

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

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

PRE-HEARING DISPOSITIONS

DAY: WEDNESDAY

DATE: DECEMBER 18, 2019

CALENDAR: 3:00 P.M. CHAPTERS 13 AND 12 CASES

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. 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.

1. [19-13501](#)-A-13 **IN RE: JOSE SANCHEZ**
[SL-1](#)

MOTION TO CONFIRM PLAN
11-12-2019 [\[23\]](#)

JOSE SANCHEZ/MV
SCOTT LYONS/ATTY. FOR DBT.

Final Ruling

Motion: Confirm Chapter 13 Plan

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

Disposition: Granted

Order: Prepared by the trustee, approved by debtor's counsel

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 3015-1(d)(1), 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

Chapter 13 plan confirmation is governed by 11 U.S.C. §§ 1322, 1325 and by Federal Rule of Bankruptcy Procedure 2002(b) and Local Bankruptcy Rule 3015-1. The debtor has the burden of proving that the plan complies with all statutory requirements of confirmation. *In re Andrews*, 49 F.3d 1404, 1407-08 (9th Cir. 1995); *In re Barnes*, 32 F.3d 405, 407-08 (9th Cir. 1994). The court finds that the debtor has sustained that burden, and the court will approve confirmation of the plan.

2. [19-14104](#)-A-13 **IN RE: JOSE CEDANO**
[MHM-2](#)

MOTION TO DISMISS CASE
11-20-2019 [\[26\]](#)

MICHAEL MEYER/MV
MARK ZIMMERMAN/ATTY. FOR DBT.

Final Ruling

This motion having been withdrawn, the court will drop this matter from the calendar.

3. [18-14905](#)-A-13 **IN RE: TRACEY PRITCHETT**
[TCS-2](#)

MOTION TO MODIFY PLAN
10-21-2019 [\[48\]](#)

TRACEY PRITCHETT/MV
TIMOTHY SPRINGER/ATTY. FOR DBT.
RESPONSIVE PLEADING

Final Ruling

This motion having been withdrawn, the court will drop this matter from the calendar.

4. [19-13605](#)-A-13 **IN RE: JOANN FRAIRE**
[RS-1](#)

MOTION TO CONFIRM PLAN
11-7-2019 [\[23\]](#)

JOANN FRAIRE/MV
RICHARD STURDEVANT/ATTY. FOR DBT.

Final Ruling

Motion: Confirm Chapter 13 Plan

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

Disposition: Granted

Order: Prepared by the trustee, approved by debtor's counsel

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 3015-1(d)(1), 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

Chapter 13 plan confirmation is governed by 11 U.S.C. §§ 1322, 1325 and by Federal Rule of Bankruptcy Procedure 2002(b) and Local Bankruptcy Rule 3015-1. The debtor has the burden of proving that the plan complies with all statutory requirements of confirmation. *In re Andrews*, 49 F.3d 1404, 1407-08 (9th Cir. 1995); *In re Barnes*, 32 F.3d 405, 407-08 (9th Cir. 1994). The court finds that the debtor has sustained that burden, and the court will approve confirmation of the plan.

5. [19-12709](#)-A-13 **IN RE: HANS YEAGER**
[MHM-2](#)

MOTION TO DISMISS CASE
11-7-2019 [[38](#)]

MICHAEL MEYER/MV
ROBERT WILLIAMS/ATTY. FOR DBT.
RESPONSIVE PLEADING

No Ruling

6. [19-13109](#)-A-13 **IN RE: IVAN JARA AND CRYSTAL ORTIZ**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES
11-13-2019 [[34](#)]

MARK ZIMMERMAN/ATTY. FOR DBT.

Final Ruling

The installments having been paid, the order to show cause is discharged. The case will remain pending.

7. [19-13109](#)-A-13 **IN RE: IVAN JARA AND CRYSTAL ORTIZ**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES
11-26-2019 [[40](#)]

MARK ZIMMERMAN/ATTY. FOR DBT.

Final Ruling

The fee having been paid in full, the order to show cause is discharged. The case will remain pending.

8. [19-12810](#)-A-13 **IN RE: RICHARD/KRISTINE WALLACE**
[JDR-1](#)

MOTION TO INCUR DEBT
11-19-2019 [[23](#)]

RICHARD WALLACE/MV
JEFFREY ROWE/ATTY. FOR DBT.

Final Ruling

Motion: Approve New Debt [Vehicle Loan]

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

Disposition: Granted

Order: Prepared by moving party

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

The debtor seeks to incur new debt to finance the purchase of a vehicle. Amended Schedules I and J have been filed indicating that the debtor can afford both the plan payment and the proposed monthly loan payment of principal and interest that would result from obtaining this financing. The court will grant the motion, and the trustee will approve the order as to form and content.

9. [18-12912](#)-A-13 **IN RE: FRANK/ANGIE WOODS**
[PBB-1](#)

MOTION TO MODIFY PLAN
10-22-2019 [[31](#)]

FRANK WOODS/MV
PETER BUNTING/ATTY. FOR DBT.
RESPONSIVE PLEADING

No Ruling

10. [19-13915](#)-A-13 **IN RE: TROY/JULIANA HOENISCH**
[MHM-1](#)

MOTION TO DISMISS CASE
11-8-2019 [\[12\]](#)

MICHAEL MEYER/MV
ROBERT WILLIAMS/ATTY. FOR DBT.
RESPONSIVE PLEADING

No Ruling

11. [14-13416](#)-A-12 **IN RE: JOAO/LUZIA VAZ**
[TCS-12](#)

AMENDED MOTION FOR SANCTIONS FOR VIOLATION OF THE DISCHARGE
INJUNCTION , AMENDED MOTION FOR CONTEMPT
11-12-2019 [\[156\]](#)

JOAO VAZ/MV
NANCY KLEPAC/ATTY. FOR DBT.

Final Ruling

This motion having been withdrawn, the court will drop this matter from the calendar.

12. [19-12218](#)-A-13 **IN RE: LUILLI MURGUIA AND MONICA CROUSILLAT**
[SLL-1](#)

MOTION FOR COMPENSATION FOR STEPHEN L. LABIAK, DEBTORS
ATTORNEY(S)
11-12-2019 [\[39\]](#)

STEPHEN LABIAK/ATTY. FOR DBT.

Final Ruling

Application: Allowance of First Interim Compensation and Expense Reimbursement

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

Disposition: Approved

Order: Civil minute order

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

COMPENSATION AND EXPENSES

In this Chapter 13 case, Stephen Labiak has applied for an allowance of interim compensation and reimbursement of expenses. The application requests that the court allow compensation in the amount of \$7,245.00 and reimbursement of expenses in the amount of \$90.35.

Section 330(a) of the Bankruptcy Code authorizes "reasonable compensation for actual, necessary services" rendered by a debtor's attorney in a Chapter 13 case and "reimbursement for actual, necessary expenses." 11 U.S.C. § 330(a)(1), (4)(B). Reasonable compensation is determined by considering all relevant factors. See *id.* § 330(a)(3).

The court finds that the compensation and expenses sought are reasonable, and the court will approve the application on an interim basis. Such amounts shall be perfected, and may be adjusted, by a final application for compensation and expenses, which shall be filed prior to case closure.

CIVIL MINUTE ORDER

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

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

Stephen Labiak's application for allowance of interim compensation and reimbursement of expenses has been presented to the court. Having entered the default of respondent for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the application,

IT IS ORDERED that the application is approved on an interim basis. The court allows interim compensation in the amount of \$7,245.00 and reimbursement of expenses in the amount of \$90.35. The aggregate allowed amount equals \$7,335.35. As of the date of the application, the applicant held a retainer in the amount of \$0.00. The amount of \$7,335.35 shall be allowed as an administrative expense to be paid through the plan, and the remainder of the allowed amounts, if any, shall be paid from the retainer held by the applicant. The applicant is authorized to draw on any retainer held.

IT IS FURTHER ORDERED that the fees and costs are allowed pursuant to 11 U.S.C. § 331 as interim fees and costs, subject to final review and allowance pursuant to 11 U.S.C. § 330. Such allowed amounts shall be perfected, and may be adjusted, by a final application for allowance of compensation and reimbursement of expenses, which shall be filed prior to case closure.

IT IS FURTHER ORDERED that the trustee is authorized to pay the fees allowed by this order from the available funds of the plan in a manner consistent with the terms of the confirmed plan.

13. [16-10720](#)-A-13 **IN RE: PHILIP/SUSANNE ICARDO**
[MHM-2](#)

CONTINUED MOTION TO DISMISS CASE
9-25-2019 [\[88\]](#)

MICHAEL MEYER/MV
ROBERT WILLIAMS/ATTY. FOR DBT.
RESPONSIVE PLEADING

Final Ruling

This motion having been withdrawn, the court will drop this matter from the calendar.

14. [19-14820](#)-A-13 **IN RE: JOHN LOWE**
[PBB-2](#)

MOTION TO EXTEND AUTOMATIC STAY
12-3-2019 [\[20\]](#)

JOHN LOWE/MV
PETER BUNTING/ATTY. FOR DBT.

No Ruling

15. [19-14025](#)-A-13 **IN RE: KATHRYN MCCOON**
[MHM-1](#)

MOTION TO DISMISS CASE
11-5-2019 [\[24\]](#)

MICHAEL MEYER/MV

Final Ruling

Motion: Dismiss Case

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

Disposition: Granted

Order: Civil minute order

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

CASE DISMISSAL

The debtor has failed to provide the trustee with required or requested documents. See 11 U.S.C. § 521(a)(3)-(4).

The debtor has failed to appear at a § 341 meeting of creditors. See 11 U.S.C. §§ 341, 343.

The debtor has failed to confirm a plan within a reasonable time. The case has been pending for approximately 3 months, yet a plan has not been confirmed. This constitutes unreasonable delay by the debtor that is prejudicial to creditors.

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

CIVIL MINUTE ORDER

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

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

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

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

16. [18-11926](#)-A-13 **IN RE: STEVEN/TELVA RAMIREZ**
[SL-3](#)

CONTINUED MOTION TO COMPROMISE CONTROVERSY/APPROVE
SETTLEMENT AGREEMENT WITH SEQUOIA BEVERAGE CO.
9-10-2019 [\[55\]](#)

STEVEN RAMIREZ/MV
SCOTT LYONS/ATTY. FOR DBT.

No Ruling

17. [19-13326](#)-A-13 **IN RE: RICARDO/JESSICA MONTANO**
[PBB-2](#)

MOTION TO AVOID LIEN OF KINGS FEDERAL CREDIT UNION
10-29-2019 [\[36\]](#)

RICARDO MONTANO/MV
PETER BUNTING/ATTY. FOR DBT.

Final Ruling

Motion: Avoid Lien that Impairs Exemption

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

Disposition: Granted

Order: Prepared by moving party

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

Section 522(f) of the Bankruptcy Code authorizes the court to avoid a lien "on an interest of the debtor in property to the extent that such lien impairs an exemption to which the debtor would have been entitled." 11 U.S.C. § 522(f)(1). There are four elements to avoidance of a lien that impairs an exemption: (1) there must be an exemption to which the debtor would have been entitled; (2) the property must be listed on the schedules and claimed as exempt; (3) the lien must impair the exemption claimed; and (4) the lien must be a judicial lien or nonpossessory, nonpurchase-money security interest in property described in § 522(f)(1)(B). *Goswami v. MTC Distrib. (In re Goswami)*, 304 B.R. 386, 390-91 (B.A.P. 9th Cir. 2003). Impairment is statutorily defined: a lien impairs an exemption "to the extent that the sum of - (i) the lien; (ii) all other liens on the property; and (iii) the amount of the exemption that the debtor could claim if there were no liens on the property; exceeds the value that the debtor's interest in the property would have in the absence of any liens." 11 U.S.C. § 522(f)(2)(A).

The responding party's judicial lien, all other liens, and the exemption amount together exceed the property's value by an amount greater than or equal to the judicial lien. As a result, the responding party's judicial lien will be avoided entirely.

18. [19-14026](#)-A-13 **IN RE: DAVID DOHI**
[MHM-1](#)

OBJECTION TO DEBTOR'S CLAIM OF EXEMPTIONS
11-13-2019 [\[17\]](#)

MICHAEL MEYER/MV
BENNY BARCO/ATTY. FOR DBT.

Final Ruling

Objection: Objection to Claim of Exemptions in Life Insurance Policy
[C.C.P. § 704.100]

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

Disposition: Sustained

Order: Prepared by objecting party

Unopposed objections are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c); LBR 9001-1(d), (n) (contested matters include objections). Written opposition to the sustaining of this objection was required not less than 14 days before the hearing on this motion. None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

The chapter 13 trustee has filed an Objection to Claim of Exemptions. The objection was set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). For the reasons stated in the objection, the court will sustain the objection.

The debtor claimed an exemption in the face amount of a life insurance policy of \$23,975.00 listed as exempt on Schedule C. The trustee objects to the exemption on grounds that California Code of Civil Procedure section 704.100(b) only permits an exemption in the debtor's ownership interest in an unmaturred life insurance up to \$13,975.00. Debtor would be entitled to double the exemption, if he were married at the time of filing the bankruptcy petition. Here, Debtor's spouse was deceased at time of filing. Schedule H, ECF 1. Debtor has exceeded the allowed exemption by \$10,000.00. Also, the Debtor provided no information as to whether any of the life insurance policies have matured. Debtor may thus be instead entitled to an exemption under 704.100(c). The trustee is correct.

Thus, the objection will be sustained. If an exemption is claimed in the life insurance policy only under section 703.140(b)(7), then the value of the life insurance policy claimed exempt will be listed as \$0.00.

19. [19-11628](#)-A-12 **IN RE: MIKAL JONES**
[FW-3](#)

CONTINUED MOTION TO CONFIRM CHAPTER 12 PLAN
7-19-2019 [\[53\]](#)

MIKAL JONES/MV
PETER FEAR/ATTY. FOR DBT.
RESPONSIVE PLEADING

Final Ruling

Per Order signed 12/4/19, ECF #137, this motion is continued to January 24, 2020 at 9:00 a.m.

20. [19-11628](#)-A-12 **IN RE: MIKAL JONES**
[FW-5](#)

MOTION FOR COMPENSATION BY THE LAW OFFICE OF FEAR WADDELL,
P.C. FOR PETER L. FEAR, DEBTORS ATTORNEY(S)
11-20-2019 [\[123\]](#)

PETER FEAR/ATTY. FOR DBT.

Final Ruling

Application: Allowance of First Interim Compensation and Expense Reimbursement

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

Disposition: Approved

Order: Civil minute order

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

COMPENSATION AND EXPENSES

In this Chapter 12 case, Fear Waddell, P.C. has applied for an allowance of interim compensation and reimbursement of expenses. The application requests that the court allow compensation in the amount of \$62,080.00 and reimbursement of expenses in the amount of \$400.80.

Section 330(a) of the Bankruptcy Code authorizes "reasonable compensation for actual, necessary services" rendered by a debtor's attorney in a Chapter 12 case and "reimbursement for actual, necessary expenses." 11 U.S.C. § 330(a)(1), (4)(B). Reasonable

compensation is determined by considering all relevant factors. See *id.* § 330(a)(3).

The court finds that the compensation and expenses sought are reasonable, and the court will approve the application on an interim basis. Such amounts shall be perfected, and may be adjusted, by a final application for compensation and expenses, which shall be filed prior to case closure.

CIVIL MINUTE ORDER

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

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

Fear Waddell, P.C.'s application for allowance of interim compensation and reimbursement of expenses has been presented to the court. Having entered the default of respondent for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the application,

IT IS ORDERED that the application is approved on an interim basis. The court allows interim compensation in the amount of \$62,080.00 and reimbursement of expenses in the amount of \$400.80. The aggregate allowed amount equals \$62,480.80. As of the date of the application, the applicant held a retainer in the amount of \$21.00. The amount of \$62,459.80 shall be allowed as an administrative expense to be paid through the plan, and the remainder of the allowed amounts, if any, shall be paid from the retainer held by the applicant. The applicant is authorized to draw on any retainer held.

IT IS FURTHER ORDERED that the fees and costs are allowed pursuant to 11 U.S.C. § 331 as interim fees and costs, subject to final review and allowance pursuant to 11 U.S.C. § 330. Such allowed amounts shall be perfected, and may be adjusted, by a final application for allowance of compensation and reimbursement of expenses, which shall be filed prior to case closure.

IT IS FURTHER ORDERED that the trustee is authorized to pay the fees allowed by this order from the available funds of the plan in a manner consistent with the terms of the confirmed plan.

21. [19-11628](#)-A-12 **IN RE: MIKAL JONES**
[WJH-1](#)

CONTINUED MOTION TO DISMISS CASE
10-1-2019 [\[89\]](#)

RUSSELL DILDAY/MV
PETER FEAR/ATTY. FOR DBT.
RILEY WALTER/ATTY. FOR MV.
RESPONSIVE PLEADING

Final Ruling

Per Order signed 12/4/19, ECF #138, this motion is continued to January 24, 2020 at 9:00 a.m.

22. [14-14537](#)-A-13 **IN RE: DENNIS/LASHANE WILLIAMS**
[MHM-4](#)

MOTION TO DISMISS CASE
11-6-2019 [\[90\]](#)

MICHAEL MEYER/MV
ROBERT WILLIAMS/ATTY. FOR DBT.
WITHDRAWN

Final Ruling

This motion having been withdrawn, the court will drop this matter from the calendar.

23. [19-14337](#)-A-13 **IN RE: DONNA REYNA**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES
11-19-2019 [\[14\]](#)

JAMES CANALEZ/ATTY. FOR DBT.

Final Ruling

The installments having been paid, the order to show cause is discharged. The case will remain pending.

24. [19-14337](#)-A-13 **IN RE: DONNA REYNA**
[MHM-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY TRUSTEE MICHAEL H.
MEYER
11-21-2019 [[16](#)]

JAMES CANALEZ/ATTY. FOR DBT.

No Ruling

25. [19-13238](#)-A-13 **IN RE: HENRY/KRISTI GARCIA**
[MHM-3](#)

MOTION TO DISMISS CASE
11-13-2019 [[46](#)]

MICHAEL MEYER/MV
JULIE MORADI-LOPES/ATTY. FOR DBT.

Final Ruling

Motion: Dismiss Case

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

Disposition: Granted

Order: Civil minute order

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

CASE DISMISSAL

The debtor has failed to provide the trustee with required or requested documents. See 11 U.S.C. § 521(a)(3)-(4).

The debtor has failed to appear at a § 341 meeting of creditors. See 11 U.S.C. §§ 341, 343.

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

CIVIL MINUTE ORDER

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

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

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

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

26. [19-12243](#)-A-13 **IN RE: VALERIE JACQUES**
[JDR-2](#)

MOTION TO VALUE COLLATERAL OF CAPITAL ONE AUTO FINANCE
10-21-2019 [\[47\]](#)

VALERIE JACQUES/MV
JEFFREY ROWE/ATTY. FOR DBT.

Final Ruling

Motion: Value Collateral [Personal Property; Motor Vehicle]

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

Disposition: Granted

Order: Civil minute order

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

VALUATION OF COLLATERAL

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

A debtor's ability to value collateral consisting of a motor vehicle is limited by the terms of the hanging paragraph of § 1325(a). See 11 U.S.C. § 1325(a) (hanging paragraph). Under this statute, a lien

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

In this case, the debtor seeks to value collateral consisting of a motor vehicle described as a 2012 Dodge Ram 1500. The debt secured by the vehicle was not incurred within the 910-day period preceding the date of the petition. The court values the vehicle at \$11,063.00.

CIVIL MINUTE ORDER

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

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

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

IT IS ORDERED that the motion is granted. The personal property collateral described as a 2012 Dodge Ram 1500 has a value of \$11,063.00. No senior liens on the collateral have been identified. The respondent has a secured claim in the amount of \$11,063.00 equal to the value of the collateral that is unencumbered by senior liens. The respondent has a general unsecured claim for the balance of the claim.

27. [19-12243](#)-A-13 **IN RE: VALERIE JACQUES**
[JDR-3](#)

MOTION TO AVOID LIEN OF CAPITAL ONE BANK (USA) N.A.
10-21-2019 [\[53\]](#)

VALERIE JACQUES/MV
JEFFREY ROWE/ATTY. FOR DBT.

Final Ruling

Motion: Avoid Lien that Impairs Exemption

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

Disposition: Granted

Order: Prepared by moving party

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

Section 522(f) of the Bankruptcy Code authorizes the court to avoid a lien "on an interest of the debtor in property to the extent that such lien impairs an exemption to which the debtor would have been entitled." 11 U.S.C. § 522(f)(1). There are four elements to avoidance of a lien that impairs an exemption: (1) there must be an exemption to which the debtor would have been entitled; (2) the property must be listed on the schedules and claimed as exempt; (3) the lien must impair the exemption claimed; and (4) the lien must be a judicial lien or nonpossessory, nonpurchase-money security interest in property described in § 522(f)(1)(B). *Goswami v. MTC Distrib. (In re Goswami)*, 304 B.R. 386, 390-91 (B.A.P. 9th Cir. 2003). Impairment is statutorily defined: a lien impairs an exemption "to the extent that the sum of - (i) the lien; (ii) all other liens on the property; and (iii) the amount of the exemption that the debtor could claim if there were no liens on the property; exceeds the value that the debtor's interest in the property would have in the absence of any liens." 11 U.S.C. § 522(f)(2)(A).

The responding party's judicial lien, all other liens, and the exemption amount together exceed the property's value by an amount greater than or equal to the judicial lien. As a result, the responding party's judicial lien will be avoided entirely.

28. [19-12243](#)-A-13 **IN RE: VALERIE JACQUES**
[JDR-4](#)

MOTION TO AVOID LIEN OF CAPITAL ONE BANK (USA) N.A.
10-21-2019 [\[58\]](#)

VALERIE JACQUES/MV
JEFFREY ROWE/ATTY. FOR DBT.

Final Ruling

Motion: Avoid Lien that Impairs Exemption

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

Disposition: Granted

Order: Prepared by moving party

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

Section 522(f) of the Bankruptcy Code authorizes the court to avoid a lien "on an interest of the debtor in property to the extent that such lien impairs an exemption to which the debtor would have been entitled." 11 U.S.C. § 522(f)(1). There are four elements to avoidance of a lien that impairs an exemption: (1) there must be an exemption to which the debtor would have been entitled; (2) the property must be listed on the schedules and claimed as exempt; (3) the lien must impair the exemption claimed; and (4) the lien must be a judicial lien or nonpossessory, nonpurchase-money security interest in property described in § 522(f)(1)(B). *Goswami v. MTC Distrib. (In re Goswami)*, 304 B.R. 386, 390-91 (B.A.P. 9th Cir. 2003). Impairment is statutorily defined: a lien impairs an exemption "to the extent that the sum of - (i) the lien; (ii) all other liens on the property; and (iii) the amount of the exemption that the debtor could claim if there were no liens on the property; exceeds the value that the debtor's interest in the property would have in the absence of any liens." 11 U.S.C. § 522(f)(2)(A).

The responding party's judicial lien, all other liens, and the exemption amount together exceed the property's value by an amount greater than or equal to the judicial lien. As a result, the responding party's judicial lien will be avoided entirely.

29. [19-12243](#)-A-13 **IN RE: VALERIE JACQUES**
[MHM-2](#)

CONTINUED MOTION TO DISMISS CASE
10-24-2019 [\[63\]](#)

MICHAEL MEYER/MV
JEFFREY ROWE/ATTY. FOR DBT.
RESPONSIVE PLEADING

Final Ruling

Motion: Dismiss Case

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

Disposition: Denied

Order: Civil minute order

CASE DISMISSAL

The chapter 13 trustee moves to dismiss this case. Trustee stated Debtor failed to file and set for hearing motions to value against Capital One Bank N.A. Trustee stated the claims are not properly provided for in the Plan. At the first hearing on the motion to dismiss, the trustee agreed that if the motion to value (2012 Dodge Ram 1500) and the motion to avoid liens (Capitol One Bank), that the motion to dismiss could be denied." Order, November 26, 2019, ECF # 71.

Debtor filed multiple motions to value liens against Capital One Bank N.A. ECF 67.

The court will grant both motions to avoid lien, and so will drop Trustee's motion.

CIVIL MINUTE ORDER

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

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

The trustee's motion to dismiss this chapter 13 case has been presented to the court. Having considered the motion, oppositions, responses and replies, if any, and having heard oral argument presented at the hearing,

IT IS ORDERED that the motion is denied.

30. [18-12147](#)-A-13 **IN RE: FRANCISCO RAMIREZ**
[STH-1](#)

MOTION TO CONFIRM TERMINATION OR ABSENCE OF STAY
11-14-2019 [\[33\]](#)

U.S. BANK NATIONAL
ASSOCIATION/MV
THOMAS GILLIS/ATTY. FOR DBT.
STEPHEN HICKLIN/ATTY. FOR MV.

Final Ruling

Motion: Stay Relief

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

Disposition: Granted

Order: Civil minute order

Subject: 12659 Avenue 22, Chowchilla, CA 93610-8920

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

STAY RELIEF

Subsection (d)(1) of § 362 of Title 11 provides for relief from stay for "cause, including the lack of adequate protection of an interest in property of such party." 11 U.S.C. § 362(d)(1). Adequate protection may consist of a lump sum cash payment or periodic cash payments to the entity entitled to adequate protection "to the extent that the stay . . . results in a decrease in the value of such entity's interest in property." 11 U.S.C. § 361(1).

Property described in this motion has not been listed in the confirmed plan. Plan, May 29, 2018, ECF # 5. This constitutes cause for stay relief.

The court does not address grounds for relief under § 362(d)(2) as relief is warranted under § 362(d)(1). The motion will be granted, and the 14-day stay of Federal Rule of Bankruptcy Procedure 4001(a)(3) will be waived. No other relief will be awarded.

CIVIL MINUTE ORDER

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

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

MEB Loan Trust's motion for relief from the automatic stay has been presented to the court. Having entered the default of respondent for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the motion,

IT IS ORDERED that the motion is granted. The automatic stay is vacated with respect to the property described in the motion, commonly known as 12659 Avenue 22, Chowchilla, CA 93610-8920, as to all parties in interest. The 14-day stay of the order under Federal Rule of Bankruptcy Procedure 4001(a)(3) is waived. Any party with standing may pursue its rights against the property pursuant to applicable non-bankruptcy law.

IT IS FURTHER ORDERED that no other relief is awarded. To the extent that the motion includes any request for attorney's fees or other costs for bringing this motion, the request is denied.

31. [19-11449](#)-A-13 **IN RE: DAVID DELAO**
[MHM-3](#)

CONTINUED MOTION TO DISMISS CASE
6-24-2019 [[50](#)]

MICHAEL MEYER/MV
VARDUHI PETROSYAN/ATTY. FOR DBT.
RESPONSIVE PLEADING

Final Ruling.

This motion having been withdrawn, the court will drop this motion as moot.

32. [19-11449](#)-A-13 **IN RE: DAVID DELAO**
[VRP-2](#)

CONTINUED MOTION TO CONFIRM PLAN
8-27-2019 [\[74\]](#)

DAVID DELAO/MV
VARDUHI PETROSYAN/ATTY. FOR DBT.
RESPONSIVE PLEADING

Final Ruling

Motion: Confirm Chapter 13 Plan

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

Disposition: Granted

Order: Prepared by the trustee, approved by debtor's counsel

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 3015-1(d)(1), 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

Chapter 13 plan confirmation is governed by 11 U.S.C. §§ 1322, 1325 and by Federal Rule of Bankruptcy Procedure 2002(b) and Local Bankruptcy Rule 3015-1. The debtor has the burden of proving that the plan complies with all statutory requirements of confirmation. *In re Andrews*, 49 F.3d 1404, 1407-08 (9th Cir. 1995); *In re Barnes*, 32 F.3d 405, 407-08 (9th Cir. 1994). The court finds that the debtor has sustained that burden, and the court will approve confirmation of the plan.

33. [19-14249](#)-A-13 **IN RE: GUILLERMO DE LA ISLA**
[APN-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY HARLEY-DAVIDSON
11-26-2019 [[27](#)]

HARLEY-DAVIDSON/MV
JAMES CANALEZ/ATTY. FOR DBT.
AUSTIN NAGEL/ATTY. FOR MV.

No Ruling

34. [19-14249](#)-A-13 **IN RE: GUILLERMO DE LA ISLA**
[MHM-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY TRUSTEE MICHAEL H.
MEYER
11-20-2019 [[24](#)]

JAMES CANALEZ/ATTY. FOR DBT.

Tentative Ruling

Objection: Trustee's Objection to Confirmation of Plan

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

Disposition: Sustained and confirmation denied

Order: Civil minute order

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

Debtor has failed to appear at the Meeting of Creditors on November
19, 2019. The continued meeting will be held on December 30, 2019 at
9:00 a.m.

CIVIL MINUTE ORDER

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

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

The chapter 13 trustee's objection to confirmation has been
presented to the court. Having considered the objection,
oppositions, responses and replies, if any, and having heard oral
argument presented at the hearing,

IT IS ORDERED that the objection is sustained. The court denies confirmation of the chapter 13 plan.

35. [14-14151](#)-A-13 **IN RE: SALVADOR/MADELINE NAVARRO**
[MHM-1](#)

MOTION TO DISMISS CASE
11-5-2019 [[80](#)]

MICHAEL MEYER/MV
PETER FEAR/ATTY. FOR DBT.
WITHDRAWN

Final Ruling

This motion having been withdrawn, the court will drop this matter from the calendar.

36. [19-13352](#)-A-13 **IN RE: MARY ISLAS**
[MHM-2](#)

MOTION TO DISMISS CASE
10-28-2019 [[22](#)]

MICHAEL MEYER/MV
THOMAS MOORE/ATTY. FOR DBT.

Final Ruling

This motion having been withdrawn, the court will drop this matter from the calendar.

37. [19-13352](#)-A-13 **IN RE: MARY ISLAS**
[TAM-1](#)

MOTION TO CONFIRM PLAN
11-18-2019 [[28](#)]

MARY ISLAS/MV
THOMAS MOORE/ATTY. FOR DBT.

Final Ruling

This matter having been withdrawn, the court will drop the matter as moot.

38. [17-12453](#)-A-13 **IN RE: ROBERT/SALLY MALY**
[STH-1](#)

MOTION TO CONFIRM TERMINATION OR ABSENCE OF STAY
11-18-2019 [\[89\]](#)

TOWD POINT MASTER FUNDING
TRUST 2019-PM7, U.S. BANK
JERRY LOWE/ATTY. FOR DBT.
STEPHEN HICKLIN/ATTY. FOR MV.

Final Ruling

Motion: Stay Relief

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

Disposition: Denied as moot

Order: Civil minute order

Federal courts have no authority to decide moot questions. *Arizonans for Official English v. Arizona*, 520 U.S. 43, 67-68, 72 (1997). "Mootness has been described as the doctrine of standing set in a time frame: The requisite personal interest that must exist at the commencement of the litigation (standing) must continue throughout its existence (mootness)." *Id.* at 68 n.22 (quoting *U.S. Parole Comm'n v. Geraghty*, 445 U.S. 388, 397 (1980)) (internal quotation marks omitted).

The confirmed chapter 13 plan in this case provides for the movant's claim in Class 4. Class 4 secured claims are long-term claims that mature after the completion of the plan's term. They are not modified by the plan, and they are not in default as of the filing of the petition. They are paid directly by the debtor or a third party. Section 3.11(a) of the plan provides: Upon confirmation of the plan, the automatic stay of 11 U.S.C. § 362(a) and the co-debtor stay of 11 U.S.C. § 1301(a) are . . . 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"

Because the plan has been confirmed, the automatic stay has already been modified to allow the moving party to exercise its rights against its collateral. No effective relief can be awarded. The movant's personal interest in obtaining relief from the stay no longer exists because the stay no longer affects its collateral. The motion will be denied as moot.

39. [17-12854](#)-A-13 **IN RE: CARL SOUZA AND MARIA BAUTISTA**
[JAD-1](#)

MOTION TO RECONSIDER DISMISSAL OF CASE
11-21-2019 [\[45\]](#)

CARL SOUZA/MV
JESSICA DORN/ATTY. FOR DBT.
RESPONSIVE PLEADING

No Ruling

40. [19-14555](#)-A-13 **IN RE: JOSHUA/MANDY NEUFELDT**
[FW-1](#)

MOTION TO VALUE COLLATERAL OF SCHOOLS FINANCIAL CREDIT UNION
11-19-2019 [\[13\]](#)

JOSHUA NEUFELDT/MV
GABRIEL WADDELL/ATTY. FOR DBT.

Final Ruling

Motion: Value Collateral [Personal Property; Motor Vehicle]

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

Disposition: Granted

Order: Civil minute order

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

VALUATION OF COLLATERAL

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

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

In this case, the debtor seeks to value collateral consisting of a motor vehicle described as a 2014 Jeep Patriot Sport SUV 4D. The debt secured by the vehicle was not incurred within the 910-day period preceding the date of the petition. The court values the vehicle at \$8,955.00.

CIVIL MINUTE ORDER

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

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

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

IT IS ORDERED that the motion is granted. The personal property collateral described as a 2014 Jeep Patriot Sport SUV 4D has a value of \$8,955.00. No senior liens on the collateral have been identified. The respondent has a secured claim in the amount of \$8,955.00 equal to the value of the collateral that is unencumbered by senior liens. The respondent has a general unsecured claim for the balance of the claim.

41. [19-13856](#)-A-13 **IN RE: DARRIN/REBECCA STACEY**
[MHM-2](#)

OBJECTION TO DEBTOR'S CLAIM OF EXEMPTIONS
11-15-2019 [\[25\]](#)

MICHAEL MEYER/MV
D. GARDNER/ATTY. FOR DBT.
SARAH VELASCO/ATTY. FOR MV.

Final Ruling

This matter having been withdrawn, the court will drop the matter as moot.

42. [19-12557](#)-A-12 **IN RE: FRANK/SUSAN FAGUNDES**
[WJH-14](#)

MOTION FOR COMPENSATION BY THE LAW OFFICE OF WANGER JONES
HELSEY PC FOR RILEY C. WALTER, DEBTORS ATTORNEY(S)
11-27-2019 [\[96\]](#)

RILEY WALTER/ATTY. FOR DBT.

Tentative Ruling

Application: Allowance of Second Interim Compensation and Expense Reimbursement

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

Disposition: Approved

Order: Civil minute order

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

COMPENSATION AND EXPENSES

In this Chapter 12 case, Wanger, Jones Helsley P.C. has applied for an allowance of interim compensation and reimbursement of expenses. The application requests that the court allow compensation in the amount of \$14,736.50 and reimbursement of expenses in the amount of \$1,143.05.

Section 330(a) of the Bankruptcy Code authorizes "reasonable compensation for actual, necessary services" rendered by a debtor's attorney in a Chapter 12 case and "reimbursement for actual, necessary expenses." 11 U.S.C. § 330(a)(1), (4)(B). Reasonable compensation is determined by considering all relevant factors. See *id.* § 330(a)(3).

The court finds that the compensation and expenses sought are reasonable, and the court will approve the application on an interim basis. Such amounts shall be perfected, and may be adjusted, by a final application for compensation and expenses, which shall be filed prior to case closure.

CIVIL MINUTE ORDER

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

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

Wanger, Jones Helsley P.C.'s application for allowance of interim compensation and reimbursement of expenses has been presented to the court. Having entered the default of respondent for failure to

appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the application,

IT IS ORDERED that the application is approved on an interim basis. The court allows interim compensation in the amount of \$14,736.50 and reimbursement of expenses in the amount of \$1,143.05. The aggregate allowed amount equals \$15,879.55. As of the date of the application, the applicant held a retainer in the amount of \$1,858.93. The amount of \$14,020.62 shall be allowed as an administrative expense to be paid through the plan, and the remainder of the allowed amounts, if any, shall be paid from the retainer held by the applicant. The applicant is authorized to draw on any retainer held.

IT IS FURTHER ORDERED that the fees and costs are allowed pursuant to 11 U.S.C. § 331 as interim fees and costs, subject to final review and allowance pursuant to 11 U.S.C. § 330. Such allowed amounts shall be perfected, and may be adjusted, by a final application for allowance of compensation and reimbursement of expenses, which shall be filed prior to case closure.

IT IS FURTHER ORDERED that the trustee is authorized to pay the fees allowed by this order from the available funds of the plan in a manner consistent with the terms of the confirmed plan.

43. [19-12557](#)-A-12 **IN RE: FRANK/SUSAN FAGUNDES**
[WJH-4](#)

CONTINUED MOTION TO CONFIRM CHAPTER 12 PLAN
9-5-2019 [\[68\]](#)

FRANK FAGUNDES/MV
RILEY WALTER/ATTY. FOR DBT.
CONTINUED 1/24/20, ORDER, ECF NO. 94

Final Ruling

Per Order filed 11/21/19, ECF #94, this motion was continued to January 24, 2020 at 9:00 a.m.

44. [19-14059](#)-A-13 **IN RE: CHARLES THOMPSON**
[BW-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY BANK OF AMERICA, N.A.
12-3-2019 [\[34\]](#)

BANK OF AMERICA, N.A./MV
BETHANY WOJTANOWICZ/ATTY. FOR MV.

Final Ruling

The case having been dismissed, the objection is dropped from calendar.

45. [19-14059](#)-A-13 **IN RE: CHARLES THOMPSON**
[ETW-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY NEAL L. HORN, M.D.
10-28-2019 [\[23\]](#)

NEAL HORN, M.D./MV
EDWARD WEBER/ATTY. FOR MV.

Final Ruling

The case having been dismissed, the objection is dropped from calendar.

46. [19-14059](#)-A-13 **IN RE: CHARLES THOMPSON**
[MHM-1](#)

MOTION TO DISMISS CASE
11-5-2019 [\[28\]](#)

MICHAEL MEYER/MV

Final Ruling

Motion: Dismiss Case

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

Disposition: Granted

Order: Civil minute order

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

CASE DISMISSAL

The debtor has failed to provide the trustee with required or requested documents. See 11 U.S.C. § 521(a)(3)-(4).

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

CIVIL MINUTE ORDER

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

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

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

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

47. [19-12961](#)-A-13 **IN RE: LEONARDO GONZALEZ**
[SL-1](#)

MOTION TO CONFIRM PLAN
10-24-2019 [[52](#)]

LEONARDO GONZALEZ/MV
SCOTT LYONS/ATTY. FOR DBT.
RESPONSIVE PLEADING

No Ruling

48. [19-12961](#)-A-13 **IN RE: LEONARDO GONZALEZ**
[SL-2](#)

MOTION TO VALUE COLLATERAL OF MATADORS COMMUNITY CREDIT
UNION
12-3-2019 [[61](#)]

LEONARDO GONZALEZ/MV
SCOTT LYONS/ATTY. FOR DBT.

No Ruling

49. [19-13761](#)-A-13 **IN RE: MARIA GUZMAN**
[TOG-1](#)

MOTION TO VALUE COLLATERAL OF NISSAN MOTOR ACCEPTANCE
CORPORATION
11-7-2019 [\[17\]](#)

MARIA GUZMAN/MV
THOMAS GILLIS/ATTY. FOR DBT.

Final Ruling

Motion: Value Collateral [Personal Property; Motor Vehicle]

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

Disposition: Granted

Order: Civil minute order

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

VALUATION OF COLLATERAL

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

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

In this case, the debtor seeks to value collateral consisting of a motor vehicle described as a 2016 Nissan Altima. The debt secured by the vehicle was not incurred within the 910-day period preceding

the date of the petition. The court values the vehicle at \$14,026.00.

CIVIL MINUTE ORDER

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

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

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

IT IS ORDERED that the motion is granted. The personal property collateral described as a 2016 Nissan Altima has a value of \$14,026.00. No senior liens on the collateral have been identified. The respondent has a secured claim in the amount of \$14,026.00 equal to the value of the collateral that is unencumbered by senior liens. The respondent has a general unsecured claim for the balance of the claim.

50. [19-13966](#)-A-13 **IN RE: RANDY/EUFEMIA BROWN**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES
11-22-2019 [[24](#)]

MARK ZIMMERMAN/ATTY. FOR DBT.

Tentative Ruling

If the filing fee has not been paid in full by the time of the hearing, the case may be dismissed without further notice or hearing.

51. [19-13966](#)-A-13 **IN RE: RANDY/EUFEMIA BROWN**
[MHM-1](#)

MOTION TO DISMISS CASE
11-5-2019 [\[20\]](#)

MICHAEL MEYER/MV
MARK ZIMMERMAN/ATTY. FOR DBT.

Final Ruling

Motion: Dismiss Case

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

Disposition: Granted

Order: Civil minute order

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

CASE DISMISSAL

The debtor has failed to provide the trustee with required or requested documents. See 11 U.S.C. § 521(a)(3)-(4).

The debtor has failed to provide the trustee with a required tax return (for the most recent tax year ending immediately before the commencement of the case and for which a Federal income tax return was filed) no later than 7 days before the date first set for the first meeting of creditors. 11 U.S.C. § 521(e)(2)(A)-(B).

The debtor has failed to provide a credit counseling certificate showing that the debtor received the required credit counseling within the 180-day period preceding the petition date. With exceptions not applicable here, an individual cannot be a debtor under Title 11 unless such individual has received credit counseling as prescribed by § 109(h)(1). And credit counseling certificates are required to be filed pursuant to § 521(b) and Fed. R. Bankr. P. 1007(b)(3).

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

CIVIL MINUTE ORDER

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

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

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

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

52. [18-11467](#)-A-13 **IN RE: FRANKLIN BAER**
[KSB-8](#)

MOTION BY KELLY S. BRESSO TO WITHDRAW AS ATTORNEY
11-27-2019 [[107](#)]

KELLY BRESSO/ATTY. FOR DBT.

Tentative Ruling

Motion: Attorney's Withdrawal from Representation of a Client

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

Disposition: Granted

Order: Prepared by moving party

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

Under California Rule of Professional Conduct 1.16(c), "[i]f permission for termination of a representation is required by the rules of a tribunal,* a lawyer shall not terminate a representation before that tribunal* without its permission."

An attorney's withdrawal from representing a client is governed by LBR 2017-1(e) and the Rules of Professional Conduct of the State Bar of California. LBR 2017-1(e) provides that "an attorney who has appeared may not withdraw leaving the client in propria persona without leave of court upon noticed motion and notice to the client and all other parties who have appeared." This local rule also mandates that the attorney shall provide an affidavit stating the current or last known address or addresses of the client and the efforts made to notify the client of the motion to withdraw.

California Rule of Professional Conduct 1.16(a) provides for mandatory withdrawal in several specified circumstances. Rule 1.16(a)(1) provides that: "Except as stated in paragraph (c), a lawyer shall not represent a client or, where representation has commenced, shall withdraw from the representation of a client if:

"(1) the lawyer knows* or reasonably should know* that the client is bringing an action, conducting a defense, asserting a position in

litigation, or taking an appeal, without probable cause and for the purpose of harassing or maliciously injuring any person;*

"(2) the lawyer knows* or reasonably should know* that the representation will result in violation of these rules or of the State Bar Act;

"(3) the lawyer's mental or physical condition renders it unreasonably difficult to carry out the representation effectively; or

"(4) the client discharges the lawyer."

California Rule of Professional Conduct 1.16(b)(4) provides for permissive withdrawal if "the client by other conduct renders it unreasonably difficult for the lawyer to carry out the representation effectively." The facts asserted in the motion and supporting papers show that continued, effective representation of the client will be unreasonably difficult for the attorney to undertake.

The court finds that the attorney's withdrawal from the representation is proper. In the order's recitals, the order shall state the client's last known address and, if known, the client's phone number. The order's substantive provisions shall include a provision requiring the attorney to comply with California Rule of Professional Conduct 1.16(e)(1), (2) upon the withdrawal.

53. [19-13168](#)-A-13 **IN RE: HORACIO GAYTAN AND IBET SANCHEZ**
[MHM-1](#)

MOTION TO DISMISS CASE
11-18-2019 [\[27\]](#)

MICHAEL MEYER/MV
THOMAS GILLIS/ATTY. FOR DBT.

No Ruling

54. [19-14171](#)-A-13 **IN RE: KAREN/MARIA RUTAN**
[MHM-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY TRUSTEE MICHAEL H. MEYER
11-22-2019 [\[23\]](#)

THOMAS HOGAN/ATTY. FOR DBT.

Final Ruling

The objection having been withdrawn, the court will drop the matter from the calendar.

55. [19-14473](#)-A-13 **IN RE: AMANDA KONG**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES
12-2-2019 [\[28\]](#)

Tentative Ruling

If the filing fee has not been paid in full by the time of the hearing, the case may be dismissed without further notice or hearing.

56. [19-14473](#)-A-13 **IN RE: AMANDA KONG**
[RDW-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
11-27-2019 [\[22\]](#)

SELF-HELP FEDERAL CREDIT
UNION/MV
REILLY WILKINSON/ATTY. FOR MV.

Tentative Ruling

Motion: Stay Relief

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

Disposition: Granted

Order: Civil minute order

Subject: 2008 Mercedes Benz C-Class

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

RELIEF FROM STAY

Section 362(d)(1) authorizes stay relief for cause shown. 11 U.S.C. § 362(d)(1). The debtor is obligated to make debt payments to the moving party pursuant to a loan contract that is secured by a security interest in the debtor's vehicle described above. The debtor has defaulted on the loan as 4 postpetition payments are past due. The total postpetition delinquency is approximately \$1,034.42.

This is a chapter 13 case. The debtor has proposed but not yet confirmed her chapter 13 plan. The plan provides for payment of this creditor in Class 2. Plan § 3.08, November 7, 2019, ECF # 16. 11 U.S.C. § 1326(a)(1)(C) provides "adequate protection directly to a creditor holding an allowed claim secured by personal property to the extent the claim is attributable to the purchase of such property by the debtor for that portion of the obligation that becomes due after the order for relief, reducing the payments under

subparagraph (A) by the amount so paid and providing the trustee with evidence of such payment, including the amount and date of payment." The Eastern District of California implements that section by an order filed in each Chapter 13 case. That order provides: "If a contract installment payment on a claim of the type described in 11 U.S.C. §1326(a)(1)(C) first falls due after the petition is filed and during the first calendar month of the case, the debtor shall make the adequate protection payment proposed in the plan directly to the claim holder." Order para. 4, October 24, 2019, ECF # 8.

The motion will be granted, and the 14-day stay of Federal Rule of Bankruptcy Procedure 4001(a)(3) will be waived. No other relief will be awarded.

CIVIL MINUTE ORDER

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

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

Self-Help Federal Credit Union's motion for relief from the automatic stay has been presented to the court. Having entered the default of respondent for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the motion,

IT IS ORDERED that the motion is granted. The automatic stay is vacated with respect to the property described in the motion, commonly known as 2008 Mercedes Benz C-Class, as to all parties in interest. The 14-day stay of the order under Federal Rule of Bankruptcy Procedure 4001(a)(3) is waived. Any party with standing may pursue its rights against the property pursuant to applicable non-bankruptcy law.

IT IS FURTHER ORDERED that no other relief is awarded. To the extent that the motion includes any request for attorney's fees or other costs for bringing this motion, the request is denied.

57. [19-14374](#)-A-13 **IN RE: VICTOR GONZALEZ AND FELICITAS DE CARRILLO**
[MHM-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY TRUSTEE MICHAEL H. MEYER
11-22-2019 [\[20\]](#)

THOMAS GILLIS/ATTY. FOR DBT.

No Ruling

58. [19-14374](#)-A-13 **IN RE: VICTOR GONZALEZ AND FELICITAS DE CARRILLO**
[TOG-1](#)

MOTION TO VALUE COLLATERAL OF CRB AUTO
11-8-2019 [\[15\]](#)

VICTOR GONZALEZ/MV
THOMAS GILLIS/ATTY. FOR DBT.

Final Ruling

Motion: Value Collateral [Personal Property; Motor Vehicle]

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

Disposition: Granted

Order: Civil minute order

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

VALUATION OF COLLATERAL

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

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

In this case, the debtor seeks to value collateral consisting of a motor vehicle described as a 2015 Chevrolet Cruze. The debt secured by the vehicle was not incurred within the 910-day period preceding

the date of the petition. The court values the vehicle at \$7,595.00.

CIVIL MINUTE ORDER

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

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

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

IT IS ORDERED that the motion is granted. The personal property collateral described as a 2015 Chevrolet Cruze has a value of \$7,595.00. No senior liens on the collateral have been identified. The respondent has a secured claim in the amount of \$7,595.00 equal to the value of the collateral that is unencumbered by senior liens. The respondent has a general unsecured claim for the balance of the claim.

59. [19-14175](#)-A-13 **IN RE: LEOBIGILDO ESTRADA**
[RAS-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY VAK M30 FUND, LLC
11-20-2019 [[21](#)]

VAK M30 FUND, LLC/MV
BENNY BARCO/ATTY. FOR DBT.
SEAN FERRY/ATTY. FOR MV.
RESPONSIVE PLEADING

No Ruling

60. [19-13376](#)-A-13 **IN RE: OPAL RIDER**
[SLL-1](#)

AMENDED OBJECTION TO CLAIM OF WRCOG ENERGY EFFICIENCY AND
WATER CONSERVATION PROGRAM FOR WESTERN RIVERSIDE COUNTY,
CLAIM NUMBER 3-1
11-4-2019 [[36](#)]

OPAL RIDER/MV
STEPHEN LABIAK/ATTY. FOR DBT.

Final Ruling

Order signed and filed 12/4/19, ECF #44, continues this Objection to
January 8, 2020 at 3:00 p.m.

61. [19-14376](#)-A-13 **IN RE: TERIKA HENDRIX**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES
11-20-2019 [[23](#)]

\$80.00 INSTALLMENT FEE PAID 11/21/19

Final Ruling

The installment having been paid, the order to show cause is
discharged. The case will remain pending.

62. [19-13077](#)-A-13 **IN RE: ANDREA SOUSA**
[JRL-4](#)

CONTINUED MOTION TO CONFIRM PLAN
8-28-2019 [[37](#)]

ANDREA SOUSA/MV
JERRY LOWE/ATTY. FOR DBT.
RESPONSIVE PLEADING

No Ruling

63. [19-14377](#)-A-13 **IN RE: ERIC/MARIE MENDEZ**
[LBJ-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY U.S. BANK TRUST
NATIONAL ASSOCIATION
11-26-2019 [[17](#)]

U.S. BANK TRUST NATIONAL
ASSOCIATION/MV
THOMAS GILLIS/ATTY. FOR DBT.
KRISTIN ZILBERSTEIN/ATTY. FOR MV.

No Ruling

64. [19-14478](#)-A-13 **IN RE: RITA REYNA WOOLEY**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES
12-2-2019 [[17](#)]

MARK ZIMMERMAN/ATTY. FOR DBT.

Final Ruling

The installments having been paid, the order to show cause is
discharged. The case will remain pending.

65. [19-12679](#)-A-13 **IN RE: NAEEM/SAIMA QARNI**
[APN-2](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
11-20-2019 [[129](#)]

NISSAN-INFINITI LT/MV
NICHOLAS ANIOTZBEHERE/ATTY. FOR DBT.
AUSTIN NAGEL/ATTY. FOR MV.

No Ruling

66. [19-12679](#)-A-13 **IN RE: NAEEM/SAIMA QARNI**
[HTK-1](#)

MOTION TO QUASH AND/OR MOTION FOR PROTECTIVE ORDER
10-29-2019 [[107](#)]

VALLEY DIAGNOSTICS LABS,
INC./MV
NICHOLAS ANIOTZBEHERE/ATTY. FOR DBT.
H. KHARAZI/ATTY. FOR MV.

No Ruling

67. [19-12679](#)-A-13 **IN RE: NAEEM/SAIMA QARNI**
[MHM-2](#)

CONTINUED MOTION TO DISMISS CASE
8-19-2019 [[44](#)]

MICHAEL MEYER/MV
NICHOLAS ANIOTZBEHERE/ATTY. FOR DBT.
RESPONSIVE PLEADING

Final Ruling

The motion withdrawn the matter is dropped from calendar.

68. [19-12679](#)-A-13 **IN RE: NAEEM/SAIMA QARNI**
[MHM-3](#)

MOTION TO CONVERT CASE FROM CHAPTER 13 TO CHAPTER 7
11-6-2019 [[124](#)]

NICHOLAS ANIOTZBEHERE/ATTY. FOR DBT.

No Ruling

69. [19-12679](#)-A-13 **IN RE: NAEEM/SAIMA QARNI**
[NEA-1](#)

CONTINUED MOTION TO CONFIRM PLAN
8-19-2019 [[48](#)]

NAEEM QARNI/MV
NICHOLAS ANIOTZBEHERE/ATTY. FOR DBT.
RESPONSIVE PLEADING

Final Ruling

Motion: Modify Confirmed Chapter 13 Plan

Notice: LBR 3015-1(d)(2), 9014-1(f)(1); written opposition required

Disposition: Denied as moot

Order: Civil minute order

THE MODIFIED PLAN HAS BEEN SUPERSEDED

Chapter 13 debtors may modify a confirmed plan before completion of payments under the plan. 11 U.S.C. § 1329(a). This motion requests approval of a modified plan under § 1329(a). But the requested modified plan has been superseded by another modified plan. Because another modified plan has superseded the modified plan to be confirmed by this motion, the court will deny the motion as moot.

CIVIL MINUTE ORDER

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

IT IS ORDERED that the motion to modify the plan is denied as moot.

70. [19-12679](#)-A-13 **IN RE: NAEEM/SAIMA QARNI**
[NEA-2](#)

MOTION TO QUASH AND/OR MOTION FOR PROTECTIVE ORDER
10-29-2019 [[113](#)]

NAEEM QARNI/MV
NICHOLAS ANIOTZBEHERE/ATTY. FOR DBT.

No Ruling

71. [19-12679](#)-A-13 **IN RE: NAEEM/SAIMA QARNI**
[PRG-3](#)

MOTION TO CONVERT CASE FROM CHAPTER 13 TO CHAPTER 7
11-20-2019 [[135](#)]

GULAMNABI VAHORA/MV
NICHOLAS ANIOTZBEHERE/ATTY. FOR DBT.
SHANE SMITH/ATTY. FOR MV.

No Ruling

72. [19-13280](#)-A-7 **IN RE: JOE/LILLIANA ALVES**
[MHM-2](#)

MOTION TO DISMISS CASE
11-6-2019 [[35](#)]

MICHAEL MEYER/MV
JOSEPH ANGELO/ATTY. FOR DBT.
CONVERTED 11/8/19

Final Ruling

Case was converted from Ch. 7 on 11/8/19 (ECF 42). The court will drop the matter as moot.

73. [19-14080](#)-A-13 **IN RE: ALVARO CONSTANTINO**
[TOG-1](#)

MOTION TO VALUE COLLATERAL OF EDUCATIONAL EMPLOYEES CREDIT
UNION
11-5-2019 [\[15\]](#)

ALVARO CONSTANTINO/MV
THOMAS GILLIS/ATTY. FOR DBT.

Final Ruling

Motion: Value Collateral [Personal Property; Motor Vehicle]

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

Disposition: Granted

Order: Civil minute order

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

VALUATION OF COLLATERAL

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

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

In this case, the debtor seeks to value collateral consisting of a motor vehicle described as a 2007 Chevrolet Tahoe. The debt secured by the vehicle was not incurred within the 910-day period preceding

the date of the petition. The court values the vehicle at \$8,845.00.

CIVIL MINUTE ORDER

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

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

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

IT IS ORDERED that the motion is granted. The personal property collateral described as a 2007 Chevrolet Tahoe has a value of \$8,845.00. No senior liens on the collateral have been identified. The respondent has a secured claim in the amount of \$8,845.00 equal to the value of the collateral that is unencumbered by senior liens. The respondent has a general unsecured claim for the balance of the claim.

74. [19-14380](#)-A-13 **IN RE: JUDITH HERNANDEZ**
[CAS-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY CAPITAL ONE AUTO
FINANCE
11-25-2019 [[15](#)]

CAPITAL ONE AUTO FINANCE/MV
SCOTT LYONS/ATTY. FOR DBT.
CHERYL SKIGIN/ATTY. FOR MV.

No Ruling

75. [19-14380](#)-A-13 **IN RE: JUDITH HERNANDEZ**
[CAS-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY CAPITAL ONE AUTO
FINANCE
11-26-2019 [[19](#)]

CAPITAL ONE AUTO FINANCE/MV
SCOTT LYONS/ATTY. FOR DBT.
CHERYL SKIGIN/ATTY. FOR MV.

Final Ruling

This appears to be a duplicate filing of Objection, ECF #15 (Item 74). The parties have resolved the matter by stipulation. The matter will be dropped from calendar.

76. [19-12081](#)-A-13 **IN RE: DONNIE/SHUA XIONG**
[MHM-3](#)

CONTINUED HEARING ON DISGORGEMENT OF FEES MOTION TO DISGORGE
FEES
7-2-2019 [[28](#)]

MICHAEL MEYER/MV
PETER BUNTING/ATTY. FOR DBT.

No Ruling

77. [19-13984](#)-A-13 **IN RE: CURTIS ALLEN AND CHARLOTTE JACKSON**
[MHM-1](#)

MOTION TO DISMISS CASE
11-20-2019 [[19](#)]

MICHAEL MEYER/MV
ERIC ESCAMILLA/ATTY. FOR DBT.

Final Ruling

This motion having been withdrawn, the court will drop the matter from the calendar.

78. [19-13685](#)-A-13 **IN RE: FRANK ANDRASEVITS**
[NLL-1](#)

MOTION TO CONFIRM TERMINATION OR ABSENCE OF STAY
11-20-2019 [\[23\]](#)

MIDFIRST BANK/MV
JULIE MORADI-LOPES/ATTY. FOR DBT.
NANCY LEE/ATTY. FOR MV.

Tentative Ruling

Motion: Confirm Absence of Automatic Stay

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

Disposition: Granted

Order: Civil minute order

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

CONFIRMATION OF THE STAY'S TERMINATION

If a debtor who files a petition has had one bankruptcy case pending within the preceding one-year period that was dismissed, then the automatic stay terminates with respect to the debtor on the 30th day after the filing of the later case, unless the stay is extended. 11 U.S.C. § 362(c)(3)(A). Upon request of a party in interest, the court may extend the automatic stay where the debtor has had one previous bankruptcy case that was pending within the 1-year period prior to the filing of the current bankruptcy case but was dismissed. See *id.* § 362(c)(3)(B). And a party in interest may request an order confirming that no stay is in effect. *Id.* § 362(j) (authorizing the court to issue orders confirming the termination of the automatic stay). In this case, the debtor has had 1 case pending within the preceding 1-year period that was dismissed. More than 30 days have passed since the petition date. The stay has terminated.

CIVIL MINUTE ORDER

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

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

Midlist Bank's motion to confirm the termination of the stay has been presented to the court. Having considered the motion, oppositions, responses and replies, if any, and having heard oral argument presented at the hearing,

IT IS ORDERED that the motion is granted. The automatic stay is no longer in effect with respect to the debtor in this case.

79. [19-12788](#)-A-13 **IN RE: JOHNNY/MARY MORALES**
[MAZ-3](#)

MOTION TO CONFIRM PLAN
11-8-2019 [[74](#)]

JOHNNY MORALES/MV
MARK ZIMMERMAN/ATTY. FOR DBT.
RESPONSIVE PLEADING

Final Ruling

This motion having been withdrawn, the court will drop this matter from the calendar.

80. [18-11292](#)-A-13 **IN RE: ANGEL PEREZ**
[TCS-5](#)

MOTION TO MODIFY PLAN
11-1-2019 [[106](#)]

ANGEL PEREZ/MV
TIMOTHY SPRINGER/ATTY. FOR DBT.

Final Ruling

Motion: Modify Chapter 13 Plan

Notice: LBR 3015-1(d)(2), 9014-1(f)(1); written opposition required

Disposition: Granted

Order: Prepared by the trustee, approved by debtor's counsel

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 3015-1(d)(2), 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

Chapter 13 plan modification is governed by 11 U.S.C. §§ 1322, 1323, 1325, 1329 and by Federal Rules of Bankruptcy Procedure 2002(a)(5) and 3015(g) and Local Bankruptcy Rule 3015-1. "[T]he only limits on modification are those set forth in the language of the Code itself, coupled with the bankruptcy judge's discretion and good judgment in reviewing the motion to modify." *In re Powers*, 202 B.R. 618, 622 (B.A.P. 9th Cir. 1996).

Chapter 13 debtors seeking plan modification have the burden of proving that all requirements of § 1322(a) and (b) and § 1325(a)

have been met. See 11 U.S.C. §§ 1322(a)-(b), 1325(a), 1329(b)(1); see also *In re Powers*, 202 B.R. at 622 ("[Section] 1329(b)(1) protects the parties from unwarranted modification motions by ensuring that the proposed modifications satisfy the same standards as required of the initial plan."); see also *In re Barnes*, 32 F.3d 405, 407 (9th Cir. 1994); *In re Andrews*, 49 F.3d 1404, 1408 (9th Cir. 1995).

The court finds that the debtor has sustained this burden of proof. The court will grant the motion and approve the modification.

81. [19-13493](#)-A-13 **IN RE: JOSHUA FULFER**
[MHM-2](#)

MOTION TO DISMISS CASE
11-20-2019 [[25](#)]

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

Final Ruling

The motion having been withdrawn, the court will drop the matter from the calendar.

82. [19-13198](#)-A-13 **IN RE: GERALD SULLIVAN AND ANNETTE**
ESPINOSA-SULLIVAN

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES
12-2-2019 [[28](#)]

PETER BUNTING/ATTY. FOR DBT.

Final Ruling

The installments having been paid, the order to show cause is discharged. The case will remain pending.

83. [19-13198](#)-A-13 **IN RE: GERALD SULLIVAN AND ANNETTE**
ESPINOSA-SULLIVAN

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES
10-29-2019 [[25](#)]

PETER BUNTING/ATTY. FOR DBT.

Final Ruling

The installment having been paid, the order to show cause is discharged. The case will remain pending.