

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

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

**PRE-HEARING DISPOSITIONS**

**DAY: FRIDAY**  
**DATE: NOVEMBER 30, 2018**  
**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. [18-13202](#)-A-13    **IN RE: NICHOLAS ANGELICA**  
[MHM-3](#)

MOTION TO DISMISS CASE  
10-29-2018    [[75](#)]

MICHAEL MEYER/MV  
PATRICK KAVANAGH  
DISMISSED 11/9/18

**Final Ruling**

The case dismissed, the matter is dropped as moot.

2. [18-12908](#)-A-13    **IN RE: CODY/CELESTE BERG**  
[MHM-3](#)

OBJECTION TO CONFIRMATION OF PLAN BY TRUSTEE MICHAEL H.  
MEYER  
11-2-2018    [[42](#)]

NICHOLAS WAJDA

**Final Ruling**

An amended plan filed, the objection will be overruled as moot.

3. [18-12908](#)-A-13    **IN RE: CODY/CELESTE BERG**  
[MHM-4](#)

MOTION TO DISMISS CASE  
11-2-2018    [[45](#)]

MICHAEL MEYER/MV  
NICHOLAS WAJDA

**Final Ruling**

The motion withdrawn, the matter is dropped as moot.

4. [18-13713](#)-A-13    **IN RE: DEQUAN/ALEXIS KELSEY**  
[MHM-2](#)

MOTION TO DISMISS CASE  
11-2-2018    [[22](#)]

MICHAEL MEYER/MV  
JOEL WINTER  
WITHDRAWN

#### **Final Ruling**

The motion withdrawn, the matter is dropped as moot.

5. [18-13827](#)-A-13    **IN RE: BENICIA CISNEROS**  
[EPE-1](#)

MOTION TO CONFIRM PLAN  
10-25-2018    [[25](#)]

BENICIA CISNEROS/MV  
ERIC ESCAMILLA

#### **Tentative Ruling**

**Motion:** Confirmation of a Chapter 13 Plan  
**Disposition:** Denied without prejudice  
**Order:** Civil minute order

All creditors and parties in interest have not received the notice required by Federal Rule of Bankruptcy Procedure 2002(b). The certificate of service shows that several creditors or parties in interest have not received notice. Here, the certificate of service references an "attached list", which is missing from the document. ECF No. 31, 2:20.5.

For matters requiring notice to all creditors and parties in interest, the court prefers that a current copy of the ECF master mailing list, accessible through PACER, be attached to the certificate of service to indicate that notice has been transmitted to all creditors and parties in interest. The copy of the master mailing list should indicate a date near in time to the date of service of the notice.

#### **CIVIL MINUTE ORDER**

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

The debtor's motion to confirm the proposed chapter 13 plan in this case has been presented to the court. Given the procedural deficiencies discussed by the court in its ruling,

IT IS ORDERED that the motion is denied.

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).

6. [18-13827](#)-A-13    **IN RE: BENICIA CISNEROS**  
[MHM-1](#)

MOTION TO DISMISS CASE  
11-2-2018    [[32](#)]

MICHAEL MEYER/MV  
ERIC ESCAMILLA  
WITHDRAWN

**Final Ruling**

The motion withdrawn, the matter is dropped as moot.

7. [17-14529](#)-A-13    **IN RE: BRIAN FOLLAND**  
[MHM-4](#)

CONTINUED MOTION TO DISMISS CASE  
8-27-2018    [[82](#)]

MICHAEL MEYER/MV  
DAVID JENKINS  
RESPONSIVE PLEADING

**Final Ruling**

The motion withdrawn, the matter is dropped as moot.

8. [18-13732](#)-A-12    **IN RE: CHARMAINE BRANNAN**  
[MHM-12](#)

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

MICHAEL MEYER/MV

**No Ruling**

9. [18-12336](#)-A-13     **IN RE: CLIFFORD LLOYD AND LAURA SIDSWORTH**  
[PBB-2](#)

MOTION TO CONFIRM PLAN  
10-11-2018   [\[35\]](#)

CLIFFORD LLOYD/MV  
PETER BUNTING

**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.

10. [18-13438](#)-A-13     **IN RE: GERARDO REYNOSO**  
[TOG-1](#)

MOTION TO MODIFY PLAN  
10-24-2018   [\[14\]](#)

GERARDO REYNOSO/MV  
THOMAS GILLIS

**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.

11. [18-14239](#)-A-13     **IN RE: SILVIA ARIAS**  
[TVM-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY  
11-13-2018    [[16](#)]

CHUR, LLC./MV  
THOMAS MILES/ATTY. FOR MV.

### **Final Ruling**

**Motion:** Relief from Stay

**Disposition:** Denied without prejudice

**Order:** Civil minute order

As a contested matter, a motion for relief from stay is governed by Federal Rule of Bankruptcy Procedure 9014. Fed. R. Bankr. P. 4001(a)(1), 9014(a). In contested matters generally, "reasonable notice and opportunity for hearing shall be afforded the party against whom relief is sought." Fed. R. Bankr. P. 9014(a). A motion initiating a contested matter must be served pursuant to Rule 7004. Fed. R. Bankr. P. 9014(b).

The motion must be served on the party against whom relief is sought. See Fed. R. Bankr. P. 9014(a)-(b). The debtor and the trustee are ordinarily the parties against whom relief is sought in a typical motion for relief from the automatic stay.

In this case, the service of the motion was insufficient and did not comply with Rules 7004 and 9014. The trustee has not been served or has not been served at the correct address.

**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.

Creditor CHUR, LLC's motion for relief from stay has been presented to the court. Having considered the motion,

IT IS ORDERED that the motion is denied without prejudice.

12. [16-12740](#)-A-13     **IN RE: BRUCE/DANIELLE CAMPBELL**  
[JDR-3](#)

MOTION TO INCUR DEBT  
11-14-2018    [[45](#)]

BRUCE CAMPBELL/MV  
JEFFREY ROWE

**Tentative Ruling**

**Motion:** Approve New Debt [Vehicle Loan]

**Disposition:** Denied without prejudice

**Order:** Civil minute order

All creditors and parties in interest have not received sufficient notice. Notice of a proposed use other than in the ordinary course of business must be noticed to all creditors and parties in interest in the debtor's bankruptcy case as required by Federal Rule of Bankruptcy Procedure 2002(a)(2).

For matters requiring notice to all creditors and parties in interest, the court prefers that a current copy of the ECF master mailing list, accessible through PACER, be attached to the certificate of service to indicate that notice has been transmitted to all creditors and parties in interest. The copy of the master mailing list should indicate a date near in time to the date of service of the notice.

**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 debtors' motion to incur new debt to finance the purchase of a vehicle has been presented to the court. Having considered the motion,

IT IS ORDERED that the motion is denied without prejudice.

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

MOTION TO EXTEND AUTOMATIC STAY  
11-16-2018   [9]

JOSE MERAS/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.

14. [15-11245](#)-A-13    **IN RE: WILLIAM O'BRIEN AND JILL ALVARADO-O'BRIEN**  
[MHM-2](#)

MOTION TO DISMISS CASE  
10-26-2018    [[66](#)]

MICHAEL MEYER/MV  
MARK SIEGEL  
WITHDRAWN

**Final Ruling**

The motion withdrawn, the matter is dropped as moot.

15. [15-11245](#)-A-13    **IN RE: WILLIAM O'BRIEN AND JILL ALVARADO-O'BRIEN**  
[MHM-3](#)

MOTION TO DISMISS CASE  
10-31-2018    [[72](#)]

MICHAEL MEYER/MV  
MARK SIEGEL  
RESPONSIVE PLEADING

**No Ruling**

16. [18-13850](#)-A-13    **IN RE: PAIGE RODERICK**  
[MHM-2](#)

MOTION TO DISMISS CASE  
11-2-2018    [[18](#)]

MICHAEL MEYER/MV  
DAVID JENKINS  
WITHDRAWN

**Final Ruling**

The motion withdrawn, the matter is dropped as moot.

17. [18-10054](#)-A-13    **IN RE: TRACEY PRITCHETT**  
[MHM-1](#)

MOTION TO DISMISS CASE  
10-25-2018    [[80](#)]

MICHAEL MEYER/MV  
TIMOTHY SPRINGER

**No Ruling**

18. [18-10054](#)-A-13    **IN RE: TRACEY PRITCHETT**  
[TCS-3](#)

MOTION TO MODIFY PLAN  
10-22-2018    [[71](#)]

TRACEY PRITCHETT/MV  
TIMOTHY SPRINGER  
RESPONSIVE PLEADING

**No Ruling**

19. [17-14655](#)-A-13    **IN RE: JUAN/LAUREL LONGORIA**  
[MHM-1](#)

OBJECTION TO CLAIM OF CAVALRY SPV I, LLC, CLAIM NUMBER 1  
10-1-2018    [[18](#)]

MICHAEL MEYER/MV  
PETER BUNTING

**Final Ruling**

The case dismissed, the matter is dropped as moot.

20. [15-12666](#)-A-13    **IN RE: JEFFREY MOOSOLIAN**  
[FW-3](#)

MOTION OBJECTION TO TRUSTEE'S NOTICE OF DEFAULT  
10-18-2018    [[71](#)]

JEFFREY MOOSOLIAN/MV  
PETER FEAR

**No Ruling**

21. [18-13075](#)-A-13     **IN RE: CYNTHIA BAUDER**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES  
11-2-2018    [[35](#)]

PHILLIP GILLET

**Final Ruling**

The fee paid, the order to show cause is discharged.

22. [18-13980](#)-A-13     **IN RE: JOAO VAZ**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES  
11-5-2018    [[15](#)]

THOMAS GILLIS  
\$310.00 FINAL INSTALLMENT PAYMENT 11/7/18

**Final Ruling**

The fee paid, the order to show cause is discharged.

23. [18-13785](#)-A-13     **IN RE: KRISTIN VOOLSTRA**  
[MHM-2](#)

MOTION TO DISMISS CASE  
11-2-2018    [[27](#)]

MICHAEL MEYER/MV  
TIMOTHY SPRINGER

**Final Ruling**

The motion withdrawn, the matter is dropped as moot.

24. [18-12790](#)-A-13     **IN RE: ROBINSON/MARIA POLANCO**  
[RS-2](#)

MOTION TO VALUE COLLATERAL OF SAFE 1 CREDIT UNION  
11-8-2018    [[65](#)]

ROBINSON POLANCO/MV  
RICHARD STURDEVANT

### **Tentative Ruling**

**Motion:** Value Collateral [Personal Property; Motor Vehicle]

**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 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 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 \$7,221.00.

## 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 Ford Focus has a value of \$7,221.00. No senior liens on the collateral have been identified. The respondent has a secured claim in the amount of \$7,221.00 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.

25. [18-12797](#)-A-13     **IN RE: ANTONIO LOZANO DE ANDA**  
[MHM-5](#)

OBJECTION TO DEBTOR'S CLAIM OF EXEMPTIONS  
10-29-2018    [\[52\]](#)

MICHAEL MEYER/MV  
RICHARD STURDEVANT

### **Final Ruling**

**Objection:** Objection to Claim of Exemptions for Failure to File Spousal Waiver

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

**Disposition:** Sustained

**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 motion. 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).

The debtor has claimed exemptions under section 703.140(b) of the California Code of Civil Procedure. The trustee objects to the debtor's claim of exemptions because the debtor has not filed the required spousal waiver in writing of the right to claim the exemptions allowed under applicable provisions of Chapter 4 of Part

2, Title 9, Division 2 of the California Code of Civil Procedure, excluding the exemptions allowed under section 703.140(b). See Cal. Civ. Proc. Code §§ 703.140(a)(2), (b).

The debtor is married but has not filed a joint petition with debtor's spouse. The debtor may not claim exemptions under section 703.140(b) because both spouses have not filed the required spousal waiver described in section 703.140(a)(2).

26. [18-13298](#)-A-13     **IN RE: CARLOS/TRINIDAD ESTRADA**  
[JDR-1](#)

MOTION TO CONFIRM PLAN  
10-18-2018    [[19](#)]

CARLOS ESTRADA/MV  
JEFFREY ROWE  
RESPONSIVE PLEADING WITHDRAWN

### **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.

27. [18-13298](#)-A-13     **IN RE: CARLOS/TRINIDAD ESTRADA**  
[JDR-2](#)

MOTION TO VALUE COLLATERAL OF PATELCO CREDIT UNION  
10-18-2018    [[27](#)]

CARLOS ESTRADA/MV  
JEFFREY ROWE

### **Final Ruling**

**Motion:** Value Collateral [Personal Property; Motor Vehicle]

**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 cannot determine whether the hanging paragraph of 11 U.S.C. § 1325(a) applies to the respondent creditor's claim in this case. Thus, the motion does not sufficiently demonstrate an entitlement to the relief requested. See LBR 9014-1(d)(7). Factual information relevant to the hanging paragraph of § 1325(a) is also an essential aspect of the grounds for the relief sought that should be contained in the motion itself and stated with particularity. See Fed. R. Bankr. P. 9013.

### **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 of Patelco Credit Union has been presented to the court. Having considered the motion,

IT IS ORDERED that the motion is denied without prejudice.

28. [18-14569](#)-A-13     **IN RE: JESUS/FATIMA AYALA**  
[TCS-1](#)

MOTION TO EXTEND AUTOMATIC STAY  
11-16-2018   [\[11\]](#)

JESUS AYALA/MV  
TIMOTHY SPRINGER

### **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.