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5 **UNITED STATES BANKRUPTCY COURT**
6 **EASTERN DISTRICT OF CALIFORNIA**
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9 In re) Case No. 11-39066-E-13
10 FRANK JAMES MONTEZ and) Docket Control No. PGM-2
11 MARION CAROL MONTEZ,)
12 Debtor(s) .)
_____)

13 **This memorandum decision is not approved for publication and may**
14 **not be cited except when relevant under the doctrine of law of the**
15 **case or the rules of claim preclusion or issue preclusion.**

16 **MEMORANDUM OPINION AND DECISION**

17 Frank Montez and Marion Montez, the Chapter 13 Debtors filed
18 their First Modified Chapter 13 Plan on May 16, 2012. (The court
19 has previously confirmed a plan in this case by order dated
20 December 12, 2012.) The Debtors filed their Motion to Confirm the
21 First Modified Chapter 13 Plan on May 16, 2012 and supporting
22 pleadings. Dckts. 39-42. The Chapter 13 Trustee filed an
23 opposition to the Motion asserting that the Debtors failed to
24 provide sufficient evidence to explain the changes in their income
25 and expenses which were being provided as justifications to modify
26 the existing confirmed Plan. Dckt. 45. The court had the same
27 concerns and determined that the evidence was insufficient for the
28 court to make the necessary findings of fact and conclusions of law

1 to confirm the modified plan. 11 U.S.C. §§ 1329, 1325(a). Civil
2 Minutes, Dckt. 52. The court set an Evidentiary Hearing on
3 September 26, 2012, for the Motion to Confirm Modified Plan.

4 The Chapter 13 Trustee and the Debtors lodged with the court
5 their respective Direct Testimony Statements and Exhibits for the
6 Evidentiary Hearing. After reviewing the Direct Testimony
7 Statements and Exhibits submitted by the Debtors, the objections of
8 the Trustee were resolved. The parties prepared a stipulated order
9 confirming the Plan. The Alternative Direct Testimony Statements
10 and Exhibits provided by the Debtors provided a sufficient basis
11 for confirming the Modified Chapter 13 Plan.

12 The Modified Chapter 13 Plan complies with 11 U.S.C. §§ 1329
13 and 1325(a), and is confirmed. The court shall enter a separate
14 order consistent with this Decision. A separate confirmation order
15 was issued by the court on October 5, 2012, in advance of this
16 decision being issued. Dckt. 75.

17 Dated: October 11, 2012

18 /s/
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RONALD H. SARGIS, Judge
21 United States Bankruptcy Court
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