas filed a supporting declaration indicating that Debtors have reviewed the fee application, determined that the fee application reflects the services rendered and costs advanced by Applicant over the subject time period, and have no objections to allowing the chapter 13 trustee to pay the requested compensation. Doc. #39

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.

Debtors filed chapter 13 bankruptcy on June 30, 2022. Doc. #1. The *Chapter 13 Plan* dated June 30, 2022, confirmed September 9, 2022 ("Plan"), is the operative plan in this case. Docs. #3; #21. Section 3.05 of the Plan provides that Debtors paid Applicant \$300.00 prior to the filing of the case, and subject to court approval, Applicant will be paid \$12,000.00 through the Plan by filing and serving a motion in conformance with 11 U.S.C. §§ 329 & 330, and Rules 2002, 2016, & 2017. Doc. #3. The *Disclosure of Compensation* Form B2030 reiterates the same: Applicant was paid \$300.00 pre-petition and the remaining balance due is \$12,000.00. Doc. #1.

This is Applicant's first interim fee application. Applicant's firm provided 31.40 billable hours of legal services at the following rates, totaling \$9,570.00 in fees:

Professional	Rate	Billed	Total
Stephen L. Labiak	\$350	24.30	\$8,505.00
Linda Fellner	\$150	7.10	\$1,065.00
<b>Total Hours &amp; Fees</b>		<b>31.40</b>	<b>\$9,570.00</b>
(-) Pre-petition payment			\$300.00
<b>Total Fees Requested</b>			<b>\$9,270.00</b>

Docs. #37; #40. Applicant also incurred **\$161.78** in expenses:

Postage	\$29.58
Computer Legal Research	\$21.00
Reproduction	\$79.20
Filing Fees	\$32.00
<b>Total Costs</b>	<b>\$161.78</b>

*Id.* These combined requested fees and expenses total **\$9,431.78**.

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) consulting and fact gathering pre-petition, (2) preparing petition, schedules, and Form 22C, (3) independently verifying information, (4) amending the petitions and schedules, (5) confirming the original chapter 13

Plan, (6) preparing for and attending the 341 meeting; (7) reviewing proofs of claim and administering the case, and (8) preparing and filing this fee application. Docs. #37; #40. The court finds these services and expenses actual, reasonable, and necessary. No party in interest timely filed written opposition and Debtors have consented to payment of the proposed fees and expenses. Docs. #37; #39.

Accordingly, this motion will be GRANTED. Applicant shall be awarded \$9,570.00 in fees and \$161.78 in expenses on an interim basis under 11 U.S.C. § 331, subject to final review under § 330. After application of the \$300.00 pre-petition payment, the chapter 13 trustee, in the trustee's discretion, will be authorized to pay Applicant \$9,431.78 for services rendered to and expenses incurred from May 31, 2022 through November 8, 2022 in accordance with the Plan.

8. [19-12096](#)-B-13      **IN RE: JUAN ALAMILLA AND PATRICIA DELGADILLO**  
[SL-1](#)                              **ALAMILLA**

CONTINUED MOTION TO MODIFY PLAN  
9-28-2022    [[49](#)]

PATRICIA DELGADILLO  
ALAMILLA/MV  
SCOTT LYONS/ATTY. FOR DBT.  
RESPONSIVE PLEADING

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

DISPOSITION:      Withdrawn; taken off calendar.

NO ORDER REQUIRED.

Debtors Juan Jose Alamilla and Patricia Delgadillo Alamilla withdrew this motion on December 12, 2022. Doc. #73. Accordingly, this motion to modify plan will be dropped and taken off calendar pursuant to the withdrawal.

9. [22-10699](#)-B-13     **IN RE: JESUS GUERRA**  
[LAK-1](#)

CONTINUED MOTION FOR RELIEF FROM AUTOMATIC STAY  
9-21-2022    [\[87\]](#)

COMMUNITY IMPROVEMENT CAPITAL,  
LLC/MV  
HENRY NUNEZ/ATTY. FOR DBT.  
STEVEN KURTZ/ATTY. FOR MV.  
RESPONSIVE PLEADING

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

DISPOSITION:        Continued to December 20, 2022 at 9:30 a.m.

ORDER:                The court will issue an order.

This motion was originally heard on October 26, 2022 and continued to December 14, 2022. Docs. #131; #133.

Community Improvement Capital, LLC ("Movant") sought relief from the automatic stay under 11 U.S.C. § 362(d)(1) with respect to real property located at 209 S. O Street, Madera, CA 93637 ("Property"). Doc. #87.

Jesus Lopez Guerra ("Debtor") timely opposed. Docs. #99-102; #110; #127.

Movant responded. Docs. #112.

At the October 26, 2022 hearing, the court deemed this matter to be a contested matter in which the federal rules of discovery apply. Based on the record, the factual issues appeared to include:

1. The value of the Property.
2. The amount of Movant's equity cushion.

The legal issues appeared to include:

1. Whether Movant is adequately protected.
2. Whether cause exists to lift the automatic stay.

Doc. #131. Additionally, the court ordered: (1) continuance of this motion to December 14, 2022; (2) extension of the automatic stay through December 16, 2022; (3) the striking of certain pleadings; (4) Debtor to file any additional evidence not later than November 30, 2022; and (5) Movant to file any reply not later than December 7, 2022. Doc. #133.

Since then, no new evidence or replies have been filed with respect to this motion. However, the parties previously indicated that a status conference in the ongoing state court receivership action was

scheduled for December 9, 2022. The outcome of that action could affect this motion.

Additionally, on December 6, 2022, Movant filed a joinder to the chapter 13 trustee's motion to dismiss that is currently scheduled for December 20, 2022. Doc. #165; MHM-3. As part of that joinder, Movant requested that this motion for relief from the automatic stay be continued one week to December 20, 2022 because if the dismissal is granted, this motion will become moot. The court agrees with Movant's assessment on mootness if the chapter 13 trustee's motion to dismiss is granted.

On December 12, 2022, Debtor, by and through his attorney, stipulated to continue the hearing on this motion. Doc. #171. Though Debtor has consented to the continuance, the stipulation is silent on extension of the automatic stay under 11 U.S.C. § 362(e)(2)(B)(i).

Because of potential mootness, good cause independently exists to further extend the automatic stay to December 20, 2022, pending the outcome of the final hearing on this motion and the chapter 13 trustee's motion to dismiss pursuant to 11 U.S.C. § 362(e)(2)(B)(ii).

Based on Movant's requested continuance in the joinder and the parties' stipulation to continue the hearing, the court will CONTINUE the hearing on this motion to December 20, 2022 at 9:30 a.m. Additionally, the automatic stay will be further extended to December 20, 2022 pending the outcome of the final hearing on this motion.



11:00 AM

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

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

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

NO RULING.

The court is in receipt of the parties' *Joint Status Conference Report* dated December 6, 2022 ("Status Report"). Doc. #67. The Status Report indicates that the parties have agreed to suggest the following proposed schedule for this case:

FRBP 7026 disclosures:	March 3, 2023
Close of percipient discovery:	April 14, 2023
L/D to file non-dispositive motions:	May 1, 2023
Designation of experts:	May 5, 2023
Rebuttal designation of experts:	May 19, 2023
Close of expert discovery:	June 30, 2023
L/D to file dispositive motions:	July 21, 2023
Pre-trial conference:	Week of September 11, 2023
Trial date:	To be set by court

*Id.* This status conference will proceed as a scheduling conference. The court intends to issue a Scheduling Order after the hearing.

2. [17-14112](#)-B-13     **IN RE: ARMANDO NATERA**  
[20-1035](#)

CONTINUED PRE-TRIAL CONFERENCE RE: AMENDED COMPLAINT  
12-23-2020    [\[92\]](#)

NATERA V. BARNES ET AL  
GABRIEL WADDELL/ATTY. FOR PL.  
RESPONSIVE PLEADING

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

DISPOSITION:     The pre-trial conference will be VACATED.

ORDER:             The court will issue an order.

The court is in receipt of the parties' *Joint Status Report* dated December 8, 2022 ("Status Report"). Doc. #386. The parties anticipate the court will solicit a scheduling order to address (i) what fact discovery is still required in the third-party action, (ii) expert discovery as both to the third-party action and the original adversary proceeding, (iii) deadlines for filing dispositive motions, and (vi) rescheduling of the pre-trial conference. The court will issue an order VACATING the pre-trial conference and will issue a Modified Scheduling Order.

3. [17-14112](#)-B-13     **IN RE: ARMANDO NATERA**  
[20-1035](#)     [CAE-1](#)

CONTINUED STATUS CONFERENCE RE: AMENDED THIRD-PARTY  
COMPLAINT  
8-5-2022     [[327](#)]

NATERA V. BARNES ET AL  
WILLIAM WINFIELD/ATTY. FOR PL.

NO RULING.

The court is in receipt of the parties' *Joint Status Report* dated December 8, 2022 ("Status Report"). Doc. #386. The parties anticipate the court will solicit a scheduling order to address (i) what fact discovery is still required in the third-party action, (ii) expert discovery as both to the third-party action and the original adversary proceeding, (iii) deadlines for filing dispositive motions, and (vi) rescheduling of the pre-trial conference. This status conference will proceed as a scheduling conference. The court intends to issue a Modified Scheduling Order after the hearing that is applicable to both the complaint and third-party complaint.

4. [17-14112](#)-B-13     **IN RE: ARMANDO NATERA**  
[20-1035](#)     [FW-6](#)

CONTINUED SCHEDULING CONFERENCE RE: MOTION FOR SUMMARY  
ADJUDICATION  
9-14-2021     [[138](#)]

NATERA V. BARNES ET AL  
GABRIEL WADDELL/ATTY. FOR MV.  
RESPONSIVE PLEADING

NO RULING.

5. [17-14112](#)-B-13     **IN RE: ARMANDO NATERA**  
[20-1035](#)     [TAT-3](#)

CONTINUED STATUS CONFERENCE RE: MOTION FOR SUMMARY JUDGMENT  
9-1-2021     [[124](#)]

NATERA V. BARNES ET AL  
THOMAS TRAPANI/ATTY. FOR MV.  
RESPONSIVE PLEADING

NO RULING.

6. [13-11337](#)-B-13     **IN RE: GREGORY/KARAN CARVER**  
[22-1001](#)     [CAE-1](#)

CONTINUED STATUS CONFERENCE RE: COMPLAINT  
1-6-2022     [[1](#)]

CARVER ET AL V. SETERUS INC. ET AL  
NANCY KLEPAC/ATTY. FOR PL.  
RESPONSIVE PLEADING

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

DISPOSITION:     Continued to January 11, 2023 at 11:00 a.m.

ORDER:     The court will issue an order.

The court is in receipt of Defendants Gregory Funding, LLC's ("Gregory Funding") and Nationstar Mortgage, LLC's ("Nationstar Mortgage") separately filed status conference statements. Docs. #97; #99. Both statements indicate that the parties reached a settlement agreement, but on November 28, 2022, Plaintiffs Gregory Thomas Carver and Karan Ann Carver (collectively "Plaintiffs") decided that they no longer wanted to settle, and instead want to proceed to trial. *Id.*

Meanwhile, on November 21, 2022, Gregory Funding stipulated to a thirty-day extension to file an answer or responsive pleading to Plaintiffs' complaint. Doc. #96. Thus, the deadline for Gregory Funding to file an answer or response appears to be December 21, 2022. Accordingly, this status conference will be CONTINUED to January 11, 2023 at 11:00 a.m. to be heard after Gregory Funding has filed an answer or other response. The court also notes that Gregory Funding has not yet filed a Statement of Corporate Ownership, which is required to be filed with its first appearance, pleading, motion, response, or other request addressed to the court under Fed. R. Bankr. P. 7007.1

7. [17-13797](#)-B-9     **IN RE: TULARE LOCAL HEALTHCARE DISTRICT**  
[20-1002](#)

CONTINUED STATUS CONFERENCE RE: COMPLAINT  
1-14-2020    [[1](#)]

TULARE LOCAL HEALTHCARE DISTRICT V. BAKER & HOSTETLER  
RILEY WALTER/ATTY. FOR PL.

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

DISPOSITION:     Continued to June 14, 2023 at 11:00 a.m.

NO ORDER REQUIRED.

Pursuant to the parties' stipulation, the court entered an order continuing this status conference to June 14, 2023 at 11:00 a.m. Doc. #61.