

UNITED STATES BANKRUPTCY COURT
DISTRICT OF IDAHO

In re:

JOSE ARMANDO ROLDAN CARRILLO
and LANETTE LEA LARA,

Debtors.

Case No. 26-40176-BRW

Chapter 13

**SUMMARY ORDER RE: MOTION TO RECONSIDER AND
FOR CLARIFICATION**

Before the Court is the *Motion to Reconsider and for Clarification of Court's Summary Order as to Adequate Protection Payments* (Doc. 54) (the "Motion") filed by the Chapter 13 Trustee, Kathleen McCallister (the "Trustee"). The chapter 13 Debtors Jose Armando Roldan Carrillo and Lanette Lea Lara (the "Debtors") have objected to the Motion (Doc. No. 58) (the "Objection").

The Motion came before the Court on August 4, 2026, at which hearing the Court granted the Trustee's oral request for additional time to brief more fully the issues as raised in the Motion. The Court stated upon filing of the brief it would deem the matter under advisement. The Trustee timely filed the brief on August 14, 2026. Doc. No. 61.

I. PROCEDURAL HISTORY AND FACTS

The Motion seeks to have the Court reconsider or clarify the *Summary Order Re: Motion for Adequate Protection* (Doc. No. 53) (the "Order") entered on July 10, 2026. The Order granted a *Motion for Adequate Protection* (Doc. No. 38) filed by secured creditor Mountain America Credit Union ("MACU") seeking payment of adequate protection related to a 2014 GMC Sierra 1500 owned by the Debtors, in which MACU had a perfected security interest. The chapter 13 plan—which had yet to be confirmed at that time—provided for the Trustee to make

the payments to MACU upon confirmation, at Section 3.3. *See* Doc. No. 27. MACU requested that the Trustee distribute to it all *pre-confirmation payments* she received from the Debtors under that provision of the chapter 13 plan as adequate protection, citing 11 U.S.C. § 361 and Local Bankruptcy Rule (LBR) 4001-3. The Debtors advised that these secured payments were being made to the Trustee in advance of the chapter 13 plan being confirmed.

Though not filing an objection prior, the Trustee objected to the relief sought by MACU during the June 30, 2026, hearing, arguing that she should be paid her percentage fee under 28 U.S.C. § 586(e)(2) for the adequate protection payments she will make. In response, during the hearing, the Debtors objected to the Trustee receiving compensation for the adequate protection payments and cited the Court to *Evans v. McCallister (In re Evans)*, 69 F.4th 1101 (9th Cir. 2023). At the conclusion of the hearing, the Court took MACU's Motion for Adequate Protection under advisement and subsequently entered the Order granting the motion.

The Court determined in the Order, after analysis of the applicable law, that “the Trustee shall, pursuant to [11 U.S.C.] § 1326(a)(1)(C) and LBR 4001-3 make the adequate protection payments to MACU. The Trustee is not entitled to her statutory fee, however, for these pre-confirmation payments.” *Order* at 5.

The Motion was then filed by the Trustee on July 24, 2026, which will be discussed more fully below. Soon thereafter, on August 3, 2026, the chapter 13 plan was confirmed. *See* Doc. No. 57 (Order Granting Confirmation of Chapter 13 Plan).

As mentioned, the day after confirmation, August 4, 2026, the Court held a hearing on the Motion and granted the Trustee leave to file a brief on or before August 14, 2026. The Trustee filed the additional brief on August 14, 2026. *See* Doc. No. 61.

II. THE TRUSTEE’S ARGUMENTS AND THE DEBTOR’S OBJECTION

A. The Motion

On July 24, 2026, the Trustee filed her Motion seeking reconsideration or at least clarification of the Order, because the Order could be read, she argued, as denying the Trustee the percentage fee on the adequate protection payments made even though the chapter 13 plan was soon to be—at that time—confirmed. The Trustee stated that she understood the Court’s ruling in the Order to say that she would not receive her commission on adequate protection payments in the event a plan is not confirmed, but she argued that “upon confirmation the plan payments received by the Trustee prior to confirmation become payments under the plan. At that time[,] [the] Trustee becomes entitled to retain her fees on the adequate protection payments.” Motion at ¶ 8. No authority was cited for this conclusion.

The Debtor objected to the Motion, on the grounds that the Order did determine the post-confirmation issues and denied the Trustee the ability to be compensated for those payments even though the plan was now confirmed. Doc. No. 58. The Debtor also pointed out that the Trustee failed to meet the elements of a reconsideration motion under Federal Rule of Bankruptcy Procedure 9023. *Id.*

On August 4, 2026, the Court held a hearing on the Motion and authorized the Trustee to file an additional brief on the issues. The Trustee argued that *In re Evans* only applied to chapter 13 cases where the case is dismissed prior to confirmation. As the Trustee pointed out, in this case, the chapter 13 plan was confirmed after the Order requiring the adequate protection payments to be made without payment to the Trustee. In making this argument, the Trustee acknowledged that this is a “rather novel issue[.]” and noted that the Trustee was not able to locate a case so concluding. Doc. No. 61 at 3. In conclusion, the Trustee articulated her position

that “pre-confirmation disbursements [i.e. adequate protection payments] are transformed into payments made pursuant to a confirmed plan. Therefore, upon plan confirmation, Trustee is entitled to retain her percentage fees on those . . . disbursements as now those fees are from disbursements made pursuant to the terms of the confirmed plan.” *Id.* at 5.

III. LAW AND ANALYSIS

The Court agrees with the Trustee that case law is sparse. It too has not located a case directly on point. The Court has endeavored to square the rather expansive language of *In re Evans* and the related authorities cited in the Order with the request made by the Trustee. It is correct, of course, that *In re Evans* and the other authorities cited are cases involving a dismissed chapter 13 case, not one, as here, where the plan is later confirmed and plan payments are then made.

While there is no case law to speak of, other bankruptcy courts in this Circuit have allowed adequate protection payments to qualify for a chapter 13 trustee’s compensation, upon confirmation or even before that consequential event, after *In re Evans*. See, e.g. [Bankr. D. Or. LBR 3015-1\(b\)\(6\)\(A\)](#) (stating adequate protection payments “required by a proposed or confirmed plan” must be made through the trustee for which the trustee is authorized to take the percentage fee); [Bankr. D. Or. Form No. 1300.24](#), at 4 (including a section in the chapter 13 plan for adequate protection payments and providing “[i]f the case is dismissed before confirmation, debtor waives the right to require the trustee to return any funds previously paid to those secured creditors and the trustee’s commissions thereon,” which appears to have been updated or at least reviewed post *In re Evans* based on the 12/1/2024 date listed on the form plan); [Bankr. D. Ariz. LBR 2084-6](#) (providing that the chapter 13 trustee may make adequate protection payments and stating “[i]f a plan is confirmed, the trustee is authorized to retain the authorized percentage fee

for all adequate protection payments disbursed in the case,” which LBR was amended in response to *In re Evans*) (emphasis added); [Bankr. D. Ariz. Form 2084-4](#), at 2-3 (including a provision in the chapter 13 plan for “adequate protection payments to creditors secured by personal property”); [Bankr. E.D. Cal. LBR 3015-1\(f\)\(3\)](#) (providing that the chapter 13 trustee may collect the percentage fee “on all adequate protection payments made by the trustee to holders of secured claims”); [Bankr. E.D. Cal. Form EDC.003-080](#), at 3 (including a provision in the chapter 13 plan for adequate protection payments made by the trustee); [Bankr. S.D. Cal. General Order 175-F](#) (incorporated into the LBRs at 3015-11 and providing that “[t]he chapter 13 trustee will receive an administrative fee for effecting Adequate Protection Payments, the percentage of which is set by the United States Trustee in accordance with applicable law”); [Bankr. S.D. Cal. Form CSD 1300](#), at 8 (including a provision in the chapter 13 plan for adequate protection payments); [Bankr. C.D. Cal. LBR 3015-1\(k\)\(2\)\(B\)](#) (providing that the trustee may assess an administrative fee for effecting adequate protection payments as proposed in the plan); [Bankr. C.D. Cal. F 3015-1.01.CHAPTER13.PLAN](#), at 4 (including a provision in the chapter 13 plan for adequate protection payments which the chapter 13 trustee “will collect his or her statutory fee on all receipts made for preconfirmation adequate protection payments or preconfirmation lease payments”).

Clearly, those courts are utilizing and relying upon provisions of their local rules and chapter 13 plans, which provisions are missing in our district’s LBRs and form plan. Nevertheless, the Court is persuaded given those courts’ approaches, that *In re Evans* should be read to deny the chapter 13 trustee compensation on adequate protection payments (and other

pre-confirmation payments) where the chapter 13 case is dismissed.¹ Because this case now has a confirmed chapter 13 plan, and based on the Order requiring the Trustee to make the payments listed in Section 3.3 of the chapter 13 plan as adequate protection payments pre-confirmation, the ability of the Trustee to be paid her commission on the adequate protection payments is not foreclosed by *In re Evans* or the other authorities cited in the Order.

IV. ORDER

Now, therefore, based on the above analysis, and for good cause appearing, the Motion is **GRANTED** as follows. The Order is **CLARIFIED** to allow the Trustee to be paid her appropriate commission on the adequate protection payments made in this case now that the chapter 13 plan is confirmed.²



DATED: October 19, 2026

A handwritten signature in black ink, appearing to read "Brent R. Wilson", written over a horizontal line.

Brent R. Wilson
U.S. Bankruptcy Judge

¹ To the extent those courts or others have determined, or the local rules or plans so provide, that a chapter 13 trustee may be paid his or her commission for adequate protection (*i.e.* pre-confirmation) payments *even upon dismissal of the chapter 13 case*, the Court disagrees as it determined in the Order.

² The undersigned would not be opposed to discussing whether an amendment to LBR 4001-3 is appropriate to make this outcome express, as other courts have done, provided Chief Judge Noah G. Hillen agrees with the outcome as provided here.