

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Fredrick E. Clement
Bankruptcy Judge
Fresno, California

2500 Tulare Street, Fifth Floor
Department A, Courtroom 11
Fresno, California

THURSDAY

DECEMBER 18, 2014

PRE-HEARING DISPOSITIONS

GENERAL DESIGNATIONS

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

MATTERS RESOLVED BEFORE HEARING

If the court has issued a final ruling on a matter and the parties directly affected by a matter have resolved the matter by stipulation or withdrawal of the motion before the hearing, then the moving party shall, not later than 4:00 p.m. (PST) on the day before the hearing, inform the following persons by telephone that they wish the matter to be dropped from calendar notwithstanding the court's ruling: (1) all other parties directly affected by the motion; and (2) Kathy Torres, Judicial Assistant to the Honorable Fredrick E. Clement, at (559) 499-5860.

ERRORS IN FINAL RULINGS

If a party believes that a final ruling contains an error that would, if reflected in the order or judgment, warrant a motion under Federal Rule of Civil Procedure 52(b), 59(e) or 60, as incorporated by Federal Rules of Bankruptcy Procedure, 7052, 9023 and 9024, then the party affected by such error shall, not later than 4:00 p.m. (PST) on the day before the hearing, inform the following persons by telephone that they wish the matter either to be called or dropped from calendar, as appropriate, notwithstanding the court's ruling: (1) all other parties directly affected by the motion; and (2) Kathy Torres, Judicial Assistant to the Honorable Fredrick E. Clement, at (559) 499-5860. Absent such a timely request, a matter designated "Final Ruling" will not be called.

9:00 a.m.

1. [14-14902](#)-A-13 ALEJANDRO SOLORZANO
BHT-1
DEUTSCHE BANK NATIONAL TRUST
COMPANY/MV
SCOTT LYONS/Atty. for dbt.
BRIAN TRAN/Atty. for mv.
OBJECTION TO CONFIRMATION OF
PLAN BY DEUTSCHE BANK NATIONAL
TRUST COMPANY
11-4-14 [[26](#)]

No tentative ruling.

2. [14-13503](#)-A-13 RAFAEL/PERLA MACIEL
TOG-1
RAFAEL MACIEL/MV
THOMAS GILLIS/Atty. for dbt.
MOTION TO VALUE COLLATERAL OF
OCWEN LOAN SERVICING, LLC
11-3-14 [[21](#)]

Final Ruling

Motion: Value Collateral [Real Property; Principal Residence]

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 strip off a wholly unsecured junior lien encumbering the debtor's principal residence. 11 U.S.C. §§ 506(a), 1322(b)(2); *In re Lam*, 211 B.R. 36, 40-42 (B.A.P. 9th Cir. 1997); *In re Zimmer*, 313 F.3d 1220, 1222-25 (9th Cir. 2002) (holding that the trial court erred in deciding that a wholly unsecured lien was within the scope of the antimodification clause of § 1322(b)(2) of the Bankruptcy Code). A motion to value the debtor's principal residence should be granted upon a threefold showing by the moving party. First, the moving party must proceed by noticed motion. Fed. R. Bankr. P. 3012. Second, the motion must be served on the holder of the secured claim. Fed. R. Bankr. P. 3012, 9014(a); LBR 3015-1(j). Third, the moving party must prove by admissible evidence that the debt secured by liens senior to the respondent's claim exceeds the value of the principal residence. 11 U.S.C. § 506(a); *Lam*, 211 B.R. at 40-42; *Zimmer*, 313 F.3d at 1222-25. "In the absence of contrary evidence, an owner's opinion of property value may be conclusive." *Enewally v. Wash. Mut. Bank (In re Enewally)*, 368 F.3d 1165, 1173 (9th Cir. 2004).

The debtor requests that the court value real property collateral. The collateral is the debtor's principal residence located at 361 W. Richert Ave., Clovis, CA.

The court values the collateral at \$152,953. The debt secured by liens senior to the respondent's lien exceeds the value of the collateral. Because the amount owed to senior lienholders exceeds the collateral's value, the respondent's claim is wholly unsecured and no portion will be allowed as a secured claim. See 11 U.S.C. § 506(a).

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 real property collateral has been presented to the court. Having considered the well-pleaded facts of the motion, and having entered the default of respondent for failure to appear, timely oppose or otherwise defend in the matter,

IT IS ORDERED that the motion is granted. The real property collateral located at 361 W. Richert Ave., Clovis, CA, has a value of \$152,953. The collateral is encumbered by senior liens securing debt that exceeds the collateral's value. The respondent has a secured claim in the amount of \$0.00 and a general unsecured claim for the balance of the claim.

3. [09-17405](#)-A-13 KAREN AZEVEDO
MHM-3
MICHAEL MEYER/MV

OBJECTION TO CLAIM OF
BENEFICIAL CALIFORNIA INC,
CLAIM NUMBER 8
11-4-14 [[73](#)]

PETER FEAR/Atty. for dbt.
RESPONSIVE PLEADING

No tentative ruling.

4. [13-18107](#)-A-13 LAURA DIAZ
DRJ-3
LAURA DIAZ/MV
DAVID JENKINS/Atty. for dbt.

MOTION TO MODIFY PLAN
10-15-14 [[27](#)]

Final Ruling

Motion: Confirm Modified Chapter 13 Plan

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

Disposition: Granted

Order: Prepared by Chapter 13 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 confirmation is governed by 11 U.S.C. §§ 1322, 1323, 1325, 1329 and by Federal Rules of Bankruptcy Procedure 2002(a)(5) and 3015(g) and Local Bankruptcy Rule 3015-1. The debtor bears the burden of proof as to each element. *In re Barnes*, 32 F.3d 405, 407 (9th Cir. 1994). The court finds that the debtor has sustained that burden, and the court will approve modification of the plan.

5. [11-61913](#)-A-13 MARTIN/ADRIANA VALENCIA MOTION TO MODIFY PLAN
DRJ-3 10-26-14 [[49](#)]
MARTIN VALENCIA/MV
DAVID JENKINS/Atty. for dbt.
RESPONSIVE PLEADING

Final Ruling

Motion: Confirmation of a Chapter 13 Plan

Disposition: Denied without prejudice

Order: Civil minute order

There is no evidence that all creditors and parties in interest have received the notice required by Federal Rule of Bankruptcy Procedure 2002(b). The certificate of service includes a copy of the court's matrix but has not been signed by the declarant, attesting that the documents were transmitted to the parties listed on Exhibit A.

6. [14-12313](#)-A-13 FRANK/JAMIE RODRIGUEZ MOTION FOR COMPENSATION FOR
BCS-2 BENJAMIN C. SHEIN, DEBTOR'S
ATTORNEY(S).
11-18-14 [[36](#)]
BENJAMIN SHEIN/Atty. for dbt.

Final Ruling

Application: Interim Compensation and Expense Reimbursement

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

Disposition: Approved

Order: Civil Minute Order

Applicant: Shein Law Group, P.C.

Compensation approved: \$11,153.50

Costs approved: \$723.09

Aggregate fees and costs approved in this application: \$11,876.59

Retainer held: \$3,334.00

Amount to be paid as administrative expense: \$8,542.59

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).

DISCUSSION

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. The moving party is authorized to draw on any retainer held.

CIVIL MINUTE ORDER

The court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The First Interim Application for Compensation filed by Shein Law Group, P.C. having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

It is hereby ordered that: (1) defaults of the respondents are entered; (2) compensation of \$11,153.50 is approved on an interim basis; (2) costs of \$723.09 are approved on an interim basis; (3) said amounts aggregate to \$11,876.59; (4) the applicant has \$3,334.00 in trust, which it may apply to the interim fees and costs described herein; (5) the Chapter 13 trustee may pay the applicant \$8,542.59 as an administrative expense in a manner consistent with the terms of the most recent confirmed plan; and (6) the applicant shall perfect those amounts by final application prior to the closure of the case.

7. [14-14823](#)-A-13 RANDY/LINDA PAGE
ASW-1
RANDY PAGE/MV
ADRIAN WILLIAMS/Atty. for dbt.

MOTION TO VALUE COLLATERAL OF
ONE MAIN FINANCIAL
11-13-14 [[17](#)]

Final Ruling

Motion: Value Collateral [Real Property; Principal Residence]

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 strip off a wholly unsecured junior lien encumbering the debtor's principal residence. 11 U.S.C. §§ 506(a), 1322(b)(2); *In re Lam*, 211 B.R. 36, 40-42 (B.A.P. 9th Cir. 1997); *In re Zimmer*, 313 F.3d 1220, 1222-25 (9th Cir. 2002) (holding that the trial court erred in deciding that a wholly unsecured lien was within the scope of the antimodification clause of § 1322(b)(2) of the Bankruptcy Code). A motion to value the debtor's principal residence should be granted upon a threefold showing by the moving party. First, the moving party must proceed by noticed motion. Fed. R. Bankr. P. 3012. Second, the motion must be served on the holder of the secured claim. Fed. R. Bankr. P. 3012, 9014(a); LBR 3015-1(j). Third, the moving party must prove by admissible evidence that the debt secured by liens senior to the respondent's claim exceeds the value of the principal residence. 11 U.S.C. § 506(a); *Lam*, 211 B.R. at 40-42; *Zimmer*, 313 F.3d at 1222-25. "In the absence of contrary evidence, an owner's opinion of property value may be conclusive." *Enewally v. Wash. Mut. Bank (In re Enewally)*, 368 F.3d 1165, 1173 (9th Cir. 2004).

The debtor requests that the court value real property collateral. The collateral is the debtor's principal residence located at 17799 Seabright Dr., Madera, CA.

The court values the collateral at \$148,092. The debt secured by liens senior to the respondent's lien exceeds the value of the collateral. Because the amount owed to senior lienholders exceeds the collateral's value, the respondent's claim is wholly unsecured and no portion will be allowed as a secured claim. See 11 U.S.C. § 506(a).

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 real property collateral has been presented to the court. Having considered the well-pleaded facts of the motion, and having entered the default of respondent for failure to appear, timely oppose or otherwise defend in the matter,

IT IS ORDERED that the motion is granted. The real property collateral located at 17799 Seabright Dr., Madera, CA, has a value of \$148,092. The collateral is encumbered by senior liens securing debt that exceeds the collateral's value. The respondent has a secured claim in the amount of \$0.00 and a general unsecured claim for the balance of the claim.

8. [14-14624](#)-A-13 BOUNTHOM INTHAVILAY
MHM-1
MICHAEL MEYER/MV
MOTION TO DISMISS CASE FOR
UNREASONABLE DELAY THAT IS
PREJUDICIAL TO CREDITORS AND/OR
MOTION TO DISMISS CASE
11-19-14 [[28](#)]

JERRY LOWE/Atty. for dbt.

Final Ruling

Motion: Dismiss Case

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).

For the reasons stated in the motion, cause exists under § 1307(c)(1) to dismiss the case. The debtor has failed to appear at the duly scheduled meeting of creditors and at the continued meeting of creditors.

9. [14-14125](#)-A-13 MARTIN CALDERON AND
MHM-1 MERCEDES PINEDA
OBJECTION TO CONFIRMATION OF
PLAN BY TRUSTEE MICHAEL H.
MEYER
11-19-14 [[29](#)]

DAVID JENKINS/Atty. for dbt.
DISMISSED

No tentative ruling.

10. [13-17754](#)-A-13 EDUARDO SOLIS AND ROSA
PLF-1 CASTILLO
EDUARDO SOLIS/MV
GABRIEL WADDELL/Atty. for dbt.
PETER FEAR/Atty. for mv.
MOTION TO MODIFY PLAN
11-6-14 [[77](#)]

Final Ruling

Motion: Confirm Modified Chapter 13 Plan

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

Disposition: Granted

Order: Prepared by Chapter 13 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 confirmation is governed by 11 U.S.C. §§ 1322, 1323, 1325, 1329 and by Federal Rules of Bankruptcy Procedure 2002(a)(5) and 3015(g) and Local Bankruptcy Rule 3015-1. The debtor bears the burden of proof as to each element. *In re Barnes*, 32 F.3d 405, 407 (9th Cir. 1994). The court finds that the debtor has sustained that burden, and the court will approve modification of the plan.

11. [09-17457](#)-A-13 JOSEPH/GLORIA JACKSON
MHM-1
MICHAEL MEYER/MV

OBJECTION TO CLAIM OF FRESNO
COUNTY TAX COLLECTOR, CLAIM
NUMBER 4 AND/OR OBJECTION TO
CLAIM OF FRESNO COUNTY TAX
COLLECTOR, CLAIM NUMBER 19
11-4-14 [[76](#)]

TIMOTHY SPRINGER/Atty. for dbt.

Final Ruling

Objection: Objection to Claim

Notice: LBR 3007-1(b)(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 objection. None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

For the reasons stated in the objection, the court will disallow Claim No. 4 except to the extent of \$95.49, which shall be allowed as a secured claim, which is the amount the trustee has paid to date to the claimant. All other amounts are disallowed. Claim No. 19 is also disallowed as an improper withdrawal of a proof of claim pursuant to Rule 3006, as the trustee's argument makes clear.

12. [09-16659](#)-A-13 SHANA BARTRAM
MHM-1
MICHAEL MEYER/MV

MOTION TO DISMISS CASE FOR
UNREASONABLE DELAY THAT IS
PREJUDICIAL TO CREDITORS AND/OR
MOTION TO DISMISS CASE
11-14-14 [[49](#)]

PETER BUNTING/Atty. for dbt.
WITHDRAWN

Final Ruling

The motion withdrawn, the matter is dropped as moot.

13. [14-14560](#)-A-13 STEVEN/BRANDI AVALOS
MHM-1
MICHAEL MEYER/MV

MOTION TO DISMISS CASE FOR
UNREASONABLE DELAY THAT IS
PREJUDICIAL TO CREDITORS AND/OR
MOTION TO DISMISS CASE
11-19-14 [[24](#)]

JEFFREY ROWE/Atty. for dbt.
DISMISSED

Final Ruling

The case dismissed, the matter is denied as moot.

14. [14-12362](#)-A-13 BENITO/MARTHA GALARZA
TOG-6
BENITO GALARZA/MV
THOMAS GILLIS/Atty. for dbt.

MOTION TO CONFIRM PLAN
10-30-14 [[83](#)]

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 Chapter 13 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 bears the burden of proof as to each element. *In re Barnes*, 32 F.3d 405, 407 (9th Cir. 1994). The court finds that the debtor has sustained that burden, and the court will approve confirmation of the plan.

15. [14-13263](#)-A-13 BERNADINE DAVIS
PBB-1
BERNADINE DAVIS/MV

OBJECTION TO CLAIM OF TORREY
RIDGE APARTMENTS, CLAIM NUMBER
6-1
10-28-14 [[24](#)]

PETER BUNTING/Atty. for dbt.

Final Ruling

Objection: Objection to Claim

Notice: LBR 3007-1(b)(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 objection. 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 represents that claimant never filed a claim in debtor's prior bankruptcy case. The claimant's name appears on creditor list attached as an exhibit along with the notice of the prior chapter 13 case. The claimant has not opposed this objection stating it did not received notice of the prior case or asserting that it filed a claim in the prior case.

A claim is only allowed in a chapter 13 case if a proof of claim is filed under section 501. 11 U.S.C. § 502(a). Because claimant never filed a claim in debtor's prior case, the claimant's claim was disallowed under § 502(a). Under § 1328(a), the debtor's prior discharge included the claim filed by claimant because it was disallowed in the prior case under § 502. See 11 U.S.C. § 1328(a). For the reasons stated in the objection, the objection will be sustained.

16. [14-14478](#)-A-13 APRIL MAXFIELD
PLF-1
APRIL MAXFIELD/MV
PETER FEAR/Atty. for dbt.

MOTION TO VALUE COLLATERAL OF
GOLDEN 1 CREDIT UNION
11-17-14 [[20](#)]

Tentative Ruling

Motion: Value Collateral [Personal Property; Motor Vehicle]

Disposition: Denied without prejudice

Order: Civil minute order

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. The court cannot determine whether the hanging paragraph of 11 U.S.C. § 1325(a) applies to the respondent creditor's claim in this case. Thus, the motion does not sufficiently demonstrate an entitlement to the relief requested. See LBR 9014-1(d)(6). Factual information relevant to the hanging paragraph of § 1325(a) is also an essential aspect of the grounds for the relief sought that should be contained in the motion itself and stated with particularity. See Fed. R. Bankr. P. 9013.

17. [11-17092](#)-A-13 KACY JOHNSON
JHB-3
KACY JOHNSON/MV
JOSEPH BOYD/Atty. for dbt.
RESPONSIVE PLEADING

MOTION TO MODIFY PLAN
11-20-14 [[93](#)]

Final Ruling

Motion: Modification of a Chapter 13 Plan

Disposition: Denied without prejudice

Order: Civil minute order

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

For matters requiring notice to all creditors and parties in interest, the court prefers that a current copy of the ECF master address list, accessible through PACER, be attached to the certificate of service to indicate that notice has been transmitted to all creditors and parties in interest. The copy of the master address list should indicate a date near in time to the date of service of the notice. In addition, governmental creditors must be noticed at the address provided on the

Roster of Governmental Agencies, Form EDC 2-785, so the master address list and schedule of creditors must be completed using the correct addresses shown on such roster. See Fed. R. Bankr. P. 2002(j), 5003(e); LBR 2002-1.

18. [14-15811](#)-A-13 NADER SHOKRY
PLG-1
NADER SHOKRY/MV
RABIN POURNAZARIAN/Atty. for dbt.

MOTION TO EXTEND AUTOMATIC STAY
12-10-14 [[10](#)]

Tentative Ruling

Motion: Extend the Automatic Stay

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

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

Order: Prepared by moving party pursuant to the instructions below

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

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

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

19. [14-15810](#)-A-13 PATRICIA VILLALOVOS
NES-1
PATRICIA VILLALOVOS/MV
NEIL SCHWARTZ/Atty. for dbt.

MOTION TO EXTEND AUTOMATIC STAY
12-11-14 [[8](#)]

Tentative Ruling

Motion: Extend the Automatic Stay

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

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

Order: Prepared by moving party pursuant to the instructions below

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

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

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

9:30 a.m.

1. [09-16160](#)-A-13 JUAN HURTADO
[11-1102](#) SRB-1
JONES V. HURTADO
VACATED BY ORDER DATED
12/2/14
- MOTION BY SCOTT R. BURTON TO
WITHDRAW AS ATTORNEY
11-13-14 [[254](#)]

Final Ruling

The motion denied and the hearing vacated by order dated December 2, 2014, the matter is dropped as moot.

2. [13-15181](#)-A-13 LINDSAY LEMONS
[13-1124](#) GEG-2
STORMS ET AL V. LEMONS
- MOTION TO COMPROMISE
CONTROVERSY/APPROVE SETTLEMENT
AGREEMENT WITH LINDSAY LEMONS
12-16-14 [[46](#)]
- GLEN GATES/Atty. for mv.
OST 12/16/14

No tentative ruling.

3. [13-15181](#)-A-13 LINDSAY LEMONS
GEG-9
WAYNE STORMS/MV
- MOTION TO COMPROMISE
CONTROVERSY/APPROVE SETTLEMENT
AGREEMENT WITH LINDSAY LEMONS
12-16-14 [[289](#)]

SCOTT LYONS/Atty. for dbt.
GLEN GATES/Atty. for mv.
OST 12/16/14

No tentative ruling.