



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

**Hearing Date: Wednesday, December 20, 2023**

Unless otherwise ordered, all hearings before Judge Lastreto are simultaneously: (1) **IN PERSON** in Courtroom #13 (Fresno hearings only), (2) via **ZOOMGOV VIDEO**, (3) via **ZOOMGOV TELEPHONE**, and (4) via **COURTCALL**. You may choose any of these options unless otherwise ordered.

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1. Review the [Pre-Hearing Dispositions](#) prior to appearing at the hearing.
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## INSTRUCTIONS FOR PRE-HEARING DISPOSITIONS

Each matter on this calendar will have one of three possible designations: No Ruling, Tentative Ruling, or Final Ruling. These instructions apply to those designations.

**No Ruling:** All parties will need to appear at the hearing unless otherwise ordered.

**Tentative Ruling:** If a matter has been designated as a tentative ruling it will be called, and all parties will need to appear at the hearing unless otherwise ordered. The court may continue the hearing on the matter, set a briefing schedule, or enter other orders appropriate for efficient and proper resolution of the matter. The original moving or objecting party shall give notice of the continued hearing date and the deadlines. The minutes of the hearing will be the court's findings and conclusions.

**Final Ruling:** Unless otherwise ordered, there will be no hearing on these matters. The final disposition of the matter is set forth in the ruling and it will appear in the minutes. The final ruling may or may not finally adjudicate the matter. If it is finally adjudicated, the minutes constitute the court's findings and conclusions.

**Orders:** Unless the court specifies in the tentative or final ruling that it will issue an order, the prevailing party shall lodge an order within 14 days of the final hearing on the matter.

**Post-Publication Changes:** The court endeavors to publish its rulings as soon as possible. However, calendar preparation is ongoing, and these rulings may be revised or updated at any time prior to 4:00 p.m. the day before the scheduled hearings. Please check at that time for any possible updates.

9:30 AM

1. [19-14401](#)-B-13      **IN RE: RICHARD/IRENE DESIMONE**  
[FW-2](#)

MOTION FOR COMPENSATION BY THE LAW OFFICE OF FEAR WADDELL,  
P.C. FOR GABRIEL J. WADDELL, DEBTORS ATTORNEY(S)  
11-15-2023 [29]

GABRIEL WADDELL/ATTY. FOR DBT.

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

DISPOSITION:                   Granted.

ORDER:                   The Moving Party shall submit a proposed order that conforms with the opinion below.

Fear Waddell, P.C. ("Applicant") seeks approval of a final allowance of compensation under 11 U.S.C. § 330 of the Bankruptcy Code for professional services rendered and reimbursement for expenses incurred as counsel for Richard and Irene Desimone ("Debtors") and covering from July 1, 2020 through November 13, 2023. Doc. #29. The motion is accompanied by a statement of client approval executed by Debtors. *Id.*

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

No party in interest responded, and the defaults of all such parties in interest will be entered.

The Applicant asks for an award of \$2,741.50 in attorneys' fees and \$138.08 in expenses for a total award of \$2,879.58. Doc. #29. The Chapter 13 plan, which was confirmed on December 16, 2019, provides for attorney's fees of up to \$12,000.00 to be paid through the plan. Doc. #2. This is Applicant's second *Motion for Compensation*. This court previously allowed an interim award of \$1,719.00 in fees and \$333.70 in expenses in an order dated August 13, 2020. Doc. #28.

Applicant's fee request is supported by billing records indicating that 27.68 billable hours were worked so far on this case, as follows:

Professional	Rate	Hours	Amount
Gabriel J. Waddell (2020)	\$320.00	0.50	\$160.00
Gabriel J. Waddell (2021)	\$330.00	1.00	\$330.00
Gabriel J. Waddell (2022)	\$345.00	0.50	\$172.50
Gabriel J. Waddell (2023)	\$360.00	1.80	\$648.00
Gabriel J. Waddell (2023-Estimated Time)	4360.00	2.50	\$900.00
Kayla Schlaak (2020)	\$100.00	1.00	\$100.00
Kayla Schlaak (2021)	\$110.00	0.10	\$11.00
Kayla Schlaak (2023)	\$140.00	3.00	\$420.00
TOTAL		10.4	\$2741.50

Doc. #321. Applicant also incurred in as follows:

Type of Expense	Amount
Copies	\$72.48
Postage	\$65.60
<b>Total</b>	<b>\$138.08</b>

*Id.*

11 U.S.C. § 330(a)(1)(A) and (B) permit approval of "reasonable compensation for actual, necessary services rendered by . . . [a] professional person, or attorney" and "reimbursement for actual, necessary expenses." In determining the amount of reasonable compensation to be awarded to a professional person, the court shall consider the nature, extent, and value of such services, considering all relevant factors, including those enumerated in subsections (a)(3)(A) through (E). § 330(a)(3). The previous interim compensation awards under 11 U.S.C. § 331 are subject to final review under § 330.

Applicant's services here included, without limitation: (a) claim administration and claims objections, (b) original plan, hearings, objections, (c) fee application, (d) discharge and case closing, and (e) case administration. The court finds the services and expenses reasonable, actual, and necessary.

The court will approve on a final basis under 11 U.S.C. §330 compensation in the amount of **\$2,741.50** in fees and **\$138.08** in expenses for a total award **\$2,879.58** as an administrative expense of the estate and an order authorizing and directing the Trustee to pay such to Applicant through the confirmed plan for services rendered and expenses incurred between July 1, 2020, and November 13, 2023. It is further order that the fees and costs previously approved on an interim basis in the court's August 13, 2020, order be approved on a final basis. Finally, it is ordered that the Trustee shall pay such approved and unpaid fees and costs to the extent available by Debtors' current plan.



The Applicant asks for an award of \$6,059.60 in attorneys' fees and \$931.38 in expenses for a total award of \$6,990.88. *Id.* Applicant avers that he holds in trust prepetition retainer fees in the amount of \$1,426.00, plus \$313.00 for filing fees and \$74.00 in credit report fees, which Applicant wishes to apply to the outstanding balance. Doc. #41. Thus, Applicant asks for the remaining \$5,177.88 to be paid through the plan. *Id.* The Amended Chapter 13 plan, which was confirmed on November 13, 2023, provides for attorney's fees of up to \$12,574.00 to be paid through the plan. Doc. #29. This is Applicant's first *Motion for Compensation*.

Applicant's fee request is supported by billing records indicating that 27.68 billable hours were worked so far on this case, as follows:

Professional	Rate	Hours	Amount
Scott Lyons	\$400.00	3.69	\$1,476.00
Louis Lyons	\$350.00	5.80	\$1,855.00
Sylvia Gutierrez, Legal Secretary	\$150.00	18.19	\$2,728.50
<b>Total</b>		<b>27.68</b>	<b>\$6,059.50</b>

Doc. #321. Applicant also incurred in as follows:

Type of Expense	Amount
Reproduction, Postage and Stationery	\$544.38
Filing Fees	\$313.00
Credit Reports, Court Call Fee	\$74.00
<b>Total</b>	<b>\$931.38</b>

*Id.*

11 U.S.C. § 330(a)(1)(A) and (B) permit approval of "reasonable compensation for actual, necessary services rendered by . . . [a] professional person, or attorney" and "reimbursement for actual, necessary expenses." In determining the amount of reasonable compensation to be awarded to a professional person, the court shall consider the nature, extent, and value of such services, considering all relevant factors, including those enumerated in subsections (a)(3)(A) through (E). § 330(a)(3). The previous interim compensation awards under 11 U.S.C. § 331 are subject to final review under § 330.

Applicant's services here included, without limitation: (a) pre-petition consultation and fact gathering, (b) preparation of the petition and accompanying documents, (c) amendments to the petition/documents, (d) the original plan, hearing, and objections, (e) 341 preparation and attendance, (f) 1st Amended Plan, (g) motions, (h) fee applications, (i) case administration, and (j) other/communication-conference. The court finds the services and expenses reasonable, actual, and necessary.

The court will approve on an interim basis under 11 U.S.C. § 331 compensation in the amount of **\$6,059.50** in fees and **\$931.38** in expenses for a total award **\$6,990.88**. After subtracting the

remaining retainer funds, the court approves an interim award of **\$5,177.88** as an administrative expense of the estate and an order authorizing and directing the Trustee to pay such to Applicant through the confirmed plan for services rendered and expenses incurred between May 3, 2023, and November 16, 2023.

4. 21-12317-B-13      **IN RE: RYAN RHOADS**  
FW-3

MOTION FOR COMPENSATION BY THE LAW OFFICE OF FEAR WADDELL,  
P.C. FOR GABRIEL J. WADDELL, DEBTORS ATTORNEY(S)  
11-20-2023 [45]

GABRIEL WADDELL/ATTY. FOR DBT.

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

DISPOSITION:                      Granted.

ORDER: The Moving Party shall submit a proposed order that conforms with the opinion below.

Fear Waddell, P.C. ("Applicant") seeks approval of a second interim allowance of compensation under 11 U.S.C. §§ 330 and 331 of the Bankruptcy Code for professional services rendered and reimbursement for expenses incurred as counsel for Ryan Christopher Rhoads ("Debtor") and covering from June 23, 2023, through October 31, 2023. Doc. #45. The motion is accompanied by a statement of client approval executed by Debtors. Doc. #47.

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

No party in interest responded, and the defaults of all such parties in interest will be entered.

This is Applicant's second fee application. This court previously granted an interim award for \$7,519.00 in fees and \$319.56 in costs

in an order dated August 11, 2023. Doc. #31. The Applicant's second interim application asks for an award of \$6,042.00 in attorneys' fees and is supported by billing records indicating that 20.8 billable hours were worked so far on this case, as follows:

<b>Professional</b>	<b>Rate</b>	<b>Hours</b>	<b>Amount</b>
Gabriel J. Waddell	\$345.00	4.00	\$1,380.00
Gabriel J. Waddell	\$360.00	10.80	\$3,888.00
Peter A. Sauer	\$380.00	0.10	\$28.00
Kayla Schlaak	\$125.00	3.20	\$400.00
Kayla Schlaak	\$140.00	1.60	\$224.00
Laurel Guenther	\$100.00	0.30	\$30.00
Laurel Guenther	\$115.00	0.80	\$92.00
<b>Total</b>		20.8	\$6,042.00

Docs. ##45, 47. Applicant also asserts a claim for expenses in the amount of \$137.00, and submits and exhibit containing an expense summary as follows:

<b>Description</b>	<b>Amount</b>
Postage	\$1.74
Copying	\$4.80
Copying	\$27.90
Postage	\$22.41
Postage	\$0.58
Postage	\$0.60
Postage	\$8.88
Copying	\$70.20
<b>Total</b>	<b>\$137.11</b>

Doc. #47. The court notes that the summary of expenses contained in the motion totals only \$135.11, but the more thorough explanation of expenses incurred in the accompanying exhibit is consistent with Applicant's request.

11 U.S.C. § 330(a)(1)(A) and (B) permit approval of "reasonable compensation for actual, necessary services rendered by . . . [a] professional person, or attorney" and "reimbursement for actual, necessary expenses." In determining the amount of reasonable compensation to be awarded to a professional person, the court shall consider the nature, extent, and value of such services, considering all relevant factors, including those enumerated in subsections (a)(3)(A) through (E). § 330(a)(3). The previous interim compensation awards under 11 U.S.C. § 331 are subject to final review under § 330.

Applicant's services here included, without limitation: (a) amendments to petitions and/or schedules, (b) claim administration and objections, (c) hearings and objections to the original plan, (d) the 1st Amended Plan, (e) motions to dismiss, (f) fee applications, and (g) case administration. The court finds the services and expenses reasonable, actual, and necessary.

The court will approve on an interim basis under 11 U.S.C. §331 compensation in the amount of **\$6,042.00** in fees and **\$137.11** in expenses for a total award **\$6,179.11** as an administrative expense of the estate and an order authorizing and directing the Trustee to pay such to Applicant through the confirmed plan for services rendered and expenses incurred between June 23, 2022, and October 31, 2023.

5. [22-11023](#)-B-13     **IN RE: DULCE MARQUEZ**  
[PLG-2](#)

MOTION TO MODIFY PLAN  
11-9-2023    [\[39\]](#)

DULCE MARQUEZ/MV  
RABIN POURNAZARIAN/ATTY. FOR DBT.

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

DISPOSITION:     Granted.

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

Dulce Michelle Marquez ("Debtor") moves for an order confirming Debtors' *Second Amended Chapter 13 Plan* dated November 9, 2023. Doc. #41.

This motion was set for hearing on 35 days' notice as required by Local Rule of Practice ("LBR") 3015-1(d)(1). The failure of any party in interest, including but not limited to creditors, the U.S. Trustee, and the case Trustee, to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Therefore, the defaults of the above-mentioned parties in interest are entered. Upon default, factual allegations will be taken as true (except those relating to amounts of damages). *Televideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917 (9th Cir. 1987).

No party has timely objected, and the defaults of all such parties in interest are entered.

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

1. All payments as received through October 2023 (month 16). No payments in November or December 2023 (months 17 and 18). Payments to resume in January 2023 (month 19) and decrease from \$1,722.00 to \$840.00 for the duration of the plan.
2. The monthly dividend to Class 2 Secured Creditor Lending Club to be paid at \$212 starting in January (month 19) and continuing until paid in full.
3. The dividend to unsecured creditors will remain at 100%.
4. The modified plan is otherwise unchanged from the confirmed plan.

Doc. #39.

Debtor avers that this modification is necessary because Debtor's husband, who has been out of work since July 2023 but who has been receiving full income since then, is no longer receiving any income and is applying for disability. *Id.* This is confirmed by Debtors' *Amended Schedule I & J*, which reflects a combined monthly net income for Debtor and her husband of \$1,913.44. Doc. #37.

No party has objected, and so, this motion is GRANTED. The order shall include the docket control number of the motion, shall reference the plan by the date it was filed, and shall be approved as to form by Trustee.

6. [23-10724](#)-B-13     **IN RE: ALMA ZAVALA**  
[MAT-2](#)

CONTINUED MOTION TO CONFIRM PLAN  
9-28-2023    [\[47\]](#)

ALMA ZAVALA/MV  
MARCUS TORIGIAN/ATTY. FOR DBT.

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

DISPOSITION:     Dismissed as moot.

No order required.

On December 11, 2023, a *Notice of Conversion* was entered whereby this case was converted from a Chapter 13 case to a Chapter 7 case. Doc. #74. Accordingly, the instant *Motion to Confirm Plan* is DISMISSED AS MOOT.

7. [23-10724](#)-B-13     **IN RE: ALMA ZAVALA**  
[MHM-2](#)

CONTINUED MOTION TO DISMISS CASE  
9-6-2023    [\[43\]](#)

MICHAEL MEYER/MV  
MARCUS TORIGIAN/ATTY. FOR DBT.

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

DISPOSITION:     Dismissed as moot.

No order required.

On December 11, 2023, a *Notice of Conversion* was entered whereby this case was converted from a Chapter 13 case to a Chapter 7 case. Doc. #74. Accordingly, the instant *Motion to Dismiss* is DISMISSED AS MOOT.

8. [23-11328](#)-B-13     **IN RE: MATTHEW YBARRA AND HOPE RAMIREZ**  
[KLG-2](#)

MOTION TO CONFIRM PLAN  
11-7-2023    [\[45\]](#)

HOPE RAMIREZ/MV  
ARETE KOSTOPOULOS/ATTY. FOR DBT.  
RESPONSIVE PLEADING

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

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

DISPOSITION:     Granted.

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

Matthew Angel Ybarra and Hope Marie Ramirez ("Debtors") move for an order confirming the *Second Amended Chapter 13 Plan* dated November 6, 2023. Doc. #45.

Chapter 13 trustee Michael H. Meyer ("Trustee") timely objected to confirmation of the plan but subsequently withdrew the objection. Doc. ##49, 52. No other party has responded to the motion. No plan has been confirmed so far.

The 60-month plan proposes the following terms:

1. Debtor's aggregate payment shall be \$315.45 per month for 3 months, followed by \$1,292.35 per month for 57 months.
2. Outstanding Attorney's fees in the amount of \$3,000.00 to be paid through the plan.
3. Secured creditors to be sorted into appropriate Classes and paid as follows:
  - a. Dovenmuehle Mortgage, Inc./Cross Country (Class 4, secured by mortgage) to be paid directly by Debtors at \$1,546.00 per month.
  - b. Valley First Credit Union (Class 4, secured by 2012 Toyota Tundra) to be paid directly by Debtors at \$4,20.00 per month.
4. Executory contract with ADT Security Services to be assumed. Post-petition monthly payment of \$69.00. No arrearage.
5. A dividend of 31.24% to unsecured creditors.

This motion was set for hearing on 35 days' notice as required by Local Rule of Practice ("LBR") 3015-1(d)(1). The failure of the creditors, the chapter 13 trustee, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. *See Boone v. Burk (In re Eliapo)*, 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-

mentioned parties in interest are entered and the matter will be resolved without oral argument. Upon default, factual allegations will be taken as true (except those relating to amounts of damages). *Televideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires that a plaintiff make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

Other than the objection of the Trustee, since withdrawn, no party has filed any written opposition.

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

9. [23-12028](#)-B-13     **IN RE: JACQUELINE KEENEY**  
[MHM-2](#)

CONTINUED OBJECTION TO CONFIRMATION OF PLAN BY TRUSTEE  
MICHAEL H. MEYER  
10-19-2023    [\[19\]](#)

ARETE KOSTOPOULOS/ATTY. FOR DBT.

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

DISPOSITION:     Overruled as moot.

ORDER:             The court will issue an order.

On November 30, 2023, Jaqueline Keeney ("Debtor") filed a First Amended Chapter 13 Plan. Doc #44. Accordingly, this *Continued Objection to Confirmation* of her original plan is OVERRULED AS MOOT.

10. [23-12028](#)-B-13     **IN RE: JACQUELINE KEENEY**  
[SCF-1](#)

CONTINUED OBJECTION TO CONFIRMATION OF PLAN BY NEWREZ LLC  
10-20-2023    [\[22\]](#)

NEWREZ LLC/MV  
ARETE KOSTOPOULOS/ATTY. FOR DBT.  
SEAN FERRY/ATTY. FOR MV.

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

DISPOSITION:     Withdrawn

No order required.

On December 14, 2023, creditor NewRez LLC withdrew its *Objection to Confirmation*. Accordingly, this *Objection* is WITHDRAWN.

11. [23-12228](#)-B-13     **IN RE: KURT/AMANDA LOUISE RATHJENS**  
[TCS-1](#)

MOTION TO CONFIRM PLAN  
11-15-2023    [\[17\]](#)

AMANDA LOUISE RATHJENS/MV  
TIMOTHY SPRINGER/ATTY. FOR DBT.

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

DISPOSITION:     Granted.

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

Kurt and Amanda Louise Rathjens ("Debtors") seek an order confirming the *First Modified Chapter 13 Plan* dated November 19, 2023. Doc. #19. No plan has been confirmed so far. The 60-month plan proposes the following terms:

6. Debtor's aggregate payment for months 1-5 will be \$1,020.00 from future earnings.
7. Outstanding Attorney's fees in the amount of \$8329.00 to be paid through the plan.
8. Secured creditors to be sorted into appropriate Classes and paid as follows:
  - a. Noble Credit Union (Class 2A). \$23,045.00 at 4.74% to be paid at \$432.15 per month on a 2019 Volkswagen Atlas.
  - b. Freedom Mortgage Corporation (Class 4). \$2,080.04 per month to be paid directly by Debtors for their mortgage.
9. A dividend of 42% to unsecured creditors.

This motion was set for hearing on 35 days' notice as required by Local Rule of Practice ("LBR") 3015-1(d)(1). The failure of the creditors, the chapter 13 trustee, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See *Boone v. Burk (In re Eliapo)*, 468 F.3d 592 (9th Cir. 2006).

No party has responded. Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument. Upon default, factual allegations will be taken as true (except those relating to amounts of damages). *Televideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires that a plaintiff make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

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

12. [23-12047](#)-B-13     **IN RE: ADANAN/HUDA BATH**  
[KMM-1](#)

CONTINUED OBJECTION TO CONFIRMATION OF PLAN BY TOYOTA MOTOR  
CREDIT CORPORATION  
10-25-2023    [\[23\]](#)

TOYOTA MOTOR CREDIT  
CORPORATION/MV  
PETER BUNTING/ATTY. FOR DBT.  
KIRSTEN MARTINEZ/ATTY. FOR MV.  
RESPONSIVE PLEADING

TENTATIVE RULING:            This matter will proceed as scheduled.

DISPOSITION:                    To be called for a status report.

ORDER:                            The court will enter an order.

Toyota Motor Credit Corporation dba Lexus Financial Services  
("Creditor" objects to confirmation of the *Chapter 13 Plan* filed by  
Adanan Amar and Huda Naz Bath (collectively "Debtors") on September  
14, 2023, on the following basis:

1. Debtors' proposed plan fails to provide treatment for  
Creditor's claim in the amount of \$40,567.93 with a 4.69%  
interest rate secured by a 2022 LEXUS IS500 ("the Vehicle").
2. If the plan is amended to provide such treatment, it is  
nevertheless not feasible as proposed.

Doc. #23. On November 15, 2023, the court continued this  
matter to December 20, 2023, and directed Debtors to file a  
Response no later than 14 days before the continued hearing  
date. Doc. #29. On December 5, 2023, Debtors timely filed a  
Response averring that counsel for Debtor and Movant have  
verbally agreed that this claim (which previously had been  
omitted from plan treatment because Debtors' daughter  
possesses the Vehicle and makes all payments on it) shall be  
treated under the Plan as a Class 3 (Surrender) and that the  
Vehicle shall not be repossessed unless payments are not kept  
current or insurance lapses. Doc. #39. Movant has not filed a  
Reply.

While the court will customarily accept the representations of  
Debtor's counsel to the court, in the absence of a statement  
by Toyota formally withdrawing, this matter will proceed as  
scheduled. In any event, even if the parties have reached the  
agreement described, there will still need to be a modified  
plan to effectuate this agreement.

13. [23-12047](#)-B-13     **IN RE: ADANAN/HUDA BATH**  
[MHM-1](#)

CONTINUED OBJECTION TO CONFIRMATION OF PLAN BY TRUSTEE  
MICHAEL H. MEYER  
10-24-2023    [[20](#)]

PETER BUNTING/ATTY. FOR DBT.  
RESPONSIVE PLEADING

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

DISPOSITION:     Withdrawn.

ORDER:             The court will enter an order.

On December 11, 2023, the Trustee filed a *Notice of Withdrawal* as to this Objection. Doc. #53. Accordingly, this Objection is WITHDRAWN.

14. [23-12347](#)-B-13     **IN RE: NANCY/STEVE WILLIAMS**  
[MHM-2](#)

OBJECTION TO CONFIRMATION OF PLAN BY TRUSTEE MICHAEL H.  
MEYER  
12-4-2023    [[17](#)]

SUSAN SILVEIRA/ATTY. FOR DBT.

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

DISPOSITION:     Overruled as moot.

ORDER:             The court will issue an order.

Chapter 13 trustee Michael H. Meyer ("Trustee") objects to confirmation of the *Chapter 13 Plan* filed on October 20, 2023, by Nancy J. Williams and Steve L. Williams ("Debtors"). On December 15, 2023, Debtors filed their *First Amended Plan*. Doc. #34. Accordingly, this *Objection* is OVERRULED AS MOOT.

15. [23-12268](#)-B-13     **IN RE: GREGORY GIANNOCCARO**  
[MHM-2](#)

MOTION TO DISMISS CASE  
11-16-2023    [\[15\]](#)

DAVID BOONE/ATTY. FOR DBT.  
RESPONSIVE PLEADING

TENTATIVE RULING:            This matter will proceed as scheduled.

DISPOSITION:                 Granted unless the motion is withdrawn.

ORDER:                         The minutes of the hearing will be the court's findings and conclusions. The court will issue an order.

This motion was set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of the creditors, the debtor, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. *See Boone v. Burk (In re Eliapo)*, 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest except the Debtor are entered and the matter will be resolved without oral argument. Upon default, factual allegations will be taken as true (except those relating to amount of damages). *Televideo Systems, Inc. v. Heidenthal*, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires that a plaintiff make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

Under 11 U.S.C. § 1307(c), the court may convert or dismiss a case, whichever is in the best interests of creditors and the estate, for cause. "A debtor's unjustified failure to expeditiously accomplish any task required either to propose or to confirm a chapter 13 plan may constitute cause for dismissal under § 1307(c)(1)." *Ellsworth v. Lifescape Med. Assocs., P.C. (In re Ellsworth)*, 455 B.R. 904, 915 (B.A.P. 9th Cir. 2011). There is "cause" for dismissal under 11 U.S.C. § 1307(c)(1) and (c)(4) for unreasonable delay by the debtor that is prejudicial to creditors and failure to commence making plan payments.

Here, the chapter 13 trustee asks the court to dismiss this case for unreasonable delay by the Gregory Paul Giannoccaro ("Debtor") that is prejudicial to creditors (11 U.S.C. § 1307(c)(1)). The Debtor failed to provide the trustee with all of the documentation required by 11 U.S.C. § 521(a)(3) and (4).

The Debtor filed a timely response indicated that Debtor is in the process of gathering the required documentation and it will be provided to the trustee. The Debtor's response is not supported by

evidence. Accordingly, the court has no record to base a finding that the Debtor is in compliance.

If the trustee's motion is not withdrawn at the hearing, the court intends to grant the motion and DISMISS the case on the grounds stated in the motion.

16. [23-12271](#)-B-13     **IN RE: RODNEY TIMMONS**  
[MHM-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY TRUSTEE MICHAEL H.  
MEYER  
12-4-2023    [\[24\]](#)

ADELE SCHNEIDEREIT/ATTY. FOR DBT.

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

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

DISPOSITION:     Overruled as moot.

No order is required.

On December 19, 2023, Rodney Timmons, Debtor in this case, filed a *First Amended Plan*. Doc. #38. Accordingly, the objection of Chapter 13 trustee Michael H. Meyer ("Trustee") to confirmation of the original *Chapter 13 Plan* filed on October 18, 2023, is OVERRULED AS MOOT.

17. [23-11391](#)-B-13     **IN RE: DEREK WHITE AND LILIYA RUDAN**  
[MHM-2](#)

MOTION TO DISMISS CASE  
11-16-2023    [\[42\]](#)

MICHAEL MEYER/MV  
JOEL WINTER/ATTY. FOR DBT.

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

DISPOSITION:     Denied as moot.

ORDER:             The court will issue an order.

On December 18, 2023, Derek White and Liliya Rudan ("Debtors") filed a motion to convert this case from a Chapter 13 case to a Chapter 7 case. Accordingly, this *Motion* is DENIED AS MOOT.