

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

Honorable Fredrick E. Clement
Fresno Federal Courthouse
510 19th Street, Second Floor
Bakersfield, California

PRE-HEARING DISPOSITIONS

DAY: WEDNESDAY
DATE: JUNE 6, 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. [18-10900](#)-A-13 **IN RE: FERNANDO/CARMEN PORTILLO**
[MHM-2](#)

MOTION TO DISMISS CASE
4-26-2018 [[20](#)]

MICHAEL MEYER/MV
VINCENT GORSKI

No Ruling

2. [18-10101](#)-A-13 **IN RE: JOSEPH/NANCY MOON**
[MHM-3](#)

MOTION TO DISMISS CASE
5-2-2018 [[51](#)]

MICHAEL MEYER/MV
ROBERT WILLIAMS

Final Ruling

The motion withdrawn, the matter is dropped as moot.

3. [13-11803](#)-A-13 **IN RE: JERZY BARANOWSKI**
[PK-7](#)

CONTINUED MOTION TO MODIFY PLAN
2-5-2018 [[198](#)]

JERZY BARANOWSKI/MV
RESPONSIVE PLEADING

No Ruling

4. [16-10720](#)-A-13 **IN RE: PHILIP/SUSANNE ICARDO**
[RSW-3](#)

MOTION TO MODIFY PLAN
4-11-2018 [[57](#)]

PHILIP ICARDO/MV
ROBERT WILLIAMS

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 confirmation 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. 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. The court will grant the motion and approve the modification of the plan.

5. [18-10521](#)-A-13 **IN RE: REYNALDO/MELINDA GUTIERREZ**
[MHM-2](#)

CONTINUED MOTION TO DISMISS CASE
4-3-2018 [[17](#)]

MICHAEL MEYER/MV
ROBERT WILLIAMS

Final Ruling

The motion withdrawn, the matter is dropped as moot.

6. [18-10235](#)-A-13 **IN RE: FREDERICK/HAYLEY JAMES**
[MHM-4](#)

MOTION TO DISMISS CASE
4-12-2018 [[39](#)]

MICHAEL MEYER/MV
ROBERT WILLIAMS
RESPONSIVE PLEADING

Final Ruling

Having been withdrawn, the matter is deemed voluntarily dismissed. The court drops the matter from calendar.

7. [18-10737](#)-A-13 **IN RE: HERBERT KELLEY**
[MHM-2](#)

MOTION TO DISMISS CASE
4-27-2018 [[27](#)]

MICHAEL MEYER/MV
SUSAN SALEHI

Final Ruling

The case having been dismissed, the matter is denied as moot.

8. [11-17439](#)-A-13 **IN RE: LORETO/JACQUELINE RIVERA**
[PWG-5](#)

MOTION TO AVOID LIEN OF FIA CARD SERVICES, N.A.
5-25-2018 [[75](#)]

LORETO RIVERA/MV
PHILLIP GILLET

Tentative Ruling

Motion: Avoid Lien that Impairs Exemption

Notice: LBR 9014-1(f)(3); no written opposition required

Disposition: Granted

Order: Prepared by moving party

Judicial Lien Avoided: \$18,396.83

All Other Liens: \$192,268.00

Exemption: \$112,230.00

Value of Property: \$112,230.00

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).

Section 522(f) of the Bankruptcy Code authorizes the court to avoid a lien "on an interest of the debtor in property to the extent that such lien impairs an exemption to which the debtor would have been entitled." 11 U.S.C. § 522(f)(1). There are four elements to avoidance of a lien that impairs an exemption: (1) there must be an exemption to which the debtor would have been entitled; (2) the property must be listed on the schedules and claimed as exempt; (3) the lien must impair the exemption claimed; and (4) the lien must be a judicial lien or nonpossessory, nonpurchase-money security interest in property described in § 522(f)(1)(B). *Goswami v. MTC Distrib. (In re Goswami)*, 304 B.R. 386, 390-91 (B.A.P. 9th Cir. 2003). Impairment is statutorily defined: a lien impairs an exemption "to the extent that the sum of - (i) the lien; (ii) all other liens on the property; and (iii) the amount of the exemption

that the debtor could claim if there were no liens on the property; exceeds the value that the debtor's interest in the property would have in the absence of any liens." 11 U.S.C. § 522(f)(2)(A).

The respondent's judicial lien, all other liens, and the exemption amount together exceed the property's value by an amount greater than or equal to the judicial lien. As a result, the respondent's judicial lien will be avoided entirely.

9. [17-14341](#)-A-13 **IN RE: MICHAEL/JESSICA OWEN**
[MHM-2](#)

MOTION TO DISMISS CASE
4-27-2018 [[33](#)]

MICHAEL MEYER/MV
NEIL SCHWARTZ

Final Ruling

Having been withdrawn, the matter is deemed voluntarily dismissed. The court drops the matter from calendar.

10. [18-11241](#)-A-13 **IN RE: ELIAS RIVAS AND NICOLE BARRIENTE**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES
5-7-2018 [[16](#)]

Tentative Ruling

If the installment payments of \$79 due May 2, 2018, and \$77 due June 1, 2018, have not been paid, the case may be dismissed without further notice or hearing.

11. [13-15942](#)-A-13 **IN RE: PAUL SMITH AND JANET STAUTZ-SMITH**
[PK-1](#)

MOTION FOR COMPENSATION FOR PATRICK KAVANAGH, DEBTORS
ATTORNEY(S)
4-30-2018 [[53](#)]

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 \$6,000 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.

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 \$6,000 and reimbursement of expenses in the amount of \$0. The aggregate allowed amount equals \$6,000. As of the date of the application, the applicant held a retainer in the amount of \$0. The amount of \$6,000 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.

12. [18-10742](#)-A-13 **IN RE: F. OLIVER COOPER**
[MHM-2](#)

MOTION TO DISMISS CASE
5-3-2018 [\[27\]](#)

MICHAEL MEYER/MV
LEONARD WELSH
RESPONSIVE PLEADING

No Ruling

13. [16-13343](#)-A-13 **IN RE: AIDE/JAMES BLANCO**
[NLG-2](#)

MOTION TO APPROVE STIPULATION FOR RELIEF FROM THE AUTOMATIC
STAY
5-8-2018 [\[180\]](#)

DEUTSCHE BANK NATIONAL TRUST
COMPANY/MV
PATRICK KAVANAGH
NICHOLE GLOWIN/ATTY. FOR MV.

Final Ruling

Motion: Approval of Stipulation for Relief from the Automatic Stay

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

Disposition: Granted

Order: Prepared by the movant 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). 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 movant has filed a motion to approve a stipulation for relief from the automatic stay of 11 U.S.C. § 362(a). Federal Rule of Bankruptcy Procedure 4001(d)(3) authorizes the court to approve or disapprove a stipulation for relief from the automatic stay. Under this rule, the court hereby approves the stipulation for relief from stay filed. The movant shall attach the stipulation to the proposed order as an exhibit.

14. [18-10543](#)-A-13 **IN RE: CHARLES MASSEY**
[PK-1](#)

MOTION FOR COMPENSATION FOR PATRICK KAVANAGH, DEBTORS
ATTORNEY(S)
4-26-2018 [[29](#)]

Final Ruling

Because the plan has not been confirmed in this case, the court considers the application for compensation premature. The court continues the hearing on this application to July 11, 2018, at 9:00 a.m. to coincide with the hearing on confirmation.

15. [18-10858](#)-A-13 **IN RE: ROBINSON/MARIA POLANCO**
[MHM-2](#)

MOTION TO DISMISS CASE
4-27-2018 [[19](#)]

MICHAEL MEYER/MV
RICHARD STURDEVANT
RESPONSIVE PLEADING

Tentative Ruling

Motion: Dismiss Case

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

Disposition: Granted

Order: Civil minute order

FACTS

The trustee moves to dismiss this case for unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1). The basis for the motion is the debtors' failure to provide documents required or requested to be given to the trustee. See 11 U.S.C. § 521(a)(3)-(4).

The debtors oppose the motion. They represent that they have provided some of the documents. But they admit that they have not provided several documents including 2017 federal and state tax returns, a business license, a business insurance declarations page, responses to the business case questionnaire, and a sales contract for a 2011 Freightliner Cascadia. Fed. R. Evid. 801(d).

CASE DISMISSAL

The debtor has failed to provide the trustee with required or requested documents. See 11 U.S.C. § 521(a)(3)-(4).

The debtor has failed to provide the trustee with a required tax return (for the most recent tax year ending immediately before the commencement of the case and for which a Federal income tax return

was filed) no later than 7 days before the date first set for the first meeting of creditors. 11 U.S.C. § 521(e)(2)(A)-(B).

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.

16. [18-10859](#)-A-13 **IN RE: JOSE DE LA GARZA**
[AP-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY BAYVIEW LOAN SERVICING,
LLC
5-1-2018 [\[28\]](#)

BAYVIEW LOAN SERVICING, LLC/MV
JAMIE HANAWALT/ATTY. FOR MV.

Tentative Ruling

Objection: Creditor'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.

REDUCTION OF COLLATERAL VALUE WITHOUT A MOTION

LBR 3015-1(i) provides that "[t]he hearing [on a valuation motion] must be concluded before or in conjunction with the confirmation of the plan. If a motion is not filed, or it is unsuccessful, the Court may deny confirmation of the plan."

In this case, the plan proposes to reduce Bayview Loan Servicing, LLC's Class 2 secured claim based on the value of the collateral securing such claim. But the debtor has not yet obtained a favorable order on a motion to determine the value of such collateral. Accordingly, the court must deny confirmation of 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 bar 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.

Bayview Loan Servicing, LLC'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 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).

17. [18-10859](#)-A-13 **IN RE: JOSE DE LA GARZA**
[MHM-2](#)

MOTION TO DISMISS CASE
4-26-2018 [[22](#)]

MICHAEL MEYER/MV
RICHARD STURDEVANT

Tentative Ruling

Motion: Dismiss Case

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

Disposition: Granted

Order: Civil minute order

FACTS

The trustee moves to dismiss this case for unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1). The basis for the motion is the debtors' failure to provide documents required or requested to be given to the trustee. See 11 U.S.C. § 521(a)(3)-(4). The debtors oppose the motion. They represent that they have provided some of the documents. But they admit that they have not provided several documents including 2017 federal and state tax returns, a business license, an insurance declarations page, a mortgage statement and a spousal waiver. Fed. R. Evid. 801(d).

CASE DISMISSAL

The debtor has failed to provide the trustee with required or requested documents. See 11 U.S.C. § 521(a)(3)-(4).

The debtor has failed to provide the trustee with a required tax return (for the most recent tax year ending immediately before the commencement of the case and for which a Federal income tax return was filed) no later than 7 days before the date first set for the first meeting of creditors. 11 U.S.C. § 521(e)(2)(A)-(B).

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.

18. [18-10761](#)-A-13 **IN RE: EMILY MARTIN**
[MHM-1](#)

MOTION TO DISMISS CASE
4-30-2018 [[27](#)]

MICHAEL MEYER/MV
RESPONSIVE PLEADING

No Ruling

19. [18-10763](#)-A-13 **IN RE: MARCOS CRUZ**
[APN-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY TOYOTA MOTOR CREDIT
CORPORATION
5-1-2018 [\[21\]](#)

TOYOTA MOTOR CREDIT CORPORATION/MV
ROBERT WILLIAMS
AUSTIN NAGEL/ATTY. FOR MV.

Final Ruling

Objection: Creditor'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.

REDUCTION OF COLLATERAL VALUE WITHOUT A MOTION

LBR 3015-1(i) provides that "[t]he hearing [on a valuation motion]
must be concluded before or in conjunction with the confirmation of
the plan. If a motion is not filed, or it is unsuccessful, the Court
may deny confirmation of the plan."

In this case, the plan proposes to reduce Toyota Motor Credit
Corporation's Class 2 secured claim based on the value of the
collateral securing such claim. But the debtor has not yet obtained
a favorable order on a motion to determine the value of such
collateral. Accordingly, the court must deny confirmation of the
plan.

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.

Toyota Motor Credit Corporation'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.

20. [18-10763](#)-A-13 **IN RE: MARCOS CRUZ**
[MHM-2](#)

MOTION TO DISMISS CASE
4-27-2018 [[15](#)]

MICHAEL MEYER/MV
ROBERT WILLIAMS

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 debtor has failed to provide the trustee with required or requested documents. See 11 U.S.C. § 521(a)(3)-(4).

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.

21. [18-10867](#)-A-7 **IN RE: ROSA POMPA DE AYON**
[SL-2](#)

OBJECTION TO CONFIRMATION OF PLAN BY PROVIDENT MORTGAGE
CORPORATION
4-27-2018 [[37](#)]

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

Final Ruling

This case has been converted, so the objection will be overruled as moot.

22. [18-10867](#)-A-7 **IN RE: ROSA POMPA DE AYON**
[SL-2](#)

MOTION TO CONFIRM PLAN
4-13-2018 [[30](#)]

ROSA POMPA DE AYON/MV
SCOTT LYONS
CONVERTED 5/23/18

Final Ruling

This case has been converted, so the objection will be overruled as moot.

23. [18-11873](#)-A-13 **IN RE: CORINA YBARRA**
[SJS-1](#)

MOTION TO EXTEND AUTOMATIC STAY
5-22-2018 [[12](#)]

CORINA YBARRA/MV
SUSAN SALEHI

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.

The present motion to extend the automatic 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, 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.

24. [17-14682](#)-A-13 **IN RE: SCOTT DOYLE**
[MHM-3](#)

MOTION TO DISMISS CASE
5-9-2018 [\[54\]](#)

MICHAEL MEYER/MV
ROBERT WILLIAMS

Final Ruling

The motion withdrawn, the matter is dropped as moot.

25. [17-14682](#)-A-13 **IN RE: SCOTT DOYLE**
[RSW-2](#)

MOTION TO CONFIRM PLAN
3-22-2018 [[32](#)]

SCOTT DOYLE/MV

Final Ruling

The motion withdrawn, the matter is dropped as moot.

26. [17-14682](#)-A-13 **IN RE: SCOTT DOYLE**
[RSW-3](#)

MOTION TO CONFIRM PLAN
4-20-2018 [[46](#)]

SCOTT DOYLE/MV

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

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).

Despite the trustee's opposition, the trustee contends that the current plan is confirmable with changes to the plan made in the order confirming. The debtor has agreed to such changes. The court will confirm the plan as modified by the changes proposed by the trustee.

27. [17-11884](#)-A-13 **IN RE: MONTE LAMONT**
[RSW-3](#)

MOTION TO MODIFY PLAN
4-4-2018 [[73](#)]

MONTE LAMONT/MV

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

Chapter 13 plan confirmation 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. The debtor bears the burden of proof as to each element. *In re Barnes*, 32 F.3d 405, 407 (9th Cir. 1994).

Despite the trustee's opposition, the trustee contends that the proposed modification can be approved with changes to the plan made in the order confirming. The debtor has agreed to such changes. The court will approve the modification of the plan with the changes that the trustee proposed.

28. [17-14887](#)-A-13 **IN RE: VALENTIN CHOCOTECO**
[MHM-2](#)

OBJECTION TO DEBTOR'S CLAIM OF EXEMPTIONS
4-11-2018 [[56](#)]

MICHAEL MEYER/MV
ROBERT WILLIAMS
RESPONSIVE PLEADING

Final Ruling

The exemption to which the trustee objected has been amended. The objection will be overruled as moot.

29. [17-14887](#)-A-13 **IN RE: VALENTIN CHOCOTECO**
[RSW-2](#)

CONTINUED MOTION TO CONFIRM PLAN
2-21-2018 [[28](#)]

VALENTIN CHOCOTECO/MV
ROBERT WILLIAMS
RESPONSIVE PLEADING

No Ruling

30. [17-14292](#)-A-13 **IN RE: JUAN MEDINA- HERRERA AND STEFANIEROSE**
MEDINA
[BMO-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
5-23-2018 [[63](#)]

ALTAONE FEDERAL CREDIT UNION/MV
BRANDON ORMONDE/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: 2013 Nissan Armada

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).

RELIEF FROM STAY

Section 362(d)(1) authorizes stay relief for cause shown. 11 U.S.C. § 362(d)(1). The debtor is obligated to make debt payments to the moving party pursuant to a loan contract that is secured by a security interest in the debtor's vehicle described above. The debtor has defaulted on the loan as 7 postpetition payments are past due. The total past due balance of principal and interest is approximately \$2,343.24 for prepetition delinquency and \$4,100.67 for the postpetition delinquency.

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.

AltaOne Federal Credit Union'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 2013 Nissan Armada, 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.

31. [17-14596](#)-A-13 **IN RE: ARDIS BROOKS**
[MHM-2](#)

MOTION TO CONFIRM PLAN
4-26-2018 [[52](#)]

ARDIS BROOKS/MV
KENUMI MAATAFALE

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).

CONFIRMATION

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.

LOCAL RULES VIOLATION

The docket control number given for this matter violates the court's Local Rules, LBR 9014-1(c), regarding proper use of docket control numbers. When using a docket control number, a party must use both letters (usually initials of the attorney for the movant) and a number. The numerical portion of the docket control number must be "the number that is one number higher than the number of motions

previously filed by said attorney" in that particular case. LBR 9014-1(c)(3). Thus, a party may not use the same docket control previously used by a different party, as the attorney for the debtor did here.

32. [18-10896](#)-A-13 **IN RE: SALVADOR TEJEDA**
[MHM-2](#)

MOTION TO DISMISS CASE
4-27-2018 [[19](#)]

MICHAEL MEYER/MV

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 provide the trustee with required or requested documents. See 11 U.S.C. § 521(a)(3)-(4).

The debtor has failed to provide the trustee with a required tax return (for the most recent tax year ending immediately before the commencement of the case and for which a Federal income tax return was filed) no later than 7 days before the date first set for the first meeting of creditors. 11 U.S.C. § 521(e)(2)(A)-(B).

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.

33. [18-10499](#)-A-13 **IN RE: ALLAN BABB**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES
4-23-2018 [[39](#)]

Final Ruling

The case dismissed, the matter is dropped as moot and the order to show cause is discharged.