

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

Honorable Fredrick E. Clement  
Bakersfield Federal Courthouse  
510 19<sup>th</sup> Street, Second Floor  
Bakersfield, California

**PRE-HEARING DISPOSITIONS**

**DAY: WEDNESDAY**  
**DATE: MAY 4, 2016**  
**CALENDAR: 9:00 A.M. CHAPTERS 13 AND 12 CASES**

**GENERAL DESIGNATIONS**

Each pre-hearing disposition is prefaced by the words "Final Ruling," "Tentative Ruling" or "No Tentative Ruling." Except as indicated below, matters designated "Final Ruling" will not be called and counsel need not appear at the hearing on such matters. Matters designated "Tentative Ruling" or "No Tentative Ruling" will be called.

**ORAL ARGUMENT**

For matters that are called, the court may determine in its discretion whether the resolution of such matter requires oral argument. See *Morrow v. Topping*, 437 F.2d 1155, 1156-57 (9th Cir. 1971); accord LBR 9014-1(h). When the court has published a tentative ruling for a matter that is called, the court shall not accept oral argument from any attorney appearing on such matter who is unfamiliar with such tentative ruling or its grounds.

**COURT'S ERRORS IN FINAL RULINGS**

If a party believes that a final ruling contains an error that would, if reflected in the order or judgment, warrant a motion under Federal Rule of Civil Procedure 60(a), as incorporated by Federal Rules of Bankruptcy Procedure 9024, then the party affected by such error shall, not later than 4:00 p.m. (PST) on the day before the hearing, inform the following persons by telephone that they wish the matter either to be called or dropped from calendar, as appropriate, notwithstanding the court's ruling: (1) all other parties directly affected by the motion; and (2) Kathy Torres, Judicial Assistant to the Honorable Fredrick E. Clement, at (559) 499-5860. Absent such a timely request, a matter designated "Final Ruling" will not be called.

1. [15-10003](#)-A-13 ALLISON SMITH MOTION TO DISMISS CASE  
MHM-3 3-16-16 [[50](#)]  
MICHAEL MEYER/MV  
SUSAN SALEHI/Atty. for dbt.

**Final Ruling**

The motion withdrawn, the matter is dropped as moot.

2. [16-10203](#)-A-13 TRACY MOOD MOTION TO DISMISS CASE  
MHM-1 3-8-16 [[16](#)]  
MICHAEL MEYER/MV  
ROBERT WILLIAMS/Atty. for dbt.

**Tentative 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 appear at a § 341 meeting of creditors. 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.

3. [15-14710](#)-A-13 MOISES PALMA  
MHM-3  
MICHAEL MEYER/MV  
STEVEN ALPERT/Atty. for dbt.  
DISMISSED
- OBJECTION TO DEBTOR'S CLAIM OF  
EXEMPTIONS  
4-1-16 [[62](#)]

**Final Ruling**

The case dismissed, the objection is overruled as moot.

4. [15-14710](#)-A-13 MOISES PALMA  
PLG-1  
MOISES PALMA/MV  
STEVEN ALPERT/Atty. for dbt.  
DISMISSED
- MOTION TO CONFIRM PLAN  
3-23-16 [[49](#)]

**Final Ruling**

The case dismissed, the motion is denied as moot.

5. [15-12017](#)-A-13 MICHAEL/TRISA GONZOLAS  
MHM-1  
MICHAEL MEYER/MV  
ROBERT WILLIAMS/Atty. for dbt.
- MOTION TO DISMISS CASE  
3-17-16 [[25](#)]

**Final Ruling**

The motion withdrawn, the matter is dropped as moot.

6. [16-10019](#)-A-13 ISMAEL PALOMO  
MHM-2  
MICHAEL MEYER/MV  
WILLIAM OLCOTT/Atty. for dbt.
- MOTION TO DISMISS CASE  
3-31-16 [[17](#)]

**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. 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 \$3364 as of March 31, 2016.

## 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. The court hereby dismisses this case.

7. [15-11226](#)-A-13 CHRISTOPHER/ABIGAIL MOTION TO DISMISS CASE  
MHM-2 ESTRADA 3-17-16 [[32](#)]  
MICHAEL MEYER/MV  
VINCENT GORSKI/Atty. for dbt.

## 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).

For the reasons stated in the motion, cause exists under § 1307(c)(1) and (6) to dismiss the case. The debtor has failed to make all payments due under the confirmed plan. Payments are delinquent in the amount of \$950.

## 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. The debtor has failed to make all payments due under the confirmed chapter 13 plan in this case. Payments are delinquent in the amount of \$950. This delinquency constitutes cause to dismiss this case. 11 U.S.C. § 1307(c)(1), (6). The court hereby dismisses this case.

8. [11-19832](#)-A-13 JEAN MORGAN  
PK-7

MOTION FOR COMPENSATION FOR  
PATRICK KAVANAGH, DEBTORS  
ATTORNEY(S)  
3-28-16 [[146](#)]

PATRICK KAVANAGH/Atty. for dbt.

### 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, Patrick Kavanagh has applied for an allowance of final compensation and reimbursement of expenses. The applicant requests that the court allow compensation in the amount of \$1315.61 and reimbursement of expenses in the amount of \$184.44. The applicant also asks that the court allow on a final basis all prior applications for fees and costs that the court has previously allowed on an interim basis.

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. The court also approves on a final basis all prior applications for interim fees and costs that the court has allowed under § 331 on an interim 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.

Patrick Kavanagh'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 \$1315.61 and reimbursement of expenses in the amount of \$184.44. The aggregate allowed amount equals \$1500.05. As of the date of the application, the applicant held a retainer in the amount of \$0.00. The amount of \$1500.05 shall be allowed as an administrative expense to be paid through the plan. The court also approves on a final basis all prior applications for interim fees and costs that the court has allowed under § 331 on an interim basis. The aggregate amount of fees and expenses approved on a final basis, including this fee application, is \$7015.88.

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.

9. [15-14432](#)-A-13 DARLENE/BRIAN ALLEN  
RSW-2  
DARLENE ALLEN/MV  
ROBERT WILLIAMS/Atty. for dbt.  
RESPONSIVE PLEADING

MOTION TO CONFIRM PLAN  
2-29-16 [[31](#)]

#### **Tentative Ruling**

**Motion:** Confirm Chapter 13 Plan

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

**Disposition:** Pending

**Order:** Pending

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. But the moving party has not filed a reply to the opposition.

Without the benefit of a reply, the court cannot determine whether the grounds for the trustee's opposition are disputed or undisputed. As a result, the court does not consider the matter to be ripe for a decision in advance of the hearing.

If such grounds are undisputed, the moving party may appear at the hearing and affirm that they are undisputed. The moving party may opt not to appear at the hearing, and such nonappearance will be deemed by the court as a concession that the trustee's grounds for opposition are undisputed and meritorious.

If such grounds are disputed, the moving party shall appear at the hearing. The court may either (1) rule on the merits and resolve any disputed issues appropriate for resolution at the initial hearing, or (2) treat the initial hearing as a status conference and schedule an evidentiary hearing to resolve disputed, material factual issues or schedule a further hearing after additional briefing on any disputed legal issues.

10. [16-10140](#)-A-13 MICHAEL LOPEZ

ORDER TO SHOW CAUSE - FAILURE  
TO PAY FEES  
3-28-16 [[43](#)]

DISMISSED

#### **Final Ruling**

The case dismissed, the order to show cause is discharged.

11. [16-10642](#)-A-13 TIMOTHY MAYO  
PK-1  
TIMOTHY MAYO/MV  
PATRICK KAVANAGH/Atty. for dbt.

MOTION TO VALUE COLLATERAL OF  
KIRBY/MERCHANTS ACCEPTANCE CORP  
4-6-16 [[17](#)]

#### **Final Ruling**

**Motion:** Value Collateral [Personal Property; Non-vehicular]

**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.*

The right to value non-vehicular, personal property collateral in which the creditor has a purchase money security interest is limited to such collateral securing a debt that was incurred more than one year before the date of the petition. 11 U.S.C. §1325(a) (hanging paragraph).

In this case, the debtor seeks to value collateral consisting of personal property described as a Kirby vacuum. The debt secured by such property was not incurred within the 1-year period preceding the date of the petition. The court values the collateral at \$500.

#### **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 non-vehicular, personal property collateral 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 Kirby vacuum has a value of \$500. No senior liens on the collateral have been identified. The respondent has a secured claim in the amount of \$500 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.

12. [13-10044](#)-A-7 ANTHONY CARRISOZA  
MHM-1  
MICHAEL MEYER/MV  
PATRICK KAVANAGH/Atty. for dbt.  
CONVERTED 3/16/16

MOTION TO DISMISS CASE  
3-16-16 [[87](#)]

#### **Final Ruling**

The case converted, the motion is denied as moot.



13. [15-14447](#)-A-13 ASHLEY RANDOLPH  
MHM-3

OBJECTION TO CONFIRMATION OF  
PLAN BY TRUSTEE MICHAEL H.  
MEYER  
4-11-16 [[56](#)]

ROBERT WILLIAMS/Atty. for dbt.

**No tentative ruling.**

14. [16-10147](#)-A-13 ISABEL TORRES

ORDER TO SHOW CAUSE - FAILURE  
TO PAY FEES  
3-28-16 [[40](#)]

DISMISSED

**Final Ruling**

The case dismissed, the order to show cause is discharged.

15. [16-10352](#)-A-13 DAMIEN ULERY

ORDER TO SHOW CAUSE - FAILURE  
TO PAY FEES  
4-15-16 [[30](#)]

PATRICK KAVANAGH/Atty. for dbt.

**Tentative Ruling**

If the installment payment of \$77 due April 11, 2016, has not been paid by the time of the hearing, the case may be dismissed without further notice or hearing.

16. [16-10253](#)-A-13 JOE PEREZ  
KDG-1  
MONICA TRIANO/MV  
PATRICK KAVANAGH/Atty. for dbt.  
JACOB EATON/Atty. for mv.  
RESPONSIVE PLEADING

CONTINUED MOTION TO DISMISS  
CASE  
3-16-16 [[38](#)]

**No tentative ruling.**

17. [16-10253](#)-A-13 JOE PEREZ  
KDG-2  
MONICA TRIANO/MV  
PATRICK KAVANAGH/Atty. for dbt.  
JACOB EATON/Atty. for mv.  
RESPONSIVE PLEADING

MOTION FOR RELIEF FROM  
AUTOMATIC STAY  
4-6-16 [[60](#)]

**No tentative ruling.**

18. [16-11256](#)-A-13 SAMUEL/DIANE DOMINGUEZ MOTION TO EXTEND AUTOMATIC STAY  
FW-1 4-19-16 [[8](#)]  
SAMUEL DOMINGUEZ/MV  
PETER FEAR/Atty. for dbt.

**No tentative ruling.**

19. [16-10357](#)-A-13 APRIL BLANDBURG ORDER TO SHOW CAUSE - FAILURE  
TO PAY FEES  
4-14-16 [[34](#)]  
PATRICK KAVANAGH/Atty. for dbt.  
\$200 FEE PAID

**Final Ruling**

The fee paid, the order to show cause is discharged and the case shall remain pending.

20. [14-11761](#)-A-13 FRANCISCO/DIANE LOPEZ MOTION FOR RELIEF FROM  
SW-1 AUTOMATIC STAY  
ALLY FINANCIAL/MV 4-18-16 [[74](#)]  
ROBERT WILLIAMS/Atty. for dbt.  
ADAM BARASCH/Atty. for mv.

**No tentative ruling.**

21. [16-10162](#)-A-13 JUAN GARCIA - LOPEZ AND CONTINUED MOTION TO VALUE  
PK-2 NICOLE GARCIA COLLATERAL OF SEARS CREDIT CARD  
JUAN GARCIA - LOPEZ/MV (CITIBANK, N.A.)  
3-16-16 [[26](#)]  
PATRICK KAVANAGH/Atty. for dbt.  
WITHDRAWN

**Final Ruling**

The motion withdrawn, the matter is dropped as moot.

22. [16-10162](#)-A-13 JUAN GARCIA - LOPEZ AND CONTINUED MOTION TO VALUE  
PK-3 NICOLE GARCIA COLLATERAL OF MOR FURNITURE/TD  
JUAN GARCIA - LOPEZ/MV RETAIL SERVICES  
3-16-16 [[33](#)]  
PATRICK KAVANAGH/Atty. for dbt.  
WITHDRAWN

**Final Ruling**

The motion withdrawn, the matter is dropped as moot.

23. [13-12265](#)-A-13 LETICIA GUTIERREZ  
TGF-4

MOTION FOR COMPENSATION FOR  
VINCENT A. GORSKI, DEBTORS  
ATTORNEY(S)  
3-30-16 [[73](#)]

VINCENT GORSKI/Atty. for dbt.

**No tentative ruling.**

24. [16-10073](#)-A-13 DONALD WILLIFORD  
MHM-2

OBJECTION TO CONFIRMATION OF  
PLAN BY TRUSTEE MICHAEL H.  
MEYER  
4-11-16 [[46](#)]

ROBERT WILLIAMS/Atty. for dbt.

**No tentative ruling.**

25. [16-10074](#)-A-13 RONALD TAYLOR  
MHM-1

OBJECTION TO CONFIRMATION OF  
PLAN BY MICHAEL H. MEYER  
4-11-16 [[20](#)]

ROBERT WILLIAMS/Atty. for dbt.

**Final Ruling**

The objection withdrawn, the matter is dropped as moot.

26. [15-14691](#)-A-13 MATTHEW LATRAY  
RSW-1  
MATTHEW LATRAY/MV  
ROBERT WILLIAMS/Atty. for dbt.  
RESPONSIVE PLEADING

MOTION TO CONFIRM PLAN  
3-23-16 [[34](#)]

**Tentative Ruling**

**Motion:** Confirm Chapter 13 Plan

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

**Disposition:** Pending

**Order:** Pending

The motion requests confirmation of the Chapter 13 plan in this case.  
11 U.S.C. §§ 1322, 1323, 1325; Fed. R. Bankr. P. 2002(b); LBR 3015-  
1(d)(1). The Chapter 13 trustee opposes the motion, objecting to  
confirmation. But the moving party has not filed a reply to the  
opposition.

**CONFIRMATION**

Without the benefit of a reply, the court cannot determine whether the  
grounds for the trustee's opposition are disputed or undisputed. As a  
result, the court does not consider the matter to be ripe for a  
decision in advance of the hearing.

If such grounds are undisputed, the moving party may appear at the hearing and affirm that they are undisputed. The moving party may opt not to appear at the hearing, and such nonappearance will be deemed by the court as a concession that the trustee's grounds for opposition are undisputed and meritorious.

If such grounds are disputed, the moving party shall appear at the hearing. The court may either (1) rule on the merits and resolve any disputed issues appropriate for resolution at the initial hearing, or (2) treat the initial hearing as a status conference and schedule an evidentiary hearing to resolve disputed, material factual issues or schedule a further hearing after additional briefing on any disputed legal issues.

## **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).

27. [16-11354](#)-A-13 ODILON/SAURISARET MOTION TO EXTEND AUTOMATIC STAY  
PIM-1 PEREZ-FLORES 4-21-16 [[12](#)]  
ODILON PEREZ-FLORES/MV  
PHILLIP MYER/Atty. for dbt.  
OST 4/25/16

## **Tentative Ruling**

**Motion:** Extend the Automatic Stay

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

**Disposition:** Granted except as to any creditor without proper notice of this motion

**Order:** Prepared by moving party pursuant to the instructions below

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).

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 except as to any creditor without proper notice of this motion.

28. [16-11245](#)-A-13 SERGIO/STACY MARTINEZ MOTION TO EXTEND AUTOMATIC STAY  
TCS-1 4-26-16 [[9](#)]  
SERGIO MARTINEZ/MV  
TIMOTHY SPRINGER/Atty. for dbt.  
OST 4/27/16

### **Tentative Ruling**

**Motion:** Extend the Automatic Stay

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

**Disposition:** Granted except as to any creditor without proper notice of this motion

**Order:** Prepared by moving party pursuant to the instructions below

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).

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 except as to any creditor without proper notice of this motion.