

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF CALIFORNIA**

Honorable Fredrick E. Clement
Fresno Federal Courthouse
2500 Tulare Street, 5th Floor
Courtroom 11, Department A
Fresno, California

PRE-HEARING DISPOSITIONS

DAY: THURSDAY
DATE: JANUARY 24, 2019
CALENDAR: 9:00 A.M. CHAPTERS 13 AND 12 CASES

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. 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.

1. [18-15200](#)-A-13 **IN RE: PAMELA HAILEY**
[DRJ-2](#)

MOTION TO EXTEND AUTOMATIC STAY
1-4-2019 [8]

PAMELA HAILEY/MV
DAVID JENKINS

Tentative Ruling

Motion: Extend the Automatic Stay

Notice: LBR 9014-1(f)(2); no 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). 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).

EXTENSION OF THE STAY

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.

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.

A motion to extend the automatic stay has been presented to the court in this case. Having considered the motion, oppositions, responses and replies, if any, and having heard oral argument presented at the hearing,

IT IS ORDERED that the motion is granted, and the automatic stay of § 362(a) is extended in this case. The automatic stay shall remain in effect to the extent provided by the Bankruptcy Code.

2. [18-14606](#)-A-13 **IN RE: KENNETH/JANE HOSTETLER**
[MHM-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY TRUSTEE MICHAEL H.
MEYER
12-19-2018 [[20](#)]

TIMOTHY SPRINGER

No Ruling

3. [18-14706](#)-A-13 **IN RE: JUDY JONES**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES
12-26-2018 [[17](#)]

MARK ZIMMERMAN

Tentative Ruling

If the installment payment of \$79 due December 21, 2018, and the installment of \$77 due January 22, 2019, have not been paid by the time of the hearing, the case may be dismissed without further notice or hearing.

4. [13-16207](#)-A-13 **IN RE: MICHAEL/NOREEN THACKREY**
[MHM-1](#)

MOTION TO DISMISS CASE
12-6-2018 [[97](#)]

MICHAEL MEYER/MV
PETER FEAR
WITHDRAWN

Final Ruling

The motion withdrawn, the matter is dropped as moot.

5. [18-12708](#)-A-13 **IN RE: JAMES/CELENA WATSON**
[DRJ-2](#)

MOTION TO CONFIRM PLAN
12-5-2018 [[53](#)]

JAMES WATSON/MV
DAVID JENKINS
RESPONSIVE PLEADING

No Ruling

6. [19-10010](#)-A-13 **IN RE: JOYCE FITZPATRICK**
[PBB-1](#)

MOTION TO EXTEND AUTOMATIC STAY
1-9-2019 [[9](#)]

JOYCE FITZPATRICK/MV
PETER BUNTING

Tentative Ruling

Motion: Extend the Automatic Stay

Notice: LBR 9014-1(f)(2); no 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). 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).

EXTENSION OF THE STAY

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.

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.

A motion to extend the automatic stay has been presented to the court in this case. Having considered the motion, oppositions, responses and replies, if any, and having heard oral argument presented at the hearing,

IT IS ORDERED that the motion is granted, and the automatic stay of § 362(a) is extended in this case. The automatic stay shall remain in effect to the extent provided by the Bankruptcy Code.

7. [18-15118](#)-A-13 **IN RE: FANNY CERVANTEZ**
[SL-1](#)

MOTION TO EXTEND AUTOMATIC STAY
1-2-2019 [[10](#)]

FANNY CERVANTEZ/MV
SCOTT LYONS

Tentative Ruling

Motion: Extend the Automatic Stay

Notice: LBR 9014-1(f)(2); no 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). 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).

EXTENSION OF THE STAY

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.

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.

A motion to extend the automatic stay has been presented to the court in this case. Having considered the motion, oppositions, responses and replies, if any, and having heard oral argument presented at the hearing,

IT IS ORDERED that the motion is granted, and the automatic stay of § 362(a) is extended in this case. The automatic stay shall remain in effect to the extent provided by the Bankruptcy Code.

8. [18-12423](#)-A-13 **IN RE: ANTHONY/MELISSA CLARKE**
[AP-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
12-14-2018 [[36](#)]

NATIONSTAR MORTGAGE LLC/MV
PETER BUNTING
WENDY LOCKE/ATTY. FOR MV.
DISMISSED

Final Ruling

The case dismissed, the matter is denied as moot.

9. [18-13732](#)-A-12 **IN RE: CHARMAINE BRANNAN**
[MHM-12](#)

CONTINUED MOTION TO DISMISS CASE
10-25-2018 [[10](#)]

MICHAEL MEYER/MV
RESPONSIVE PLEADING

Final Ruling

This matter is continued to February 14, 2019, at 9:00 a.m. Not later than January 31, 2019, the trustee shall file and serve a supplemental memorandum of points and authorities address whether the documents provided, January 15, 2019, ECF # 38, satisfy the income eligibility requirements of 11 U.S.C. § 101(18). The

response shall cite with specificity to that portion of the tax returns that supports (or does not support) the trustee' position. The debtor need not respond to the trustee's supplemental memorandum of points and authorities, and maybe do so orally at the hearing. If she does wish to file and serve a written response she shall do so no later than February 7, 2019.

10. [18-14239](#)-A-13 **IN RE: SILVIA ARIAS**
[MHM-2](#)

MOTION TO DISMISS CASE
12-18-2018 [[42](#)]

MICHAEL MEYER/MV

Final Ruling

Motion: Dismiss Case

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 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).

CASE DISMISSAL

The chapter 13 trustee moves to dismiss this chapter 13 case for a delinquency in payments under the debtor's proposed chapter 13 plan and for failure to appear at the meeting of creditors. For the reasons stated in the motion, cause exists under § 1307(c)(1), (c)(4) and § 1326(a)(1)(A) to dismiss the case. Payments under the proposed plan are delinquent in the amount of \$50.00. The debtor also failed to appear at the meeting of creditors set for December 4, 2018.

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 trustee's motion to dismiss this chapter 13 case has been presented to the court. Having entered the default of respondent debtor for failure to appear, timely oppose, or otherwise defend in

the matter, and having considered the well-pleaded facts of the motion,

IT IS ORDERED that the motion is granted because of the delinquency under the proposed chapter 13 plan in this case and because of the failure to appear at the meeting of creditors. The court hereby dismisses this case.

11. [18-13940](#)-A-13 **IN RE: ROLANDO DUARTE AND NANCY AMAYA**
[TOG-1](#)

CONTINUED MOTION TO VALUE COLLATERAL OF CITIZENS ONE AUTO
FINANCE
10-6-2018 [[10](#)]

ROLANDO DUARTE/MV
THOMAS GILLIS
RESPONSIVE PLEADING

Final Ruling

The matter resolved by stipulation and order, the motion is dropped from calendar.

12. [18-14443](#)-A-13 **IN RE: JOSE MERAS**
[MHM-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY TRUSTEE MICHAEL H.
MEYER
12-19-2018 [[27](#)]

PETER BUNTING

Final Ruling

Matter: Objection to Confirmation of Chapter 13 Plan
Notice: LBR 3015-1(c)(4); no written opposition required
Disposition: Overruled as moot
Order: Civil minute order

Chapter 13 debtors may modify the plan before confirmation. 11 U.S.C. § 1323(a). If the debtor files a modification of the plan under § 1323, the modified plan becomes the plan. 11 U.S.C. § 1323(b). Filing a modified plan renders moot any objection to confirmation of the prior plan. The debtor has filed a modified plan after this objection to confirmation was filed. The objection will be overruled as moot.

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

IT IS ORDERED that the objection to confirmation is overruled as moot.

13. [18-14847](#)-A-13 **IN RE: FRANK CRUZ**
[HTK-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
12-21-2018 [[18](#)]

MEL ABDELAZIZ/MV
H. KHARAZI/ATTY. FOR MV.
RESPONSIVE PLEADING

Final Ruling

Motion: Stay Relief
Disposition: Denied as moot
Order: Civil minute order

Federal courts have no authority to decide moot questions. *Arizonans for Official English v. Arizona*, 520 U.S. 43, 67-68, 72 (1997). "The basic question in determining mootness is whether there is a present controversy as to which effective relief can be granted." *Nw. Env'tl. Def. Ctr. v. Gordon*, 849 F.2d 1241, 1244-45 (9th Cir. 1988) (citing *United States v. Geophysical Corp.*, 732 F.2d 693, 698 (9th Cir.1984)).

Dismissal of a bankruptcy case terminates the automatic stay. Under § 362(c)(1), the stay of an act against property of the estate terminates when such property leaves the estate. 11 U.S.C. § 362(c)(1). And the dismissal of a case "revests the property of the estate in the entity in which such property was vested immediately before the commencement of the case." *Id.* § 349(b)(3). Under § 362(c)(2), the stay of "any other act" under § 362(a) terminates upon the earlier of three events: (i) dismissal of a case, (ii) closure of a case, or (iii) the time a discharge is granted or denied. 11 U.S.C. § 362(c)(2)(A)-(C).

Because the case has been dismissed, the automatic stay no longer exists. The court is unable to grant effective relief. The motion will be denied as moot.

14. [17-13954](#)-A-13 **IN RE: LESLIE HARRIS**
[FW-3](#)

MOTION FOR COMPENSATION BY THE LAW OFFICE OF FEAR WADDELL,
P.C. FOR GABRIEL J. WADDELL, DEBTORS ATTORNEY(S)
12-7-2018 [[41](#)]

GABRIEL WADDELL

Final Ruling

Application: Allowance of Interim Compensation and Expense
Reimbursement

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

Disposition: Approved

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 application was required not less than 14 days before the hearing on the application. 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).

COMPENSATION AND EXPENSES

In this Chapter 13 case, Fear Waddell, PC has applied for an allowance of interim compensation and reimbursement of expenses. The application requests that the court allow compensation in the amount of \$1,585 and reimbursement of expenses in the amount of \$398.76.

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.

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.

Fear Waddell, PC's application for allowance of interim compensation and reimbursement of expenses has been presented to the court. Having entered the default of respondent for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the application,

IT IS ORDERED that the application is approved on an interim basis. The court allows interim compensation in the amount of \$1,585 and reimbursement of expenses in the amount of \$398.76. The aggregate allowed amount equals \$1,983.76. As of the date of the application, the applicant held a retainer in the amount of \$0.00. The amount of \$1,983.76 shall be allowed as an administrative expense to be paid through the plan, and the remainder of the allowed amounts, if any, shall be paid from the retainer held by the applicant. The applicant is authorized to draw on any retainer held.

IT IS FURTHER ORDERED that the fees and costs are allowed pursuant to 11 U.S.C. § 331 as interim fees and costs, subject to final review and allowance pursuant to 11 U.S.C. § 330. Such allowed amounts shall be perfected, and may be adjusted, by a final application for allowance of compensation and reimbursement of expenses, which shall be filed prior to case closure.

IT IS FURTHER ORDERED that the trustee is authorized to pay the fees allowed by this order from the available funds of the plan in a manner consistent with the terms of the confirmed plan.

15. [18-14354](#)-A-13 **IN RE: DAVID JAMES**
[MHM-2](#)

MOTION TO DISMISS CASE
12-18-2018 [[38](#)]

MICHAEL MEYER/MV

Final Ruling

Motion: Dismiss Case

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 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).

CASE DISMISSAL

The debtor has failed to provide the trustee with the required class 1 mortgage checklist with payment coupon or last statement, 2017 state and federal tax returns, proof of all income (pay advices), profit and loss statements, rental income, unemployment compensation, social security income, disability income, and retirement income (for the last six months). See 11 U.S.C. §§ 521(a)(3)-(4) and 521(e)(2)(A)-(B).

The debtor has failed to appear at a § 341 meeting of creditors set for December 4, 2018. See 11 U.S.C. §§ 341, 343.

For the reasons stated in the motion, cause exists to dismiss the case. *Id.* § 1307(c)(1).

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 trustee's motion to dismiss has been presented to the court. Having entered the default of the respondent debtor for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the motion,

IT IS ORDERED that the motion is granted for unreasonable delay by the debtor that is prejudicial to creditors. The court hereby dismisses this case.

16. [16-13155](#)-A-13 **IN RE: RYAN/MICHAEL SMITH**
[JDM-2](#)

MOTION TO MODIFY PLAN
11-26-2018 [[62](#)]

RYAN SMITH/MV
JAMES MILLER
RESPONSIVE PLEADING

No Ruling

17. [18-13858](#)-A-13 **IN RE: GEORGE BAKER**
[RMP-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY REAL TIME RESOLUTIONS,
INC.
12-19-2018 [[34](#)]

REAL TIME RESOLUTIONS, INC./MV
RENEE PARKER/ATTY. FOR MV.
DISMISSED

Final Ruling

The case dismissed, the matter is overruled as moot.

18. [18-14559](#)-A-13 **IN RE: CAROL DAVIS-MADISON**
[BDB-1](#)

MOTION TO VALUE COLLATERAL OF AMERCREDIT FINANCIAL SERVICES,
INC.
12-21-2018 [[16](#)]

CAROL DAVIS-MADISON/MV
BENNY BARCO
RESPONSIVE PLEADING

Tentative Ruling

Motion: Value Collateral [Personal Property; Motor Vehicle (2013 Hyundai Sonata)]

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

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 does not have admissible evidence of value for the vehicle. The only evidence of value in the record is a statement from the debtor in her declaration, stating that the vehicle has a replacement value of \$5,100. ECF No. 18. But, the debtor is a lay person. The declaration does not qualify her as a retail merchant familiar with the requisite specialized knowledge pertaining to the price a retail merchant would charge for the vehicle. See Fed. R. Evid. 702 & 703. Nor does the debtor state anything specific about the condition of the vehicle, justifying any correction in the retail value of the vehicle. She says only that the vehicle is in fair condition. ECF No. 18. This is an opinion and not a fact, however. And, to the extent the debtor is repeating another person's opinion about the replacement value of the vehicle, the debtor's statement is inadmissible hearsay. See Fed. R. Evid. 801(c) and 802. Accordingly, the motion will be denied.

19. [17-14665](#)-A-13 **IN RE: VICKI/ANGELA VALENTYN**
[NLL-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
12-19-2018 [56]

U.S. BANK NATIONAL
ASSOCIATION/MV
ROBERT WILLIAMS
NANCY LEE/ATTY. FOR MV.

Tentative Ruling

Motion: Stay Relief

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

Disposition: Denied as moot

Order: Civil minute order

MOOTNESS OF REQUEST FOR STAY RELIEF

Federal courts have no authority to decide moot questions. *Arizonans for Official English v. Arizona*, 520 U.S. 43, 67-68, 72 (1997). "Mootness has been described as the doctrine of standing set in a time frame: The requisite personal interest that must exist at the commencement of the litigation (standing) must continue throughout its existence (mootness)." *Id.* at 68 n.22 (quoting *U.S. Parole Comm'n v. Geraghty*, 445 U.S. 388, 397 (1980)) (internal quotation marks omitted).

At the time this motion was filed, there was a confirmed chapter 13 plan in place, providing for the movant's claim in Class 1, paid by the trustee through the plan. The basis for the motion is the debtor's delinquency under the plan and correspondingly delinquency

on payments to the movant on account of its claim. However, a modified chapter 13 plan in this case, confirmed by this court after this motion was filed, provides for the cure of the asserted delinquency and binds the movant with respect to its claim. See ECF Nos. 52 & 62. Accordingly, this motion is moot.

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.

U.S. Bank's motion for relief from the automatic stay has been presented to the court. Having considered the motion, any oppositions or replies, and having heard oral argument presented at the hearing, if any,

IT IS ORDERED that the motion is denied as moot. No relief will be awarded.

20. [18-14667](#)-A-13 **IN RE: ISMAEL/MARIA PARAMO**
[TJS-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY PERITUS PORTFOLIO
SERVICES II, LLC
12-18-2018 [[26](#)]

PERITUS PORTFOLIO SERVICES II,
LLC/MV
THOMAS GILLIS
TIMOTHY SILVERMAN/ATTY. FOR MV.

No Ruling

21. [18-14667](#)-A-13 **IN RE: ISMAEL/MARIA PARAMO**
[TOG-1](#)

MOTION TO VALUE COLLATERAL OF WESTLAKE FINANCIAL SERVICES
11-29-2018 [9]

ISMAEL PARAMO/MV
THOMAS GILLIS
RESPONSIVE PLEADING

Tentative Ruling

Motion: Value Collateral [Personal Property; Motor Vehicle (2013 Chevrolet Cruze)]

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

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 does not have admissible evidence of value for the vehicle. The only evidence of value in the record is a statement from debtor Ismael Paramo in his declaration, stating that the vehicle has a replacement value of \$5,181. ECF No. 11. But, the debtor is a lay person. The declaration does not qualify him as a retail merchant familiar with the requisite specialized knowledge pertaining to the price a retail merchant would charge for the vehicle. See Fed. R. Evid. 702 & 703. Nor does the debtor state anything about the condition of the vehicle, justifying any correction in the retail value of the vehicle. See ECF No. 11. And, to the extent the debtor is repeating another person's opinion about the replacement value of the vehicle, the debtor's statement

is inadmissible hearsay. See Fed. R. Evid. 801(c) and 802. Accordingly, the motion will be denied.

22. [18-14569](#)-A-13 **IN RE: JESUS/FATIMA AYALA**
[MHM-1](#)

MOTION TO DISMISS CASE
12-21-2018 [[26](#)]

MICHAEL MEYER/MV
TIMOTHY SPRINGER

Tentative Ruling

Motion: Dismiss Case

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

Disposition: Conditionally denied

Order: Civil minute order

CASE DISMISSAL

The chapter 13 trustee moves to dismiss this case, asserting that cause exists under § 1307(c)(1) because the debtors failed to attend a scheduled § 341 meeting of creditors. Because the debtors' failure to attend the required § 341 creditors' meeting has occurred only once, the court will not dismiss the case on condition that the debtors attend the next creditors' meeting. But if the debtors do not appear at the continued meeting of creditors, the case will be dismissed on trustee's declaration without further notice or hearing.

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

The trustee's motion to dismiss has been presented to the court. Having considered the motion together with papers filed in support and opposition, and having heard the arguments of counsel, if any, and good cause appearing,

IT IS ORDERED that the motion is conditionally denied. It is denied on the condition that both debtors attend the next continued § 341(a) meeting of creditors. But if both debtors do not appear at this continued meeting, the case will be dismissed on trustee's declaration without further notice or hearing.

23. [18-13071](#)-A-13 **IN RE: TEMPLE GINTHER**
[SAH-2](#)

MOTION TO CONFIRM PLAN
12-7-2018 [\[32\]](#)

TEMPLE GINTHER/MV
SUSAN HEMB

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 the 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 has the burden of proving that the plan complies with all statutory requirements of confirmation. *In re Andrews*, 49 F.3d 1404, 1407-08 (9th Cir. 1995); *In re Barnes*, 32 F.3d 405, 407-08 (9th Cir. 1994). The court finds that the debtor has sustained that burden, and the court will approve confirmation of the plan.

24. [18-10772](#)-A-13 **IN RE: EDUARDO FELIX**
[JRL-2](#)

MOTION TO MODIFY PLAN
12-6-2018 [\[30\]](#)

EDUARDO FELIX/MV
JERRY LOWE
RESPONSIVE PLEADING

No Ruling

25. [17-12676](#)-A-13 **IN RE: VALER OCHOA**
[SL-1](#)

MOTION TO MODIFY PLAN
12-6-2018 [[46](#)]

VALER OCHOA/MV
STEPHEN LABIAK

Final Ruling

Motion: Modify Chapter 13 Plan

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

Disposition: Granted

Order: Prepared by the 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 modification 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. "[T]he only limits on modification are those set forth in the language of the Code itself, coupled with the bankruptcy judge's discretion and good judgment in reviewing the motion to modify." *In re Powers*, 202 B.R. 618, 622 (B.A.P. 9th Cir. 1996).

Chapter 13 debtors seeking plan modification have the burden of proving that all requirements of § 1322(a) and (b) and § 1325(a) have been met. See 11 U.S.C. §§ 1322(a)-(b), 1325(a), 1329(b)(1); see also *In re Powers*, 202 B.R. at 622 ("[Section] 1329(b)(1) protects the parties from unwarranted modification motions by ensuring that the proposed modifications satisfy the same standards as required of the initial plan."); see also *In re Barnes*, 32 F.3d 405, 407 (9th Cir. 1994); *In re Andrews*, 49 F.3d 1404, 1408 (9th Cir. 1995).

The court finds that the debtor has sustained this burden of proof. The court will grant the motion and approve the modification.

26. [18-11377](#)-A-13 **IN RE: ERIC/TARA BOHLANDER**
[PBB-3](#)

MOTION TO MODIFY PLAN
12-6-2018 [[40](#)]

ERIC BOHLANDER/MV
PETER BUNTING

Final Ruling

Motion: Modify Chapter 13 Plan

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

Disposition: Granted

Order: Prepared by the 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 modification 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. "[T]he only limits on modification are those set forth in the language of the Code itself, coupled with the bankruptcy judge's discretion and good judgment in reviewing the motion to modify." *In re Powers*, 202 B.R. 618, 622 (B.A.P. 9th Cir. 1996).

Chapter 13 debtors seeking plan modification have the burden of proving that all requirements of § 1322(a) and (b) and § 1325(a) have been met. See 11 U.S.C. §§ 1322(a)-(b), 1325(a), 1329(b)(1); see also *In re Powers*, 202 B.R. at 622 ("[Section] 1329(b)(1) protects the parties from unwarranted modification motions by ensuring that the proposed modifications satisfy the same standards as required of the initial plan."); see also *In re Barnes*, 32 F.3d 405, 407 (9th Cir. 1994); *In re Andrews*, 49 F.3d 1404, 1408 (9th Cir. 1995).

The court finds that the debtor has sustained this burden of proof. The court will grant the motion and approve the modification.

27. [18-14077](#)-A-13 **IN RE: BENITO/ANNA ALVAREZ**
[JDM-1](#)

MOTION TO CONFIRM PLAN
1-2-2019 [[26](#)]

BENITO ALVAREZ/MV
JAMES MILLER

Tentative Ruling

Motion: Confirm Chapter 13 Plan
Notice: LBR 3015-1(d)(1); 9014-1(f)(2)
Disposition: Denied without prejudice
Order: Civil minute order

The motion requests confirmation of the chapter 13 plan in this case.
See 11 U.S.C. §§ 1322, 1325, 1329; Fed. R. Bankr. P. 2002(b); LBR 3015-1(d)(1).

NON-COMPLIANCE WITH LOCAL RULES

The court will deny the motion without prejudice on grounds of insufficient notice. Notice of a motion to confirm a plan shall comply with Local Bankruptcy Rule 3015-1(d)(1), which requires at least 35 days' notice prior to the hearing. In this case, 22 days' notice was provided. Certificate of service, filed January 2, 2019, ECF No. 30.

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

The debtor's motion to confirm chapter 13 plan has been presented to the court. Having considered the motion together with papers filed in support and opposition, and having heard the arguments of counsel, if any, and good cause appearing,

IT IS ORDERED that the motion is denied without prejudice.

IT IS FURTHER ORDERED that a Chapter 13 plan must be confirmed no later than the first hearing date available after the 75-day period that commences on the date of this hearing. If a Chapter 13 plan has not been confirmed by such bar date, the court may dismiss the case on the trustee's motion. See 11 U.S.C. § 1307(c)(1).

28. [18-13684](#)-A-13 **IN RE: SANDRA BARBOZA**
[MHM-2](#)

OBJECTION TO CONFIRMATION OF PLAN BY TRUSTEE MICHAEL H.
MEYER
12-19-2018 [[23](#)]

TIMOTHY SPRINGER

No Ruling

29. [18-14586](#)-A-13 **IN RE: JAMES/LAURA JORGENSEN**
[DRJ-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY DONALD AND KAREN ALUISI
12-26-2018 [[19](#)]

DONALD ALUISI/MV
NICHOLAS ANIOTZBEHERE
DAVID JENKINS/ATTY. FOR MV.
RESPONSIVE PLEADING

Final Ruling

Having been withdrawn, the matter is deemed voluntarily dismissed.
ECF No. 42. The court drops the matter from calendar.

30. [18-14586](#)-A-13 **IN RE: JAMES/LAURA JORGENSEN**
[MHM-1](#)

MOTION TO DISMISS CASE
12-21-2018 [[13](#)]

MICHAEL MEYER/MV
NICHOLAS ANIOTZBEHERE
RESPONSIVE PLEADING

Final Ruling

The motion withdrawn, the matter is dropped as moot.

31. [18-11292](#)-A-13 **IN RE: ANGEL PEREZ**
[TCS-3](#)

OBJECTION TO CLAIM OF FRESNO COUNTY TAX COLLECTOR, CLAIM
NUMBER 14
11-28-2018 [[60](#)]

ANGEL PEREZ/MV
TIMOTHY SPRINGER

Tentative Ruling

Objection: Objection to Claim

Notice: LBR 3007-1(b)(1); written opposition required

Proof of Claim: #14 in the amount of \$3,970.65, for property taxes, secured by the debtor's real property in Fresno, California

Disposition: Overruled without prejudice

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).

Section 502(a) provides that "[a] claim or interest, proof of which is filed under section 501 of this title, is deemed allowed, unless a party in interest . . . objects." 11 U.S.C. § 502(a). A claim must be disallowed if it is unenforceable under applicable nonbankruptcy law. See 11 U.S.C. § 502(b)(1); *accord Diamant v. Kasparian (In re S. Cal. Plastics, Inc.)*, 165 F.3d 1243, 1247 (9th Cir. 1999).

Federal Rule of Bankruptcy Procedure 3001(f) prescribes the evidentiary effect of "[a] proof of claim executed and filed in accordance with [the] rules." Fed. R. Bankr. P. 3001(f). If properly executed and filed under the rules along with all supporting documentation that may be required, see, e.g., Fed. R. Bankr. P. 3001(c), the proof of claim is given an evidentiary presumption of validity. See Fed. R. Bankr. P. 3001(f); *Diamant*, 165 F.3d at 1247-48.

The evidentiary presumption created by Rule 3001(f) "operates to shift the burden of going forward but not the burden of proof." See *Litton Loan Servicing, LP v. Garvida (In re Garvida)*, 347 B.R. 697, 706 (B.A.P. 9th Cir. 2006) (citing *Garner v. Shier (In re Garner)*, 246 B.R. 617, 622 (B.A.P. 9th Cir. 2000); *Diamant*, 165 F.3d at 1248). But this evidentiary presumption is rebuttable. *Id.* at 706. "One rebuts evidence with counter-evidence." *Id.* at 707; see also *Am. Express Bank, FSB v. Askenaizer (In re Plourde)*, 418 B.R. 495, 504 (B.A.P. 1st Cir. 2009) ("[T]o rebut the prima facie evidence a proper proof of claim provides, the objecting party must produce 'substantial evidence' in opposition to it.").

The burden of proof, however, always remains on the party who carries the burden under applicable nonbankruptcy law. Because the burden of proof is "a substantive aspect of a claim," *Raleigh v. Ill. Dep't of Revenue*, 530 U.S. 15, 20-21 (2000) (internal quotation marks omitted), it is governed by nonbankruptcy law, usually state law, applicable to a claim, see *id.* ("[S]tate law governs the substance of claims [in bankruptcy]." (citing *Butner v. United States*, 440 U.S. 48, 57 (1979))); *Garvida*, 347 B.R. at 705. "That is, the burden of proof is an essential element of the claim itself; one who asserts a claim is entitled to the burden of proof that normally comes with it." *Raleigh*, 530 U.S. at 21. Here, the objection complains that the claim amount is for future property taxes that are being paid through the debtor's escrow account with his mortgagee, Amerihome Mortgage, which is paid as a class 1 creditor in the plan.

The debtor is correct that the proof of claim attaches only an estimate for \$3,571.04 of the total claim amount. This amount in the proof of claim is prospective and it is only an estimate.

However, while it may be true that the debtor's mortgagee has an escrow account for the payment of the estimated portion of the claim, the court has no evidence of this. The objection is unsupported by any declaration or any other form of evidence. The debtor then has not satisfied his burden of going forward to refute the presumptive validity of the claim. Therefore, the objection will be overruled.

The remainder \$399.61 of the claim amount is for delinquent taxes, which are already scheduled to be paid as a class 2 claim through the plan. ECF No. 41.

32. [18-14592](#)-A-13 **IN RE: MICHAEL/RANDI KESTNER**
[MHM-1](#)

MOTION TO DISMISS CASE
12-21-2018 [[26](#)]

MICHAEL MEYER/MV
STEPHEN LABIAK

Final Ruling

Having been withdrawn, the matter is deemed voluntarily dismissed. ECF No. 38. The court drops the matter from calendar.

33. [18-13298](#)-A-13 **IN RE: CARLOS/TRINIDAD ESTRADA**
[JDR-3](#)

MOTION TO VALUE COLLATERAL OF PATELCO CREDIT UNION
12-22-2018 [[43](#)]

CARLOS ESTRADA/MV
JEFFREY ROWE

Final Ruling

Motion: Value Collateral [Personal Property; Motor Vehicle (2014 Ford Focus)]

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 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 described as a 2014 Ford Focus. The debt secured by the vehicle was not incurred within the 910-day period preceding the date of the petition. The court values the vehicle at \$9,334.

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

IT IS ORDERED that the motion is granted. The personal property collateral described as a 2014 Ford Focus has a value of \$9,334. No senior liens on the collateral have been identified. The respondent has a secured claim in the amount of \$17,529.26 equal to the value of the collateral that is unencumbered by senior liens. The respondent has a general unsecured claim for the balance of the claim.

34. [18-13698](#)-A-13 **IN RE: FAUSTINO REYES AND MARIA ANICETO**
[PBB-1](#)

MOTION TO AVOID LIEN OF FINANCIAL CREDIT NETWORK INC.
11-20-2018 [\[27\]](#)

FAUSTINO REYES/MV
PETER BUNTING

Final Ruling

Motion: Avoid Lien that Impairs Exemption

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).

Section 522(f) of the Bankruptcy Code authorizes the court to avoid a lien "on an interest of the debtor in property to the extent that such lien impairs an exemption to which the debtor would have been entitled." 11 U.S.C. § 522(f)(1). There are four elements to avoidance of a lien that impairs an exemption: (1) there must be an exemption to which the debtor would have been entitled; (2) the

property must be listed on the schedules and claimed as exempt; (3) the lien must impair the exemption claimed; and (4) the lien must be a judicial lien or nonpossessory, nonpurchase-money security interest in property described in § 522(f)(1)(B). *Goswami v. MTC Distrib. (In re Goswami)*, 304 B.R. 386, 390-91 (B.A.P. 9th Cir. 2003). Impairment is statutorily defined: a lien impairs an exemption "to the extent that the sum of - (i) the lien; (ii) all other liens on the property; and (iii) the amount of the exemption that the debtor could claim if there were no liens on the property; exceeds the value that the debtor's interest in the property would have in the absence of any liens." 11 U.S.C. § 522(f)(2)(A).

The responding party's judicial lien, all other liens, and the exemption amount together exceed the property's value by an amount greater than or equal to the judicial lien. As a result, the responding party's judicial lien will be avoided entirely.

35. [18-14569](#)-A-13 **IN RE: JESUS/FATIMA AYALA**

MOTION FOR RELIEF FROM AUTOMATIC STAY
1-10-2019 [[30](#)]

ALLY BANK/MV
TIMOTHY SPRINGER
ADAM BARASCH/ATTY. FOR MV.

Tentative Ruling

Motion: Stay Relief

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

Disposition: Granted

Order: Civil minute order

Subject: 2015 Dodge Journey

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).

RELIEF FROM STAY

Section 362(d)(1) authorizes stay relief for cause shown. 11 U.S.C. § 362(d)(1). The debtor is obligated to make debt payments to the moving party pursuant to a loan contract that is secured by a security interest in the debtor's vehicle described above. The debtor has defaulted on the loan as two postpetition payments are past due. The total postpetition delinquency is approximately \$715.

The motion will be granted, and the 14-day stay of Federal Rule of Bankruptcy Procedure 4001(a)(3) will be waived. No other relief will be awarded.

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.

Ally Bank's motion for relief from the automatic stay has been presented to the court. Having entered the default of respondent for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the motion,

IT IS ORDERED that the motion is granted. The automatic stay is vacated with respect to the property described in the motion, commonly known as 2015 Dodge Journey, as to all parties in interest. The 14-day stay of the order under Federal Rule of Bankruptcy Procedure 4001(a)(3) is waived. Any party with standing may pursue its rights against the property pursuant to applicable non-bankruptcy law.

IT IS FURTHER ORDERED that no other relief is awarded. To the extent that the motion includes any request for attorney's fees or other costs for bringing this motion, the request is denied.