

**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: APRIL 26, 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. If the parties stipulate to continue the hearing on the matter or agree to resolve the matter in a way inconsistent with the final ruling, then the court will consider vacating the final ruling only if the moving party notifies chambers before 4:00 pm at least one business day before the hearing date: Department A-Kathy Torres (559)499-5860; Department B-Jennifer Dauer (559)499-5870. If a party has grounds to contest a final ruling because of the court's error under FRCP 60 (a) (FRBP 9024) ["a clerical mistake (by the court) or a mistake arising from (the court's) oversight or omission"] the party shall notify chambers (contact information above) and any other party affected by the final ruling by 4:00 pm one business day before the hearing.

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. [12-14304](#)-A-12 **IN RE: JOSE/MARIA MENDONCA**
[FW-16](#)

MOTION FOR ENTRY OF DISCHARGE
3-29-2018 [\[191\]](#)

JOSE MENDONCA/MV
PETER FEAR

Final Ruling

Motion: Entry of Discharge [Chapter 12 case]

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

Disposition: Granted

Order: Prepared by the movant

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).

The motion requests entry of discharge under § 1228 of the Bankruptcy Code. The court finds that the debtor has completed all payments under the plan in this chapter 12 case. See 11 U.S.C. § 1228(a). The debtor has certified by declaration that the debtor has no domestic support obligations under a judicial or administrative order or statute. See *id.*

Under § 1228(f), the court finds that § 522(q)(1) is inapplicable to the debtor. A chapter 12 discharge should be entered in this case.

2. [17-14510](#)-A-13 **IN RE: ADRIAN VELAZQUEZ AND MARISELA PALAFOX**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES
4-2-2018 [\[37\]](#)

JAMES MILLER
FINAL INSTALLMENT PAYMENT OF \$30.00 PAID 4/2/18

Final Ruling

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

3. [15-14121](#)-A-13 **IN RE: JONATHAN MEEKER**
[RMP-1](#)

RESCHEDULED HEARING RE: MOTION FOR RELIEF FROM AUTOMATIC
STAY
12-13-2017 [\[88\]](#)

SETERUS, INC./MV
DAVID JENKINS
RENEE PARKER/ATTY. FOR MV.
RESCHEDULED FROM 2/12, ECF NO. 107

Tentative Ruling

Motion: Stay Relief

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

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). "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).

The confirmed chapter 13 plan in this case provides for the moving party's claim in Class 4. Class 4 secured claims are long-term claims that are not modified by the plan and that were not in default prior to the filing of the petition. They are paid directly by the debtor or a third party. Section 2.11 of the plan provides that "[u]pon confirmation of the plan, all bankruptcy stays are modified to allow the holder of a Class 4 secured claim to exercise its rights against its collateral and any nondebtor in the event of a default under applicable law or contract."

Because the plan has been confirmed, the automatic stay has already been modified to allow the moving party to exercise its rights against its collateral. No effective relief can be awarded. The movant's personal interest in obtaining relief from the stay no longer exists because the stay no longer affects its collateral. The motion will be denied as moot.

4. [17-13721](#)-A-13 **IN RE: JOHN/NANCY ALVA**
[JRL-1](#)

CONTINUED MOTION TO CONFIRM PLAN
2-9-2018 [[74](#)]

JOHN ALVA/MV
JERRY LOWE
RESPONSIVE PLEADING

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 bears the burden of proof as to each element. *In re Barnes*, 32 F.3d 405, 407 (9th Cir. 1994). The court finds that the debtor has sustained that burden, and the court will approve confirmation of the plan.

5. [18-10435](#)-A-13 **IN RE: SERENA VALDEZ**

OBJECTION TO CONFIRMATION OF PLAN BY MARTIN MARTIN
4-9-2018 [[27](#)]

MARTIN MARTIN/MV
HAROUT BOULDOUKIAN
STEPHANIE KOKKA/ATTY. FOR MV.

No Ruling

6. [15-10639](#)-A-13 **IN RE: RACHEL RIVERA**
[MHM-4](#)

MOTION TO DISMISS CASE
3-16-2018 [[123](#)]

MICHAEL MEYER/MV
TIMOTHY SPRINGER
WITHDRAWN

Final Ruling

The motion withdrawn, the matter is dropped as moot.

7. [18-10339](#)-A-13 **IN RE: KENNETH BLOWERS AND KIMBERLY**
BOLTON-BLOWERS
[MHM-2](#)

MOTION TO DISMISS CASE
3-23-2018 [[21](#)]

MICHAEL MEYER/MV
KARNEY MEKHITARIAN
WITHDRAWN

Final Ruling

The motion withdrawn, the matter is dropped as moot.

8. [17-12944](#)-A-13 **IN RE: MARIA BECERRA**
[MHM-3](#)

CONTINUED MOTION TO DISMISS CASE
2-27-2018 [[70](#)]

MICHAEL MEYER/MV
THOMAS GILLIS
RESPONSIVE PLEADING

Final Ruling

The motion to dismiss was filed based on the debtor's failure to confirm a plan. The court has ruled that the plan should be confirmed, so the motion will be denied as moot.

9. [17-12944](#)-A-13 **IN RE: MARIA BECERRA**
[TOG-2](#)

MOTION TO CONFIRM PLAN
3-12-2018 [[74](#)]

MARIA BECERRA/MV
THOMAS GILLIS

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 bears the burden of proof as to each element. *In re Barnes*, 32 F.3d 405, 407 (9th Cir. 1994). The court finds that the debtor has sustained that burden, and the court will approve confirmation of the plan.

10. [18-10054](#)-A-13 **IN RE: TRACEY PRITCHETT**
[TCS-2](#)

CONTINUED MOTION TO CONFIRM PLAN
2-14-2018 [[27](#)]

TRACEY PRITCHETT/MV
TIMOTHY SPRINGER
OPPOSITION 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 bears the burden of proof as to each element. *In re Barnes*, 32 F.3d 405, 407 (9th Cir. 1994). The court finds that the debtor has sustained that burden, and the court will approve confirmation of the plan.

11. [18-10867](#)-A-13 **IN RE: ROSA POMPA DE AYON**
[LLE-1](#)

MOTION TO CONFIRM TERMINATION OR ABSENCE OF STAY
4-10-2018 [\[25\]](#)

PROVIDENT MORTGAGE
CORPORATION/MV
SCOTT LYONS
LORI ENRICO/ATTY. FOR MV.

Tentative Ruling

Motion: Confirm Absence of Automatic Stay

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).

CONFIRMATION OF THE STAY'S TERMINATION

If a debtor who files a petition has had one bankruptcy case pending within the preceding one-year period that was dismissed, then the automatic stay terminates with respect to the debtor on the 30th day after the filing of the later case, unless the stay is extended. 11 U.S.C. § 362(c)(3)(A). 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 id.* § 362(c)(3)(B). And a party in interest may request an order confirming that no stay is in effect. *Id.* § 362(j) (authorizing the court to issue orders confirming the termination of the automatic stay). In this case, the debtor has had 1 case

pending within the preceding 1-year period that was dismissed. More than 30 days have passed since the petition date. The motion to extend the stay was denied. The stay has terminated.

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.

Provident Mortgage Corporation's motion to confirm the termination of the stay has been presented to the court. 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. The court hereby confirms that the automatic stay is not in effect in this case.

12. [14-12569](#)-A-13 **IN RE: DAVID MURBACH**
[DMG-2](#)

MOTION FOR COMPENSATION FOR D. MAX GARDNER, DEBTORS
ATTORNEY(S)
3-20-2018 [\[55\]](#)

D. GARDNER

Final Ruling

Application: Allowance of Final 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, D. Max Gardner has applied for an allowance of final compensation and reimbursement of expenses. The applicant requests that the court allow compensation in the amount of \$4,000 and reimbursement of expenses in the amount of \$0.

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 a final basis.

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.

D. Max Gardner Esq.'s application for allowance of final 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 a final basis. The court allows final compensation in the amount of \$4,000 and reimbursement of expenses in the amount of \$0. The aggregate allowed amount equals \$0. As of the date of the application, the applicant held a retainer in the amount of \$0. The amount of \$4,000 shall be allowed as an administrative expense to be paid through the plan.

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.

13. [14-13974](#)-A-13 **IN RE: FERNANDO POO AND PALOMA HERNANDEZ**
[TOG-4](#)

CONTINUED MOTION TO INCUR DEBT
3-1-2018 [[110](#)]

FERNANDO POO/MV
THOMAS GILLIS
RESPONSIVE PLEADING

No Ruling

14. [17-14292](#)-A-13 **IN RE: JUAN MEDINA- HERRERA AND STEFANIEROSE
MEDINA
[APN-1](#)**

MOTION FOR RELIEF FROM AUTOMATIC STAY
3-23-2018 [\[43\]](#)

NISSAN-INFINITI LT/MV
NEIL SCHWARTZ
AUSTIN NAGEL/ATTY. FOR MV.
NON-OPPOSITION

Final Ruling

Motion: Stay Relief

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

Disposition: Granted

Order: Prepared by moving party

Subject: 2017 Nissan Titan

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).

STAY RELIEF

Section 362(d)(1) authorizes stay relief for cause shown. 11 U.S.C. § 362(d)(1). The debtor is obligated to make payments to the moving party pursuant to a lease agreement by which the debtor leases the vehicle described above. The debtor has defaulted under such lease agreement as 4 postpetition lease payments are past due.

The moving party's interest in the vehicle is not being adequately protected due to the debtor's ongoing postpetition default. See 11 U.S.C. § 1326(a)(1)(B) (requiring personal property lease payments to commence not later than 30 days after the petition).

Therefore, cause exists to grant relief under § 362(d)(1). 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.

Nissan-Infiniti LT'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 a 2017 Nissan Titan, 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.

15. [17-14292](#)-A-13 **IN RE: JUAN MEDINA- HERRERA AND STEFANIEROSE MEDINA**
[NES-2](#)

MOTION TO CONFIRM PLAN
2-28-2018 [[36](#)]

JUAN MEDINA- HERRERA/MV
NEIL SCHWARTZ
RESPONSIVE PLEADING

Tentative Ruling

Motion: Confirm Chapter 13 Plan

Notice: LBR 3015-1(d)(1), 9014-1(f)(1); written opposition filed by the trustee

Disposition: Denied

Order: Civil minute order

The motion requests confirmation of the Chapter 13 plan in this case. See 11 U.S.C. §§ 1322, 1323, 1325; Fed. R. Bankr. P. 2002(b); LBR 3015-1(d)(1)-(2). The Chapter 13 trustee opposes the motion, objecting to confirmation.

PLAN NOT FEASIBLE

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).

One such element is feasibility. 11 U.S.C. § 1325(a)(6). Feasibility is a "factual determination" as to the plan's "reasonable likelihood of success." *First Nat'l Bank of Boston v. Fantasia (In re Fantasia)*, 211 B.R. 420, 423 (B.A.P. 1st Cir. 1997).

The bankruptcy court needs to "be satisfied that the debtor has the present as well as the future financial capacity to comply with the terms of the plan." *Id.* As one court summarized feasibility, "Thus, a plan is not feasible and is not confirmable if a debtor's income will not support the plan's proposed payments. *In re Barnes*, 275 B.R. 889, 894 (Bankr. E.D. Cal.2002) ("[T]he debtors showed no disposable income with which to fund a plan.... [T]he debtors have been unable to actually pay the amount projected ... to the trustee."); *In re Bernardes*, 267 B.R. 690, 695 (Bankr. D.N.J. 2001) ("While the feasibility requirement is not rigorous ... the plan proponent must, at minimum, demonstrate that the Debtor's income exceeds expenses by an amount sufficient to make the payments proposed by the plan."); *In re Wilkinson*, 99 B.R. 366, 369 (Bankr. N.D. Ohio 1989) ("[D]ebtors will not be able to comply with the plan and make all payments thereunder."). *In re Buccolo*, 397 B.R. 527, 530 (Bankr. D.N.J. 2008), *aff'd*, 2009 WL 2132435 (D.N.J. July 13, 2009).

Here, the debtor has not carried that burden. In this case, the movant's Schedules I and J were filed 113 days prior to the filing of the motion. And as a consequence, they are not recent enough to be probative of the debtor's ability to perform the plan.

75-DAY ORDER

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 date, the court may dismiss the case on the trustee's motion. See 11 U.S.C. § 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 debtor's motion to confirm a chapter 13 plan has been presented to the court. Having considered the motion together with papers filed in support and opposition to it, and having heard the arguments of counsel, if any, and good cause appearing, presented at the hearing,

IT IS ORDERED that the motion is denied. The court denies confirmation of the chapter 13 plan.

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 date, the court may dismiss the case on the trustee's motion. See 11 U.S.C. § 1307(c)(1).

16. [17-14892](#)-A-13 **IN RE: SALVADOR GARCIA**
[MHM-3](#)

OBJECTION TO CONFIRMATION OF PLAN BY TRUSTEE MICHAEL H.
MEYER
4-9-2018 [[44](#)]

PETER BUNTING

Tentative Ruling

Objection: Trustee's Objection to Confirmation of Plan

Notice: LBR 3015-1(c)(4), 9014-1(f)(2); no written opposition required

Disposition: Sustained and confirmation denied

Order: Civil minute order

No responding party is required to file written opposition to the objection; opposition may be presented at the hearing. LBR 3015-1(c)(4), 9014-1(f)(2)(C). If opposition is presented at the hearing, the court may rule on the merits or set a briefing schedule. Absent such opposition, the court will adopt this tentative ruling.

PRIORITY CLAIMS

The trustee objects to confirmation on grounds that the plan fails to provide for the full payment of all claims entitled to priority under § 507 of the Bankruptcy Code. See 11 U.S.C. § 1322(a)(2). The debtor has filed a response admitting that the proposed plan does not pay priority claims in full. As proposed in the plan, priority claims equal about \$13,000, but the total amount is approximately \$87,364.

The debtor agrees that the plan is not confirmable at this time. The debtor requests additional time to confirm a plan given the time necessary to resolve a large priority tax claim and the time needed to file and confirm an amended plan.

The court will deny confirmation and give the debtor the 120-day bar date requested.

120-DAY ORDER

A chapter 13 plan must be confirmed no later than the first hearing date available after the 120-day period that commences on the date of this hearing. The court may dismiss the case on the trustee's motion if a Chapter 13 plan has not been confirmed by such bar date unless this bar date is extended for cause shown upon the ex parte application of the debtor. See 11 U.S.C. § 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 chapter 13 trustee's objection to confirmation has been presented to the court. Having considered the objection, oppositions, responses and replies, if any, and having heard oral argument presented at the hearing,

IT IS ORDERED that the objection is sustained. The court denies confirmation of the chapter 13 plan.

IT IS FURTHER ORDERED that a chapter 13 plan must be confirmed no later than the first hearing date available after the 120-day period that commences on the date of this hearing. The court may dismiss the case on the trustee's motion if a Chapter 13 plan has not been confirmed by such bar date unless this bar date is extended for cause shown upon the ex parte application of the debtor. See 11 U.S.C. § 1307(c)(1).

17. [16-10697](#)-A-13 **IN RE: DARCY NUNES**
[TCS-4](#)

MOTION TO MODIFY PLAN
3-22-2018 [\[64\]](#)

DARCY NUNES/MV
TIMOTHY SPRINGER
RESPONSIVE PLEADING

No Ruling

18. [17-14598](#)-A-13 **IN RE: ALEJANDRO TAPIA AND MAYRA IBARRA**
[TOG-4](#)

MOTION TO CONFIRM PLAN
3-15-2018 [\[59\]](#)

MAYRA IBARRA/MV
THOMAS GILLIS
DEBTOR DISMISSED, RESPONSIVE PLEADING

Final Ruling

Motion: Confirm Chapter 13 Plan

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

Disposition: Denied as moot

Order: Civil minute order

THE CHAPTER 13 PLAN HAS BEEN SUPERSEDED

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 and supersedes the prior plan. 11 U.S.C. § 1323(b). Filing a modified plan renders moot any motion to confirm a prior plan. Because a modified plan has superseded the plan to be confirmed by this motion, the court will deny the motion 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 motion to confirm is denied as moot.

19. [17-14598](#)-A-13 **IN RE: ALEJANDRO TAPIA AND MAYRA IBARRA**
[TOG-5](#)

MOTION TO VALUE COLLATERAL OF CHRYSLER CAPITAL
3-28-2018 [[66](#)]

ALEJANDRO TAPIA/MV
THOMAS GILLIS
DEBTOR DISMISSED

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 2015 Dodge Charger. 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 \$11,647.

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 2015 Dodge Charger has a value of \$11,647. No senior liens on the collateral have been identified. The respondent has a secured claim in the amount of \$11,647 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.

20. [17-13065](#)-A-13 **IN RE: AMANDEEP RANDHAWA**
[HRH-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
4-10-2018 [[110](#)]

PNC EQUIPMENT FINANCE, LLC/MV
PETER FEAR
RAFFI KHATCHADOURIAN/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: Three 2017 Wabash Reefer Trailers

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).

STAY RELIEF

The debtor has defaulted on a loan from the moving party secured by the property described above, and postpetition payments are past due. In addition, the confirmed plan provides that the failure to include a secured claim in Class 1, 2, 3, or 4 of the plan may be cause to terminate the automatic stay. The plan does not provide for the moving party's secured claim. Cause exists to grant relief from stay under § 362(d)(1).

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.

PNC Equipment Finance, LLC'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 Three 2017 Wabash Reefer Trailers, 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.

21. [17-14598](#)-A-13 **IN RE: ALEJANDRO TAPIA AND MAYRA IBARRA**
[TOG-6](#)

MOTION TO AMEND
4-12-2018 [\[75\]](#)

MAYRA IBARRA/MV
THOMAS GILLIS
DEBTOR DISMISSED

Tentative Ruling

Motion: Modify Order Setting Bar Date for Confirmation

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).

MODIFICATION OF BAR DATE FOR CONFIRMATION

This case was filed on November 30, 2017. Previously, the court issued an order sustaining the trustee's objection to confirmation. This order set a deadline for achieving confirmation. The deadline was set for the first hearing date available after the 75-day period that commenced on the date of the February 21, 2018 hearing. The deadline, therefore, is May 9, 2018, the first hearing date available after the 75-day period expired.

Debtor moves for a modification of the order setting a bar date by which a plan must be confirmed. The plan set for hearing on April 26, 2018, has been superseded by another modified plan set for hearing on May 24, 2018. The court will extend the bar date to May 24, 2018. If the plan is not confirmed by May 24, 2018, the court may dismiss this case on the trustee's motion.

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 modify the court's bar date for confirmation 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 court will extend the existing bar date for achieving confirmation. This bar date will be extended to May 24, 2018. If the plan is not confirmed by May 24, 2018, the court may dismiss this case on the trustee's motion.