

UNITED STATES BANKRUPTCY COURT  
DEPARTMENT 5  
**JUDGE CHRISTOPHER B. LATHAM, PRESIDING**  
WEDNESDAY, OCTOBER 20, 2021

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**10:00 AM**

**1 - 18-04518-CL Ch 13 YASHVIN DIAZ & EUNICE FORTANEL**

TELE

- 1) STATUS CONFERENCE ON PROPOSED POST CONFIRMATION ORDER MODIFYING CHAPTER 13 PLAN (fr. 9/8/21)
  
- 2) MOTION FOR APPROVAL OF CHAPTER 13 MODIFIED PLAN FILED BY DEBTORS

ATTORNEY: KERRY A. DENTON (YASHVIN DIAZ, EUNICE FORTANEL)

**2 - 19-06036-CL Ch 13 DWAYNE LINWOOD SAMPLE**

- 1) MOTION TO DISMISS CASE FILED BY TRUSTEE

**Tentative Ruling:** The court has considered the Trustee's dismissal motion (ECF No. 49), Debtor's opposition (ECF No. 53), and its own docket. The Trustee moves to dismiss for failure to make plan payments (ECF No. 49). In response, Debtor filed a modified plan and preconfirmation modification extending plan length and curing the arrears (ECF Nos. 56 & 60). The Trustee approved the preconfirmation modification as to form (ECF No. 60). But he has not yet withdrawn his dismissal motion, so it remains on calendar. Nonetheless, because the Trustee has approved Debtor's preconfirmation modification and withdrawn his objection to that, the court is inclined to take the Trustee's dismissal motion **off calendar** without further order as **moot** and **award** Debtor's counsel \$515 in guideline fees. If the Trustee is in accord with this approach, he should notify opposing counsel and the courtroom deputy. Appearances at the October 20, 2021 hearing will then be excused.

- 2) MOTION FOR APPROVAL OF CHAPTER 13 MODIFIED PLAN FILED BY DEBTOR

**Tentative Ruling:** The court has considered Debtor's motion to modify Chapter 13 plan and modified plan (ECF No. 56), the Trustee's opposition (ECF No. 59), and its own docket. It sees that Debtor's September 13, 2021 preconfirmation modification has resolved the Trustee's concerns and he has withdrawn his opposition (ECF Nos. 59 & 62). Having received no further objection, and good cause appearing, the court **grants** Debtor's motion, **awards** his counsel \$685 in guideline fees, and excuses appearances at the October 20, 2021 hearing as to this matter only. Debtor may submit an order consistent with this tentative ruling.

ATTORNEY: JON COOPER (DWAYNE LINWOOD SAMPLE)

**10:00 AM**

**3 - 20-02590-CL Ch 13 IVAN FLEITES SOSA**

MOTION TO DISMISS CASE FILED BY TRUSTEE

**Tentative Ruling:** The court has considered the Trustee's motion to dismiss (ECF No. 28), Debtor's opposition, and the parties' statements of case status. The Trustee requests, and Debtor agrees to, an order tracking the October 2021, November 2021, and December 2021 plan payments. Good cause appearing, the court **grants** the Trustee's request, **awards** Debtor's counsel \$490 in guideline fees, and excuses appearances at the October 20, 2021 hearing. The Trustee may submit an order consistent with this tentative ruling and his statement of case status.

ATTORNEY: MICHAEL G. DOAN (IVAN FLEITES SOSA)

**02:00 PM**

**1 - 16-02893-CL Ch 13 BALTAZAR & CLAUDIA M. PEREZ**

1) MOTION TO DISMISS CASE FILED BY TRUSTEE (fr. 6/16/21)

**Tentative Ruling:** The court has considered the Trustee's dismissal motion (ECF No. 134), Debtors Baltazar and Claudia Perez's opposition (ECF No. 138), the parties' various statements of case status (ECF Nos. 139, 140, 145, 150, & 151), and its own docket. It sees that the Trustee has withdrawn his dismissal motion (ECF No. 154). Accordingly, the court takes the matter **off calendar** without further order and excuses appearances at the October 20, 2021 hearing.

2) MOTION FOR APPROVAL OF CHAPTER 13 MODIFIED PLAN FILED BY DEBTORS (fr. 6/16/21)

3) HEARING RE MODIFIED CHAPTER 13 PLAN BEFORE CONFIRMATION (re PCM DATED 5/5/21) FILED BY DEBTORS (fr. 6/16/21)

**Tentative Ruling:** 2 & 3) The court has considered Debtors Baltazar and Claudia Perez's plan modification motion and modified plan (ECF Nos. 141 & 142), the Chapter 13 Trustee's opposition (ECF No. 144), Debtor's preconfirmation modification (ECF No. 149), the parties' various statements of case status (ECF Nos. 145, 150, & 151), and its own docket. It sees that Trustee no longer opposes the motion (ECF No. 154). Having received no further objection, and good cause appearing, the court **grants** the motion and excuses appearances at the October 20, 2021 hearing. Debtors may submit an order consistent with this tentative ruling and approved as to form by the Trustee.

ATTORNEY: LARISSA L. LAZARUS (BALTAZAR PEREZ, CLAUDIA M. PEREZ)

**2 - 17-02029-CL Ch 13 HEATHER C. EATON**

MOTION TO DISMISS CASE FILED BY TRUSTEE (fr. 9/22/21)

ATTORNEY: JOHN GOODRICH (HEATHER C. EATON)

**02:00 PM**

**3 - 19-01947-CL Ch 13 DIANE SUEVO**

- 1) MOTION FOR RELIEF FROM STAY , RS #RAS-1 FILED BY U.S. BANK NATIONAL ASSOCIATION , AS TRUSTEE FOR STRUCTURED ASSET INVESTMENT LOAN TRUST MORTGAGE PASS -THROUGH CERTIFICATES, SERIES 2005-5 (fr. 8/25/21)

**Tentative Ruling:** The court has considered U.S. Bank's stay relief motion (ECF No. 40), Debtor's opposition (ECF No. 43), Debtor's status reports (ECF Nos. 45, 53, & 69), and its own docket. It sees that Debtor has filed a motion to sell the property, which may resolve U.S. Bank's motion (ECF No. 65). The court therefore **continues** this matter to **November 3, 2021 at 2:00 p.m.** to be heard alongside Debtor's sale motion, and excuses appearances at the October 20, 2021 hearing.

- 2) MOTION TO DISMISS CASE FILED BY TRUSTEE (fr. 8/25/21)

**Tentative Ruling:** The court has considered the Chapter 13 Trustee's motion to dismiss (ECF No. 47), Debtor's opposition (ECF No. 50), the parties' statements of case status (ECF Nos. 52, 53, & 67), and its own docket. The executor of Debtor's estate plans to sell her residence and use the proceeds to pay off the deed of trust as well as her plan (ECF No. 65). The Trustee suggests a continuance to hear the dismissal motion in conjunction with Debtor's motion to sell (ECF No. 67). Good cause appearing, the court will allow that. Accordingly, it **continues** the matter to **November 3, 2021 at 2:00 p.m.** and excuses appearances at the October 20, 2021 hearing.

ATTORNEY: EUGENIO RAMOS (DIANE SUEVO)  
ATTORNEY: SEAN C FERRY (U.S. BANK NA)

**4 - 19-02325-CL Ch 13 GABRIEL & LINDA GALLARDO**

MOTION FOR ORDER ON LOAN MODIFICATION WITH PARTIAL CLAIM AGREEMENT AND SUBORDINATE DEED OF TRUST FILED BY U.S. BANK NATIONAL ASSOCIATION , ITS ASSIGNEES AND/OR SUCCESSORS

**Tentative Ruling:** The court has considered U.S. Bank, National Association's ("U.S. Bank") motion for approval to enter into a loan modification with partial claim agreement and subordinate deed of trust, the Trustee's statement of non-opposition, and its own docket. Having received no further opposition, and good cause appearing, the court **grants** the motion and excuses appearances at the October 20, 2021 hearing. U.S. Bank may submit an order consistent with this tentative ruling.

ATTORNEY: JONATHAN N. VAKNIN (GABRIEL GALLARDO, LINDA GALLARDO)  
ATTORNEY: JENNIFER C. WONG (U.S. BANK NA)

**5 - 21-01449-CL Ch 13 ROBERTO ORTIZ AGUILAR**

OPPOSITION TO DEBTOR'S OBJECTION TO CLAIM #4 FILED BY JUSTIN REPPERT

**Tentative Ruling:** The court has considered Creditor Justin Reppert's status report (ECF No. 73) and its own docket. It sees that the parties have agreed to continue this matter, although they have not yet submitted a stipulation and order to that effect. *Id.* Nonetheless, and good cause appearing, the court will allow that. Accordingly, it **continues** the matter to **December 1, 2021 at 2:00 p.m.** and excuses appearances at the October 20, 2021 hearing.

ATTORNEY: BRIAN CROZIER WHITAKER (ROBERTO ORTIZ AGUILAR)  
ATTORNEY: VIKRANT CHAUDHRY (JUSTIN REPPERT)

**02:00 PM**

**6 - 21-03759-CL Ch 13 MICHAEL A SHONLEY**

**MOTION TO EXTEND AUTOMATIC STAY FILED BY DEBTOR**

**Tentative Ruling:** The court has considered Debtor's motion to extend the automatic stay (ECF No. 12) and its own docket. It has received no opposition. But service was inadequate according to Rule 7004 as to North County Radiology. Accordingly, the court **denies** the motion as to North County Radiology.

The motion is **granted** as to all other creditors. In addition, as to them and good cause appearing, the court finds that Debtor has rebutted the presumption of bad faith and is entitled to the relief requested. *See* 11 U.S.C. § 362(c)(3)(C). If Debtor is prepared to submit on this tentative ruling, he may notify the courtroom deputy. The court will then excuse appearances at the October 20, 2021 hearing and prepare an order.

ATTORNEY: JOHN C. COLWELL (MICHAEL A SHONLEY)