

**United States Bankruptcy Court  
Central District of California  
San Fernando Valley  
Victoria Kaufman, Presiding  
Courtroom 301 Calendar**

**Tuesday, March 11, 2025**

**Hearing Room 301**

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9:30 AM

**1:**

**Chapter**

**#0.00** PLEASE BE ADVISED THAT THE CHAPTER 13 CONFIRMATION CALENDAR  
CAN BE VIEWED ON THE COURT'S WEBSITE UNDER:  
**JUDGES >KAUFMAN,V. >CHAPTER 13 > CHAPTER 13 CALENDAR**  
(WWW.CACB.USCOURTS.GOV)

Docket 0

**Tentative Ruling:**

- NONE LISTED -

**United States Bankruptcy Court  
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1: -

**Chapter**

**#0.00 All hearings on this calendar will be conducted in Courtroom 301 at 21041 Burbank Boulevard, Woodland Hills, California, 91367. All parties in interest, members of the public and the press may attend the hearings on this calendar in person.**

**Additionally, (except with respect to evidentiary hearings, or as otherwise ordered by the Court) parties in interest (and their counsel) may connect by ZoomGov audio and video free of charge, using the connection information provided below. Members of the public and the press may only connect to the zoom audio feed, and only by telephone. Access to the video feed by these individuals is prohibited.**

Parties in interest may participate by ZoomGov video and audio using a personal computer (equipped with camera, microphone and speaker), or a handheld mobile device (such as an iPhone or Android phone). Members of the public, the press and parties in interest may participate by audio only using a telephone (standard telephone charges may apply).

Neither a Zoom nor a ZoomGov account is necessary to participate remotely and there are no fees for doing so. No pre-registration or prior approval is required.

The audio portion of each hearing will be recorded electronically by the Court and that recording will constitute its official record. Recording, retransmitting, photographing or imaging Court proceedings by any means is strictly prohibited.

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Video/audio web address: <https://cacb.zoomgov.com/j/1604211797>

Meeting ID: 160 421 1797

Password: 860889

**Join by Telephone**

Telephone conference lines: 1-669-254-5252 OR 1-646-828-7666

Meeting ID: 160 421 1797

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**Chapter**

Password: 860889

For more information on appearing before Judge Kaufman by ZoomGov, please see the information entitled "Tips for a Successful ZoomGov Court Experience" on the Court's website at: <https://www.cacb.uscourts.gov/judges/honorable-victoria-s-kaufman> under the tab "Telephonic Instructions."

Docket 0

**Tentative Ruling:**

- NONE LISTED -

**United States Bankruptcy Court  
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**1:19-12971 Orion Joseph Maldonado, Jr.**

**Chapter 13**

**#28.00** Trustee's Motion to Dismiss Case Due to Expiration of the Plan  
fr. 2/11/25

Docket 59

**\*\*\* VACATED \*\*\* REASON: Withdrawal of motion filed 3/4/25. [Dkt. 65]**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Orion Joseph Maldonado Jr.

Represented By  
Steven A Alpert

**Trustee(s):**

Elizabeth (SV) F Rojas (TR)

Pro Se

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**1:21-10564 Nancy Osipo-Peera**

**Chapter 13**

**#29.00** Trustee's Motion to Dismiss Case for Failure to Make Plan Payments

Docket 52

**Tentative Ruling:**

- NONE LISTED -

|                          |
|--------------------------|
| <b>Party Information</b> |
|--------------------------|

**Debtor(s):**

Nancy Osipo-Peera

Represented By  
Aris Artounians

**Trustee(s):**

Elizabeth (SV) F Rojas (TR)

Pro Se

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**1:21-11495 Martha Avalos Sarseno**

**Chapter 13**

**#30.00** Trustee Motion to Dismiss Chapter 13 Case due to Material Default of the Plan Pursuant to §1307(c)(6) Failure to submit Tax Returns and/or Tax Refunds

fr. 11/12/24; 1/14/25; 2/11/25

Docket 32

**Tentative Ruling:**

- NONE LISTED -

|                          |
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| <b>Party Information</b> |
|--------------------------|

**Debtor(s):**

Martha Avalos Sarseno

Represented By  
R Grace Rodriguez

**Trustee(s):**

Elizabeth (SV) F Rojas (TR)

Pro Se

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**1:22-10457 Michael Scott Patterson**

**Chapter 13**

**#31.00** Trustee's Motion to Dismiss Case for Failure to Make Plan Payments

fr. 2/13/24; 4/9/24; 6/11/24; 8/13/24; 10/8/24; 12/10/24

Docket 59

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Michael Scott Patterson

Represented By  
Jeffrey J Hagen

**Movant(s):**

Elizabeth (SV) F Rojas (TR)

Pro Se

**Trustee(s):**

Elizabeth (SV) F Rojas (TR)

Pro Se

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**1:22-10486 Richard Jesus Henriquez**

**Chapter 13**

**#32.00 Trustee's Motion to Dismiss Case for Failure to Make Plan Payments**

Docket 45

**Tentative Ruling:**

- NONE LISTED -

|                          |
|--------------------------|
| <b>Party Information</b> |
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**Debtor(s):**

Richard Jesus Henriquez

Represented By  
Matthew D. Resnik

**Trustee(s):**

Elizabeth (SV) F Rojas (TR)

Pro Se



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**1:22-10689 Irina Torgan**

**Chapter 13**

**#33.00** Trustee's Motion to Dismiss Case for Failure to Make Plan Payments

Docket 58

**Tentative Ruling:**

- NONE LISTED -

|                          |
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| <b>Party Information</b> |
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**Debtor(s):**

Irina Torgan

Represented By  
Joshua Sternberg

**Trustee(s):**

Elizabeth (SV) F Rojas (TR)

Pro Se

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**1:22-11090 Darlene Priscilla Ramirez**

**Chapter 13**

**#34.00 Trustee's Motion to Dismiss Case for Failure to Make Plan Payments**

Docket 37

**Tentative Ruling:**

- NONE LISTED -

|                          |
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| <b>Party Information</b> |
|--------------------------|

**Debtor(s):**

Darlene Priscilla Ramirez

Represented By  
Gregory M Shanfeld

**Trustee(s):**

Elizabeth (SV) F Rojas (TR)

Pro Se

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**1:22-11116 Angela Rene Fleming**

**Chapter 13**

**#35.00** Trustee's Motion to Dismiss Case for Failure to Make Plan Payments

Docket 64

**\*\*\* VACATED \*\*\* REASON: Withdrawal of motion filed 3/3/25. [Dkt. 68]**

**Tentative Ruling:**

- NONE LISTED -

|                          |
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| <b>Party Information</b> |
|--------------------------|

**Debtor(s):**

Angela Rene Fleming

Represented By  
Paul Y Lee

**Trustee(s):**

Elizabeth (SV) F Rojas (TR)

Pro Se

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**1:23-10888 Maria Guadalupe Serrano**

**Chapter 13**

**#36.00 Trustee's Motion to Dismiss Case for Failure to Make Plan Payments**

Docket 61

**Tentative Ruling:**

- NONE LISTED -

|                          |
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| <b>Party Information</b> |
|--------------------------|

**Debtor(s):**

Maria Guadalupe Serrano

Represented By  
Kevin T Simon

**Trustee(s):**

Elizabeth (SV) F Rojas (TR)

Pro Se

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**1:23-10976 Gilbert J Azcarate, Jr**

**Chapter 13**

**#37.00** Trustee's Motion to Dismiss Case for Failure to Make Plan Payments  
fr. 1/14/25; 2/11/25

Docket 96

**\*\*\* VACATED \*\*\* REASON: Withdrawal of motion filed 2/24/25. [Dkt. 102]**

**Tentative Ruling:**

- NONE LISTED -

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| <b>Party Information</b> |
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**Debtor(s):**

Gilbert J Azcarate Jr

Represented By  
Stella A Havkin

**Trustee(s):**

Elizabeth (SV) F Rojas (TR)

Pro Se

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**1:23-11667 Gregory Ross Cohen**

**Chapter 13**

**#38.00** Trustee's Motion to Dismiss Case for Failure to Make Plan Payments

Docket 31

**Tentative Ruling:**

- NONE LISTED -

|                          |
|--------------------------|
| <b>Party Information</b> |
|--------------------------|

**Debtor(s):**

Gregory Ross Cohen

Represented By  
Gregory M Shanfeld

**Trustee(s):**

Elizabeth (SV) F Rojas (TR)

Pro Se

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**1:24-10176 Daniele Clinton Kenney**

**Chapter 13**

**#39.00** Trustee's Motion to Dismiss Case for Failure to Make Plan Payments

fr. 2/11/25

Docket 62

**\*\*\* VACATED \*\*\* REASON: Motion withdrawn 2/19/25**

**Tentative Ruling:**

- NONE LISTED -

|                          |
|--------------------------|
| <b>Party Information</b> |
|--------------------------|

**Debtor(s):**

Daniele Clinton Kenney

Represented By  
David S Hagen

**Trustee(s):**

Elizabeth (SV) F Rojas (TR)

Pro Se

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**1:19-13071 Walter Romeo Flores and Delmy Yanira Flores**

**Chapter 13**

**#39.01 Trustee's Motion to Dismiss Case Due to Expiration of the Plan**

Docket 64

**Tentative Ruling:**

- NONE LISTED -

|                          |
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| <b>Party Information</b> |
|--------------------------|

**Debtor(s):**

Walter Romeo Flores

Represented By  
Steven A Alpert

**Joint Debtor(s):**

Delmy Yanira Flores

Represented By  
Steven A Alpert

**Trustee(s):**

Elizabeth (SV) F Rojas (TR)

Pro Se



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11:00 AM

**1:23-10435 Lori Kathleen Brill**

**Chapter 13**

**#40.00** Motion of Chapter 13 Debtor Lori Brill for "Hardship" Discharge  
in Her Chapter 13 Case

Docket 38

**Tentative Ruling:**

The Court will grant the motion and, pursuant to Fed. R. Bankr. P. 4007(d), set a deadline for creditors to file a complaint under 11 U.S.C. § 523(a)(6).

Movant must submit the order within seven (7) days.

Note: No response has been filed. Accordingly, no court appearance by movant is required. Should an opposing party file a late opposition or appear at the hearing, the Court will determine whether further hearing is required and movant will be so notified.

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| <b>Party Information</b> |
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**Debtor(s):**

Lori Kathleen Brill

Represented By  
Kathleen P March

**Trustee(s):**

Elizabeth (SV) F Rojas (TR)

Pro Se

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11:00 AM

**1:24-10508 Donna Lynn Benesch and Andrew Lawrence Biddle**

**Chapter 13**

**#41.00** Motion under Local Bankruptcy Rule 3015-1 (n) and (w) to  
modify plan or suspend plan payments

fr. 2/11/25

Docket 34

**Tentative Ruling:**

Grant.

Movants must submit the order within seven (7) days.

Note: No response has been filed. Accordingly, no court appearance by movants is required. Should an opposing party file a late opposition or appear at the hearing, the Court will determine whether further hearing is required and movants will be so notified.

|                          |
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| <b>Party Information</b> |
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**Debtor(s):**

Donna Lynn Benesch

Represented By  
David H Chung

**Joint Debtor(s):**

Andrew Lawrence Biddle

Represented By  
David H Chung

**Trustee(s):**

Elizabeth (SV) F Rojas (TR)

Pro Se

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11:00 AM

1:24-12062 **Mohammad Mallahsaeed**

**Chapter 13**

**#42.00** Order to Show Cause Why The Court Should Not: (1) Order Debtor's Counsel To Disgorge Fees And Expenses; And (2) Order That Debtor's Counsel May Not Represent Debtor In Future Bankruptcy Cases

Docket 25

**Tentative Ruling:**

The Court will order that: (1) attorney Stephen L. Burton must pay a total of \$500.00 in sanctions to the Court for his failure to act in accordance with his professional and ethical obligations with respect to the Prior Case and the Second Case; (2) to the extent that Mr. Burton received any attorney's fees and/or expenses with respect to his representation of the debtor, including in the Prior Case and the Second Case, Mr. Burton must disgorge said fees and/or expenses to the debtor; (3) Mr. Burton is precluded from receiving any payment for services rendered or to be rendered in contemplation of or in connection with the Prior Case and the Second Case; and (4) Mr. Burton may not represent the debtor in any future bankruptcy cases.

**I. BACKGROUND**

***A. The Prior Bankruptcy Case***

On November 7, 2024, Mohammad Mallahsaeed ("Debtor") filed a chapter 13 petition, initiating case no. 9:24-bk-11279-RC (the "Prior Case"). In the Prior Case, Debtor did not file a chapter 13 plan; consequently, on November 25, 2024, the Court dismissed that case [Prior Case, doc. 16].

Mr. Burton represented Debtor in the Prior Case. The *Rights and Responsibilities Agreement Between Debtor and Attorney for Debtor in a Chapter 13 Case (RARA)* [LBR 3015-1(v)] indicated that Debtor agreed to pay Mr. Burton a base fee of \$7,000 in connection with the Prior Case [Prior Case, doc. 13]. In the Prior Case, Debtor did not file a disclosure of compensation regarding Mr. Burton.

***B. The Second Bankruptcy Case***

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**CONT... Mohammad Mallahsaeed**

**Chapter 13**

On December 11, 2024, Debtor filed another chapter 13 petition, initiating case no. 1:24-bk-12062-VK (the "Second Case"). Attorney Stephen L. Burton represented Debtor in the Second Case.

***1. Debtor's Schedules***

In his schedule A/B, Debtor identified his interests in real property located at 742 Colinas, Thousand Oaks, CA 91362 (the "Property"), a 2018 BMW 530e (the "BMW") and a 2020 Masda CX-5 (the "Mazda"). In his schedule D, Debtor disclosed the claim of Amwest Funding Corp ("Amwest"), in the amount of \$598,839, secured by the Property, the claim of BMW Financial Services in the amount of \$18,484, secured by the BMW, and the claim of Toyota Motor Credit Corp/Mazda Financial in the amount of \$20,832, secured by the Mazda. In his schedule E/F, Debtor disclosed nonpriority unsecured debts totaling \$97,128.

In his schedule I, Debtor asserted that he received net monthly wages in the amount of \$4,910.37. Debtor's schedule J indicated that his monthly expenses totaled \$6,307.00, leaving a negative net income in the amount of (\$1,396.63).

***2. Chapter 13 Attorney's Fees***

In December 2024, Debtor filed a *Rights and Responsibilities Agreement Between Debtor and Attorney for Debtor in a Chapter 13 Case (RARA) [LBR 3015-1(v)]* (the "RARA") [doc. 13]. The RARA indicated that Debtor agreed to pay Mr. Burton a base fee of \$7,000.00 in connection with the Second Case. In addition, the RARA provided, in relevant part:

BEFORE THE CASE IS FILED, ATTORNEY AGREES TO PROVIDE AT LEAST THE FOLLOWING LEGAL SERVICES FOR THE BASE FEE AGREED TO WITH DEBTOR:

...

Personally counsel Debtor regarding the advisability of filing either a Chapter 13 or a Chapter 7 bankruptcy case, discuss both procedures with Debtor, and answer Debtor's questions.

RARA, p. 3.

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**CONT... Mohammad Mallahsaeed**

**Chapter 13**

On December 22, 2024, Debtor filed a *Disclosure of Compensation of Attorney for Debtor(s)* (the "Disclosure of Compensation") [doc. 14]. Mr. Burton signed and certified the Disclosure of Compensation. The Disclosure of Compensation stated that: (1) Mr. Burton agreed to accept \$7,000.00 for legal services in connection with the Second Case; and (2) Mr. Burton had not received any funds for services rendered or to be rendered to Debtor in contemplation of or in connection with the Second Case. In his statement of financial affairs, Debtor disclosed that he paid Mr. Burton \$1,500.00 on November 24, 2024.

**3. Debtor's Chapter 13 Plan and Dismissal of the Second Case**

On December 22, 2024, Debtor filed a chapter 13 plan (the "Plan") [doc. 17]. The Plan provided for payments in the amount of \$500 per month, for months 1-6, and for no other plan payments. The Plan did not provide for the treatment of the secured claims of Toyota Motor Credit Corp/Mazda Financial, BMW Financial Services or Amwest. In January and February 2025, each of these secured creditors filed objections to confirmation of the Plan [docs. 20, 21 and 22, respectively].

In its objection, Amwest contended that the Plan did not provide for its secured claim and questioned how Debtor would be able to make payments, given his negative monthly net income. *See* doc. 22, pp. 2-3. According to Amwest, as of the petition date, the amount of prepetition arrears was approximately \$75,728.37. *See id.*, p. 2.

On February 8, 2024, prior to the plan confirmation hearing in the Second Case, Debtor filed a request for voluntary dismissal of the Second Case [doc. 23]. On February 10, 2025, the Court entered an order dismissing the Second Case, in which the Court reserved jurisdiction on all issues involving sanctions, any bar against being a debtor in bankruptcy, all issues arising under 11 U.S.C. §§ 105, 109(g), 110, 329, 349 and 362 and to any additional extent provided by law [doc. 24].

**4. The Order to Show Cause and Mr. Burton's Declaration in Response Thereto**

On February 10, 2025, the Court entered its *Order to Show Cause Why the Court Should Not: (1) Order Debtor's Counsel to Disgorge Fees and Expenses; and (2)*

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**CONT... Mohammad Mallahsaeed**

**Chapter 13**

*Order that Debtor's Counsel May Not Represent Debtor in Future Bankruptcy Cases* (the "OSC") [doc. 25]. In the OSC, the Court stated, in relevant part:

The Court having reviewed the record in the Prior Case and the Second Case, and in light of Debtor's negative monthly net income, the apparent flaws of the Plan and the lack of clarity as to the amount of fees paid to Mr. Burton and it appearing that Mr. Burton has not acted in accordance with his professional and ethical obligations with respect to the Prior Case and the Second Case, on the Court's own motion, and for good cause appearing, it is hereby

ORDERED, that Stephen L. Burton must appear at a hearing in this case on March 11, 2025 at 11:00 a.m. at Courtroom 301, 21041 Burbank Boulevard, Woodland Hills, California 91367 to show cause and explain why the Court should not, pursuant to 11 U.S.C. §§ 105(a) and 329(b), Fed. R. Bankr. P. 9011 and Local Bankruptcy Rule 2090-2: (1) order Mr. Burton to disgorge any and all funds that he has received to pay for attorney's fees or expenses with respect to his representation of Debtor, including in the Prior Case and the Second Case; and (2) order that Mr. Burton is prohibited from representing Debtor in any future bankruptcy cases; and it is further

ORDERED, that responses to this Order to Show Cause must be in writing, supported by evidence in the form of declarations and supporting documents and filed with the Court and served on Debtor and the United States Trustee no later than February 25, 2025...

OSC, pp. 3-4 (emphases omitted).

On February 25, 2025, Mr. Burton filed his declaration in response to the OSC (the "Burton Decl.") [doc. 31]. In his declaration, Mr. Burton states, in pertinent part:

With respect to [the Prior Case], I did not file a Disclosure of Compensation statement. I received no advance compensation in the Prior Case. I will file a Disclosure of compensation stating I received no compensation in that case. A plan was not filed in [the Prior Case]

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because I did not receive a signed plan from the Debtor so the case was dismissed for failure to file information.

In [the Second Case] filed December 11, 2024 I did not receive \$1,500 on November 24, 2024 or at any other time. That is a mistake on the Statement of Financial Affairs filed in [the Second Case]. The Disclosure of Compensation I signed and filed in [the Second Case] states I received no advance compensation in [the Second Case].

I received no compensation of any kind in either case.

The Debtor listed his house in Thousand Oaks for sale and did move out of it. The Debtor had listed his house in an effort to sell it so he could be is [sic] other expenses such as the BMW auto loan. Debtor was not having much luck at selling his home so he decided to dismiss [the Second Case].

Burton Decl., ¶¶ 3-6. As of March 5, 2025, no other party has filed a response to the OSC.

**II. RELEVANT AUTHORITY**

***A. Eligibility to be a Debtor Under 11 U.S.C. § 109(e)***

11 U.S.C. § 109(e) states, in pertinent part, that "[o]nly an individual with regular income...may be a debtor under chapter 13 of this title."

***B. Requirement to File Disclosure of Compensation***

Fed. R. Bankr. P. ("FRBP") 2016(b) provides that:

- (1) Basic Requirements. Within 14 days after the order for relief—or at another time as the court orders—every debtor's attorney (whether or not applying for compensation) must file and send to the United States trustee the statement required by § 329. The statement must:

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(A) show whether the attorney has shared or agreed to share compensation with any other entity; and

(B) if so, the particulars of any sharing or agreement to share, except with a member or regular associate of the attorney's law firm.

(2) Supplemental Statement. Within 14 days after any payment or agreement to pay not previously disclosed, the attorney must file and send to the United States trustee a supplemental statement.

***C. Sanctions Pursuant to 11 U.S.C. §§ 105(a) and 329***

11 U.S.C. § 105 states, in relevant part—

- (a) The court may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title. No provision of this title providing for the raising of an issue by a party in interest shall be construed to preclude the court from, sua sponte, taking any action or making any determination necessary or appropriate to enforce or implement court orders or rules, or to prevent an abuse of process.

Pursuant to 11 U.S.C. § 329—

- (a) Any attorney representing a debtor in a case under this title, or in connection with such a case, whether or not such attorney applies for compensation under this title, shall file with the court a statement of the compensation paid or agreed to be paid, if such payment or agreement was made after one year before the date of the filing of the petition, for services rendered or to be rendered in contemplation of or in connection with the case by such attorney, and the source of such compensation.
- (b) If such compensation exceeds the reasonable value of any such services, the court may cancel any such agreement, or order the



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**Chapter 13**

return of any such payment, to the extent excessive, to—

(1) the estate, if the property transferred—

(A) would have been property of the estate; or

(B) was to be paid by or on behalf of the debtor under a plan under chapter 11, 12, or 13 of this title; or

(2) the entity that made such payment.

"[A] bankruptcy court has broad and inherent authority to deny any and all compensation when an attorney fails to meet the requirements of [ §§ 327, 329, 330, 331]." *In re Lewis*, 113 F.3d 1040, 1045 (9th Cir. 1997). The court has discretion to order the return of excess compensation when compensation received by the debtor's counsel exceeds the reasonable value of services rendered. 11 U.S.C. § 329(b); *see also In re Spickelmier*, 469 B.R. 903, 914 (Bankr. D. Nev. 2012) (finding that counsel for the debtor demonstrated "a lack of competence and diligence" which did "not deserve to be compensated").

"Services charged by a debtor's attorney which are of poor quality and/or which do not comply with the attorney's ethical duties are not reasonable and provide grounds for disgorgement of fees for purposes of § 329(b)." *In re Smith*, 436 B.R. 476, 483 (Bankr. N.D. Ohio 2010). "Improper conduct on the part of...attorneys has frequently been penalized by withholding compensation or reimbursement or both." *In re Wilde Horse Enters., Inc.*, 136 B.R. 830, 844 (Bankr. C.D. Cal. 1991) (citing *In re Rancho Motor Inn, Inc.*, 527 F.2d 1044, 1047 (9th Cir. 1975)).

***D. Sanctions Pursuant to Fed. R. Bankr. P. 9011***

FRBP 9011 states, in pertinent part:

(b) Representations to the Court. By presenting to the court a petition, pleading, written motion, or other document—whether by signing, filing, submitting, or later advocating it—an attorney or unrepresented party certifies that, to the best of the person's knowledge, information,

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and belief formed after an inquiry reasonable under the circumstances:

(1) it is not presented for any improper purpose, such as to harass, cause unnecessary delay, or needlessly increase litigation costs;

(2) the claims, defenses, and other legal contentions are warranted by existing law or by a nonfrivolous argument to extend, modify, or reverse existing law, or to establish new law;...

(c) Sanctions.

(1) In General. If, after notice and a reasonable opportunity to respond, the court determines that (b) has been violated, the court may, subject to the conditions in this subdivision (c), impose an appropriate sanction on any attorney, law firm, or party that committed the violation or is responsible for it...

(3) By the Court. On its own, the court may enter an order describing the specific conduct that appears to violate (b) and directing an attorney, law firm, or party to show cause why it has not violated (b).

(4) Nature of a Sanction; Limitations.

(A) In General. A sanction imposed under this rule must be limited to what suffices to deter repetition of the conduct or deter comparable conduct by others similarly situated. The sanction may include:

(i) a nonmonetary directive; [and]

(ii) an order to pay a penalty into court...

"[FRBP] 9011 is the bankruptcy counterpart of [Federal Rule of Civil Procedure] 11.

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[Federal Rule of Civil Procedure] 11 precedents are appropriately considered in interpreting [FRBP] 9011." *In re Kayne*, 453 B.R. 372, 381 (B.A.P. 9th Cir. 2011) (citing *In re Marsch*, 36 F.3d 825, 829 (9th Cir.1994)).

As stated in *Marsch*, the requirements of FRBP 9011 are:

[T]wo-fold: First, the signer of the pleading must certify it isn't frivolous, i.e., that "it is well-grounded in fact and is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law." Second, the signer must ensure that the paper or pleading "is not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation." A plain reading of the rule's language suggests these are separate requirements, so that either frivolousness *or* improper purpose may serve as a basis for sanctions.

*Marsch*, 36 F.3d at 829 (quoting FRBP 9011) (emphasis in original). "[B]ankruptcy courts must consider both frivolousness *and* improper purpose on a sliding scale, where the more compelling the showing as to one element, the less decisive need be the showing as to the other." *Id.*, at 830 (emphasis in original).

"We accord the district court's determination whether to impose sanctions deference, because 'the district court is better situated than the court of appeals to marshal the pertinent facts and apply [the law].'" *Air Separation, Inc. v. Underwriters at Lloyd's of London*, 45 F.3d 288, 291 (9th Cir. 1995) (quoting *Cooter & Gell v. Hartmarx Corp.*, 496 U.S. 384, 402-03, 110 S.Ct. 2447, 110 L.Ed. 359 (1990)). "Courts must apply an objective test in assessing whether the rule has been violated." *Yagman v. Republic Ins.*, 987 F.2d 622, 628 (9th Cir. 1993).

***E. Sanctions Pursuant to Local Bankruptcy Rules***

Pursuant to Local Bankruptcy Rule ("LBR") 1001-1(f), "[t]he failure of counsel...to comply with these Local Bankruptcy Rules, with the F.R.Civ.P. or the FRBP, or with any order of the court may be grounds for the imposition of sanctions pursuant to applicable law, including the Bankruptcy Code, the F.R.Civ.P., the FRBP, and the inherent powers of the court."

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LBR 2090-2(b) provides, in relevant part, that "[a]n attorney appearing in this court submits to the discipline of the court. If a judge has cause to believe that an attorney has engaged in unprofessional conduct, the judge may...[i]mpose...appropriate sanctions[.]"

**III. ANALYSIS**

***A. Sanctions Pursuant to 11 U.S.C. §§ 105(a) and 329***

As Debtor's counsel, Mr. Burton had a duty to act diligently and competently on Debtor's behalf. Mr. Burton had a duty to advise Debtor, prior to filing the Prior Case, what information would be necessary to prosecute the Prior Case. Although Mr. Burton asserts that the Prior Case was dismissed because he did not receive a signed chapter 13 plan from Debtor, Mr. Burton did not file a motion to extend the deadline to file a plan. Furthermore, in the Prior Case, Mr. Burton did not timely file a disclosure of his compensation as required by FRBP 2016.

With respect to the Second Case, Mr. Burton had a duty to counsel Debtor regarding the advisability of filing either a chapter 13 or a chapter 7 case. *See* RARA, p. 3. Given Debtor's negative monthly net income, Debtor is not eligible to be a chapter 13 debtor. *See* 11 U.S.C. § 109(e). In addition, Debtor's negative monthly net income demonstrates that he was unable to make plan payments of \$500 per month for six months, as set forth in the Plan.

Moreover, the Plan did not provide for the treatment of any of Debtor's secured claims, including the prepetition arrears owed to Amwest. Rather, the Plan provided only for payment of Mr. Burton's base fee for legal services (assuming that Debtor had adequate net income to do so).

In light of the foregoing, Mr. Burton has not established that any compensation he received constitutes the reasonable value for the services rendered or to be rendered in contemplation of or in connection with the Prior Case and the Second Case. Consequently, to the extent that Burton received any attorney's fees and/or expenses with respect to his representation of Debtor, including in the Prior Case and the Second Case, Mr. Burton must disgorge all of such fees and/or expenses to Debtor. In

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addition, Mr. Burton is precluded from receiving any payment for services rendered or to be rendered in contemplation of or in connection with the Prior Case and the Second Case.

***B. Sanctions Pursuant to Fed. R. Bankr. P. 9011***

Under FRBP 9011(b)(1), by filing Debtor's petition and the Plan, Mr. Burton certified to the Court that the petition and the Plan were not presented for any improper purpose, i.e., to harass, cause unnecessary delay, or needlessly increase litigation costs. In addition, under FRBP 9011(b)(2), Mr. Burton certified to the Court that the petition and the Plan were non-frivolous, i.e., that they were well-grounded in fact and warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law.

Given Debtor's ineligibility to be a chapter 13 debtor and Debtor's inability to make payments under a chapter 13 plan, Mr. Burton could not have formed a reasonable belief that the petition and the Plan were filed for a proper purpose. In addition, taking into account Debtor's negative monthly net income and the Plan's infeasibility, Mr. Burton could not have formed a reasonable belief that the petition and the Plan were well-grounded in fact and were warranted by existing law. As a result, by filing the petition and the Plan, Mr. Burton violated FRBP 9011(b)(1) and (b)(2).

FRBP 9011(c) allows the Court to impose appropriate sanctions for an attorney's violation of FRBP 9011(b). Mr. Burton's violation of FRBP 9011(b)(1) and (b)(2) serve as grounds for the Court's imposition of sanctions. Because Mr. Burton violated FRBP 9011(b)(1) and (b)(2) by filing the petition and the Plan, the Court will order Mr. Burton to pay sanctions in the amount of \$500.00 to the Court.

***C. Sanctions Pursuant to Local Bankruptcy Rules***

LBR 1001-1(f) allows the Court to impose sanctions for a party's violation of, or failure to conform to, the LBR and the FRBP. In addition, LBR 2090-2(b) allows the Court to impose sanctions on an attorney if it has cause to believe that that attorney has engaged in unprofessional conduct.

Mr. Burton violated FRBP 9011(b)(1) and (b)(2) by filing Debtor's chapter 13 petition

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and the Plan. Such conduct serves as grounds for the Court's imposition of sanctions. Furthermore, the Court will order that Mr. Burton is prohibited from representing Debtor in any future bankruptcy cases.

**IV. CONCLUSION**

Mr. Burton must pay a total of \$500.00 in sanctions to the Court **by no later than April 11, 2025.**

To the extent that Mr. Burton received any attorney's fees and/or expenses with respect to his representation of Debtor, including in the Prior Case and the Second Case, Mr. Burton must: (1) disgorge said fees and/or expenses to Debtor; and (2) file and serve on Debtor a declaration, signed under penalty of perjury and supported by documentary evidence, attesting that the disgorgement was made, **by no later than April 30, 2025.**

Mr. Burton is precluded from receiving any payment for services rendered or to be rendered in contemplation of or in connection with the Prior Case and the Second Case.

Mr. Burton may not represent Debtor in any future bankruptcy cases.

The Court will prepare the order.

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| <b>Party Information</b> |
|--------------------------|

**Debtor(s):**

Mohammad Mallahsaeed

Represented By  
Stephen L Burton

**Trustee(s):**

Elizabeth (SV) F Rojas (TR)

Pro Se