

**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: TUESDAY
DATE: JUNE 2, 2020
CALENDAR: 1:30 P.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. [20-10807](#)-A-13 **IN RE: MYCHAL PADILLA**
[PBB-1](#)

MOTION TO VALUE COLLATERAL OF WELLS FARGO BANK, N.A.
4-24-2020 [[18](#)]

MYCHAL PADILLA/MV
PETER BUNTING/ATTY. FOR DBT.

Final Ruling

Motion: Value Collateral [Personal Property; Motor Vehicle]

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 2011 BMW 3 Series. The debt owed to the respondent is not secured by a purchase money security interest.

See 11 U.S.C. § 1325(a) (hanging paragraph). The court values the vehicle at \$6,925.00.

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 2011 BMW 3 Series has a value of \$6,925.00. No senior liens on the collateral have been identified. The respondent has a secured claim in the amount of \$6,925.00 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.

2. [14-13417](#)-A-12 **IN RE: DIMAS/ROSA COELHO**
[TCS-13](#)

MOTION FOR CONTEMPT AND/OR MOTION FOR SANCTIONS FOR
VIOLATION OF THE DISCHARGE INJUNCTION
5-4-2020 [[174](#)]

DIMAS COELHO/MV
NANCY KLEPAC/ATTY. FOR DBT.

No Ruling

3. [20-10318](#)-A-13 **IN RE: JOSE GONZALEZ AND ITALIA DE LOZA**
[MHM-1](#)

CONTINUED OBJECTION TO CONFIRMATION OF PLAN BY TRUSTEE
MICHAEL H. MEYER
3-13-2020 [[15](#)]

MARK HANNON/ATTY. FOR DBT.

No Ruling

4. [20-10318](#)-A-13 **IN RE: JOSE GONZALEZ AND ITALIA DE LOZA**
[MHM-2](#)

CONTINUED MOTION TO DISMISS CASE
3-13-2020 [[18](#)]

MICHAEL MEYER/MV
MARK HANNON/ATTY. FOR DBT.
RESPONSIVE PLEADING

No Ruling

5. [19-14739](#)-A-13 **IN RE: MARIA RODRIGUEZ**
[MAZ-1](#)

MOTION TO VALUE COLLATERAL OF WESTLAKE FINANCIAL SERVICE
4-23-2020 [[32](#)]

MARIA RODRIGUEZ/MV
MARK ZIMMERMAN/ATTY. FOR DBT.

Final Ruling

Motion: Value Collateral [Personal Property; Motor Vehicle]

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 2013 Nissan Versa. The debt owed to the respondent is not secured by a purchase money security interest. See 11 U.S.C. § 1325(a) (hanging paragraph). The court values the vehicle at \$4,180.00.

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 2013 Nissan Versa has a value of \$4,180.00. No senior liens on the collateral have been identified. The respondent has a secured claim in the amount of \$4,180.00 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.

6. [20-10860](#)-A-13 **IN RE: ISABEL SANCHEZ**
[GB-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY U.S. BANK TRUST
NATIONAL ASSOCIATION
4-27-2020 [[23](#)]

U.S. BANK TRUST NATIONAL
ASSOCIATION/MV
TIMOTHY SPRINGER/ATTY. FOR DBT.
ANGIE MARTH/ATTY. FOR MV.
RESPONSIVE PLEADING

No Ruling

7. [19-12679](#)-A-13 **IN RE: NAEEM/SAIMA QARNI
[NEA-5](#)**

MOTION TO CONFIRM PLAN
4-20-2020 [[239](#)]

NAEEM QARNI/MV
NICHOLAS ANIOTZBEHERE/ATTY. FOR DBT.
RESPONSIVE PLEADING

No Ruling

8. [20-10100](#)-A-12 **IN RE: TRANQUILITY PISTACHIO, LLC**

CONTINUED STATUS CONFERENCE RE: CHAPTER 12 VOLUNTARY
PETITION
1-13-2020 [[1](#)]

NOEL KNIGHT/ATTY. FOR DBT.

No Ruling