

**UNITED STATES BANKRUPTCY COURT**  
Eastern District of California

Honorable Fredrick E. Clement  
Bankruptcy Judge

2500 Tulare Street  
Department A, Courtroom 11  
Fresno, California

**THURSDAY**

**JUNE 18, 2015**

**9:00 A.M. CHAPTERS 13 AND 12 CASES**

**PRE-HEARING DISPOSITIONS**

**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.

**MATTERS RESOLVED BEFORE HEARING**

If the court has issued a final ruling on a matter and the parties directly affected by a matter have resolved the matter by stipulation or withdrawal of the motion before the hearing, then the moving party 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 to be dropped from calendar 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.

**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 52(b), 59(e) or 60, as incorporated by Federal Rules of Bankruptcy Procedure, 7052, 9023 and 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. [15-11100](#)-A-13 HAN/IN KIM  
MHM-1  
MICHAEL MEYER/MV  
H. AHN/Atty. for dbt.

MOTION TO DISMISS CASE  
5-15-15 [[24](#)]

**Final Ruling**

**Motion:** Dismiss Case

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

**Disposition:** Granted

**Order:** Prepared by moving party

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) to dismiss the case. The debtor has failed to appear at the § 341 meeting of creditors, or continued meeting of creditors, on May 12, 2015.

2. [15-11904](#)-A-13 ABELARDO GONZALEZ  
PK-1  
TRIUMPH M, LLC/MV  
PATRICK KAVANAGH/Atty. for mv.  
DISMISSED

MOTION FOR RELIEF FROM  
AUTOMATIC STAY  
5-28-15 [[16](#)]

**Final Ruling**

The case dismissed, the motion is denied as moot.

3. [15-10406](#)-A-13 ANGELITA CAMPA  
ALS-2  
FARMERS INSURANCE GROUP  
FEDERAL CREDIT UNION/MV  
TIMOTHY SPRINGER/Atty. for dbt.  
A. SIMON/Atty. for mv.

MOTION FOR APPROVAL OF  
STIPULATION FOR ADEQUATE  
PROTECTION  
5-20-15 [[56](#)]

**No tentative ruling**

4. [15-10406](#)-A-13 ANGELITA CAMPA  
ALS-3  
FARMERS INSURANCE GROUP  
FEDERAL CREDIT UNION/MV  
TIMOTHY SPRINGER/Atty. for dbt.  
A. SIMON/Atty. for mv.
- OBJECTION TO CONFIRMATION OF  
PLAN BY FARMERS INSURANCE GROUP  
FEDERAL CREDIT UNION  
5-29-15 [[60](#)]

**No tentative ruling**

5. [15-10406](#)-A-13 ANGELITA CAMPA  
TCS-1  
ANGELITA CAMPA/MV  
TIMOTHY SPRINGER/Atty. for dbt.
- MOTION TO CONFIRM PLAN  
4-28-15 [[42](#)]

**No tentative ruling**

6. [15-11508](#)-A-13 TERRANCE/JACQUELYN LEWIS  
SAH-1  
TERRANCE LEWIS/MV  
SUSAN HEMB/Atty. for dbt.
- MOTION TO VALUE COLLATERAL OF  
CITIMORTGAGE  
5-8-15 [[15](#)]

**Final Ruling**

**Motion:** Value Collateral [Real Property; Principal Residence]

**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 strip off a wholly unsecured junior lien encumbering the debtor's principal residence. 11 U.S.C. §§ 506(a), 1322(b)(2); *In re Lam*, 211 B.R. 36, 40-42 (B.A.P. 9th Cir. 1997); *In re Zimmer*, 313 F.3d 1220, 1222-25 (9th Cir. 2002) (holding that the trial court erred in deciding that a wholly unsecured lien was within the scope of the antimodification clause of § 1322(b)(2) of the Bankruptcy Code). A motion to value the debtor's principal residence should be granted upon a threefold showing by the moving party. First, the moving party must proceed by noticed motion. Fed. R. Bankr. P. 3012. Second, the motion must be served on the holder of the secured claim. Fed. R. Bankr. P. 3012, 9014(a); LBR 3015-1(j). Third, the moving party must prove by admissible evidence that the debt secured by liens senior to the respondent's claim exceeds the value of the principal residence. 11 U.S.C. § 506(a); *Lam*, 211 B.R. at 40-42; *Zimmer*, 313 F.3d at 1222-25. "In the absence of contrary

evidence, an owner's opinion of property value may be conclusive." *Enewally v. Wash. Mut. Bank (In re Enewally)*, 368 F.3d 1165, 1173 (9th Cir. 2004).

The debtor requests that the court value real property collateral. The collateral is the debtor's principal residence located at 1173 S. Riverbend, Sanger, CA.

The court values the collateral at \$476,120. The debt secured by liens senior to the respondent's lien exceeds the value of the collateral. Because the amount owed to senior lienholders exceeds the collateral's value, the respondent's claim is wholly unsecured and no portion will be allowed as a secured claim. See 11 U.S.C. § 506(a).

#### **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 real 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 real property collateral located at 1173 S. Riverbend, Sanger, CA, has a value of \$476,120. The collateral is encumbered by senior liens securing debt that exceeds the collateral's value. The respondent has a secured claim in the amount of \$0.00 and a general unsecured claim for the balance of the claim.

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| 7. <a href="#">13-12133</a> -A-13    CARL/MARI WHITFORD<br>APN-1<br>NISSAN MOTOR ACCEPTANCE<br>CORPORATION/MV<br>MARK ZIMMERMAN/Atty. for dbt.<br>AUSTIN NAGEL/Atty. for mv. | MOTION FOR RELIEF FROM<br>AUTOMATIC STAY<br>5-18-15 [ <a href="#">73</a> ] |
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#### **Tentative Ruling**

**Motion:** Stay Relief

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

**Disposition:** Denied as moot

**Order:** Civil minute order

#### **MOOTNESS OF REQUEST FOR STAY RELIEF**

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 3. Class 3 secured claims are "secured claims satisfied by the surrender of collateral." Section 2.10 of the plan provides that "[u]pon confirmation of the plan, all bankruptcy stays are modified to allow a Class 3 secured claim holder to exercise its rights against its collateral."

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.

#### **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 Motor Acceptance Corporation's motion for relief from the automatic stay has been presented to the court. Having considered the motion, and having heard oral argument presented at the hearing, if any,

IT IS ORDERED that the motion is denied as moot. No effective relief will be awarded.

8. [15-10935](#)-A-13 JOSEPH DIAZ  
JRT-1  
WDTD, LLC/MV  
MATIN RAJABOV/Atty. for dbt.  
JENNIFER TULLIUS/Atty. for mv.  
RESPONSIVE PLEADING

CONTINUED MOTION FOR RELIEF  
FROM AUTOMATIC STAY  
4-22-15 [[43](#)]

#### **Tentative Ruling**

**Motion:** Relief from Automatic Stay

**Notice:** LBR 9014-1(f)(2) / continued hearing date (original hearing noticed pursuant to LBR 9014-1(f)(1)); opposition filed by debtor

**Disposition:** Granted in part, denied in part

**Order:** Civil minute order

#### **BACKGROUND**

The motion seeks relief from the automatic stay under the provisions of § 362(d)(1) and (d)(2). Relief is sought to terminate the stay to allow the movant to enforce its rights and remedies against the real property located at 3163 East Balch Avenue, Fresno, California 93702 ("Balch property"). The movant holds a first priority deed of trust on the Balch property and seeks various types of additional relief which include an order terminating the stay to allow the movant to "perfect its nonjudicial foreclosure" and an order granting retroactive relief annulling the stay to validate the postpetition

acts of WDTD, LLC in conducting a foreclosure sale of the Balch Property.

## **PROCEDURE**

The court continued this hearing from the original hearing date on May 21, 2015. The court ordered that a supplemental declaration be filed by the movant along with a notice of continued hearing. A supplemental declaration has been filed relating to the debtor's failure to maintain insurance on the subject real property.

The debtor filed a late opposition to the motion before the initial hearing date. The court considers this opposition in ruling on the motion.

The debtor is permitted to present supplemental opposition at the continued hearing on the motion. The debtor has not filed supplemental opposition to the movant's supplemental declaration.

## **GROUND FOR RELIEF**

### Property Insurance

The supplemental declaration sets forth the dates during which the debtor has failed to maintain insurance on the Balch property. The expiration date for the current property insurance policy was June 7, 2015. The movant's declaration shows that the debtor has not paid the insurance premium necessary to renew the policy. The movant renewed its forced-place insurance for the Balch property on June 2, 2015. The annual premium is \$626.56. Previously, the debtor also has not been maintaining insurance for the Balch property forcing the movant to do so during 2014, 2013 and 2012.

Section 362(d)(1) permits stay relief for cause. The debtors continuing failure to maintain property insurance on the Balch property constitutes cause for granting prospective relief from the stay.

### Post-petition Payments Past Due

The supplemental declaration also indicates that the debtor has failed to make 2 postpetition payments to the lender since the petition date. Both the May 3, 2015 and June 3, 2015 payments are past due and unpaid. The debtor did make one postpetition payment on the debt on April 27, 2015. The debtors continuing failure to maintain payments on the secured debt owed to movant constitutes cause to grant relief from the stay prospectively. See 11 U.S.C. § 362(d)(1).

### Postpetition Foreclosure Sale

In the court's civil minutes from the May 21, 2015, hearing, the court stated its position as to the postpetition foreclosure sale. The court's position has not changed as of this hearing date. This issue will not be decided at this time or in this procedural forum. The court will deny any retroactive relief requested. If the debtor wishes to pursue a cause of action or other relief for violation of the automatic stay based on movants postpetition actions, the debtor may file the appropriate proceeding to obtain such relief.

The court will also not grant relief in the order that expressly or impliedly recognizes the validity of the postpetition foreclosure

sale. The court does not decide the validity of the postpetition foreclosure sale at this time and in this procedural posture. Accordingly, the order will not state that the movant is granted stay relief to "perfect its [postpetition] nonjudicial foreclosure," and the court will not in its order give instructions or directions to the movant as to how to proceed with enforcing its rights and remedies.

#### Debtor's Opposition

The debtor's opposition to relief under § 362(d)(1) focuses on the foreclosure sale as a violation of the stay, and whether movant had notice of the stay. The court is not granting retroactive relief from the stay to validate any postpetition foreclosure sale, so debtor's arguments relating to stay violations by the movant do not address the grounds for prospective relief—namely, the debtor's failing to maintain appropriate property insurance, requiring the movant to obtain forced-place insurance, and failing to make two postpetition payments on the secured debt owed to movant.

Because the court is granting relief only under § 362(d)(1), relief under § 362(d)(2) is not addressed by the court.

#### **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.

Secured creditor WDTD, LLC's motion for stay relief has been presented to the court. Having considered the motion and the opposition, responses and replies, and having heard oral argument, if any, presented at the hearing,

IT IS ORDERED that the motion is granted in part to allow WDTD, LLC to enforce its rights and remedies against, and to recover possession of, the real property located at 3163 East Balch Avenue, Fresno, California 93702 ("Balch property") in accordance with applicable state law.

IT IS FURTHER ORDERED that the motion is denied in part to the extent WDTD, LLC requests retroactive stay relief to validate its postpetition foreclosure sale and to the extent it requests that the court grant relief that assumes or implies the validity of the foreclosure sale. The court also denies relief approving the attorneys' fees and costs incurred by WDTD, LLC for filing the instant motion, leaving that issue to WDTD, LLC's judgment or to the appropriate procedural forum.

IT IS FURTHER ORDERED that the 14-day stay provided by Rule 4001(a)(3) is waived.

9. [15-10639](#)-A-13 RACHEL RIVERA  
TCS-2  
RACHEL RIVERA/MV  
TIMOTHY SPRINGER/Atty. for dbt.  
RESPONSIVE PLEADING

MOTION TO CONFIRM PLAN  
5-4-15 [[23](#)]

### **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.

### **NONCOMPLIANCE WITH LBR 3015-1(j)**

The trustee objects to confirmation because the plan reduces the claim of Class 2 creditor "Springleaf Financial S" based on the value of its collateral, a 2001 Chrysler PT Cruiser. But no motion to value such collateral has been filed or decided in the debtor's favor. This does not comply with LBR 3015-1(j). The court will sustain the objection.

### **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 Rachel M. Rivera's motion to confirm her first modified chapter 13 plan has been presented to the court. Having considered the motion, the trustee's opposition, and having heard oral argument presented at the hearing, if any,

IT IS ORDERED that the motion is denied and the court will not confirm the first modified 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).



10. [13-13841](#)-A-13 BRAD/TERESA BOULDEN  
GEG-2

MOTION FOR COMPENSATION BY THE  
LAW OFFICE OF PASCUZZI,  
PASCUZZI AND STOKER FOR GLEN E.  
GATES, DEBTORS ATTORNEY(S)  
5-15-15 [[71](#)]

GLEN GATES/Atty. for dbt.

### **Tentative Ruling**

**Application:** First Allowance of Interim Compensation and Expense  
Reimbursement

**Notice:** LBR 9014-1(f)(2); no 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). 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, Pascuzzi, Pascuzzi & Stoker has applied for an allowance of interim compensation and reimbursement of expenses. The application requests that the court allow compensation in the amount of \$15,450.00 and reimbursement of expenses in the amount of \$0.00.

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 an interim basis. Such amounts shall be perfected, and may be adjusted, by a final application for compensation and expenses, which shall be filed prior to case closure.

### **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.

Pascuzzi, Pascuzzi & Stoker's application for allowance of interim 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 an interim basis. The court allows interim compensation in the amount of \$15,450.00 and reimbursement of expenses in the amount of \$0.00. The aggregate allowed amount equals \$15,450.00. As of the date of the application, the applicant held a retainer in the amount of \$900.00. The amount of

\$14,550.00 shall be allowed as an administrative expense to be paid through the plan, and the remainder of the allowed amounts, if any, shall be paid from the retainer held by the applicant. The applicant is authorized to draw on any retainer held.

IT IS FURTHER ORDERED that the fees and costs are allowed pursuant to 11 U.S.C. § 331 as interim fees and costs, subject to final review and allowance pursuant to 11 U.S.C. § 330. Such allowed amounts shall be perfected, and may be adjusted, by a final application for allowance of compensation and reimbursement of expenses, which shall be filed prior to case closure.

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.

11. [15-10758](#)-A-13 KENNETH HIGGINS  
MHM-1  
MICHAEL MEYER/MV  
SCOTT SAGARIA/Atty. for dbt.

MOTION TO DISMISS CASE  
5-14-15 [[24](#)]

**No tentative ruling.**

12. [11-14260](#)-A-13 HECTOR/BLANCA GARIBAY

ORDER TO SHOW CAUSE - FAILURE  
TO TENDER FEE FOR FILING  
TRANSFER OF CLAIM  
5-28-15 [[104](#)]

THOMAS GILLIS/Atty. for dbt.

**Tentative Ruling**

If the \$25 filing fee for transfer of claim has not been paid by the time of the hearing, the claim will be stricken.

13. [15-10966](#)-A-13 RODNEY HARON  
MHM-1  
MICHAEL MEYER/MV  
TIMOTHY SPRINGER/Atty. for dbt.

CONTINUED MOTION TO DISMISS  
CASE  
4-23-15 [[22](#)]

**Final Ruling**

The court has decided to issue an order converting this case. The motion to dismiss this matter is denied as moot.

14. [15-10966](#)-A-13 RODNEY HARON  
TCS-1  
RODNEY HARON/MV  
TIMOTHY SPRINGER/Atty. for dbt.

MOTION TO CONVERT CHAPTER 13 TO  
CHAPTER 11 CASE  
5-19-15 [[34](#)]

**Final Ruling**

**Motion:** Convert Chapter 13 Case to Chapter 11 Case

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

**Disposition:** Granted

**Order:** Prepared by the moving party

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, the court will convert this case. The debtor is ineligible to be a debtor under chapter 13 of Title 11. The debtor represents that he is eligible to be a debtor under chapter 11. The court will issue an order converting the case.

15. [15-11376](#)-A-13 SOFIA REYNOZO  
NICHOLAS FLORES/MV  
GLEN GATES/Atty. for dbt.  
LAUREN RODE/Atty. for mv.  
RESPONSIVE PLEADING

OBJECTION TO CONFIRMATION OF  
PLAN BY NICHOLAS FLORES  
6-2-15 [[25](#)]

**Tentative Ruling**

**Objection:** Creditor Nicholas Flores's Objection to Confirmation of Plan

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

**Disposition:** Overruled

**Order:** Civil minute order

No responding party is required to file written opposition to the motion; opposition may be presented at the hearing. LBR 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.

**ARREARAGES FOR CLASS 1 CLAIM OF FLORES**

Creditor Nicholas Flores objects to confirmation because the chapter 13 plan understates the pre-petition arrearages. The objection states that the plan does not propose to cure any of the pre-petition arrearages. On this point, the objection is incorrect, as the plan in Class 1 lists \$27,540 as the prepetition arrears.

In any event, the plan at section 2.04 states that the proof of claim, not the plan or the schedules, shall determine the amount of a claim

unless a claim objection or valuation or lien-avoidance motion changes the amount. Chapter 13 Plan § 2.04, ECF No. 11. Therefore, Flores's objection is moot. The issue raised by Flores and the relief sought based on that issue—the understatement of the arrearages—does not in fact exist.

The court will not decide the non-confirmation issue of whether the court should disallow Flores's claim because the debt is unenforceable or because the Note is invalid. Such issues should be decided in the context of a claim objection filed by the debtor.

#### **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.

Nicholas Flores's objection to confirmation has been presented to the court. Having considered the objection, the response, the replies, if any, and having heard oral argument presented at the hearing,

IT IS ORDERED that the objection is overruled as moot.

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| 16. | <a href="#">11-11178</a> -A-13 ISRAEL/NENITA GADDI<br>MHM-2<br>MICHAEL MEYER/MV<br>F. GIST/Atty. for dbt.<br>RESPONSIVE PLEADING | CONTINUED MOTION TO DISMISS<br>CASE<br>4-8-15 [ <a href="#">39</a> ] |
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#### **Final Ruling**

The motion will be continued to July 17, 2015, at 9:00 a.m. to coincide with the debtor's motion for a hardship discharge under § 1328(b).

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| 17. | <a href="#">11-16885</a> -A-13 DAVID/DELIA HAYES<br>MHM-4<br>MICHAEL MEYER/MV<br>BENJAMIN SHEIN/Atty. for dbt.<br>RESPONSIVE PLEADING | CONTINUED MOTION TO DISMISS<br>CASE<br>4-7-15 [ <a href="#">66</a> ] |
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**No tentative ruling.**

18. [14-12485](#)-A-13 FREDDIE/TERESITA MOTION TO INCUR DEBT  
PBB-2 LEONGUERRERO 6-3-15 [[33](#)]  
FREDDIE LEONGUERRERO/MV  
PETER BUNTING/Atty. for dbt.

**Tentative Ruling**

**Motion:** Approve Debtor's Incurring New Debt [Vehicle Loan]

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

**Disposition:** Granted

**Order:** Prepared by moving party

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).

The debtor seeks to incur new debt to finance the purchase of a vehicle. Amended Schedules I and J have been filed indicating that the debtor can afford both the plan payment and the proposed monthly loan payment of principal and interest that would result from obtaining this financing. The court will grant the motion, and the trustee will approve the order as to form and content.

19. [10-18694](#)-A-13 ROSENDO/SILVIA ABARCA MOTION TO VACATE DISMISSAL OF  
HDN-8 CASE  
ROSENDO ABARCA/MV 6-2-15 [[314](#)]  
HENRY NUNEZ/Atty. for dbt.  
DEBTOR DISMISSED:  
05/13/2015  
JOINT DEBTOR DISMISSED:  
05/13/2015

**No tentative ruling.**