

**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: JULY 11, 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. [18-10101](#)-A-13 **IN RE: JOSEPH/NANCY MOON**
[MHM-4](#)

OBJECTION TO DEBTOR'S CLAIM OF EXEMPTIONS
6-6-2018 [\[63\]](#)

Final Ruling

Objection: Objection to Claim of Exemptions

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

Disposition: Sustained

Order: Civil minute order

Unopposed objections are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c); LBR 9001-1(d), (n) (contested matters include objections). Written opposition to the sustaining of this objection was required not less than 14 days before the hearing on this motion. 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).

CALIFORNIA HOMESTEAD EXEMPTION

Article 4 of Part 2, Title 9 (Enforcement of Judgments), Division 2, Chapter 4 of the California Code of Civil Procedure provides for an exemption known as the "automatic" homestead exemption. See Cal. Civ. Proc. Code §§ 704.710-704.850; *Kelley v. Locke (In re Kelley)*, 300 B.R. 11, 17-20 (B.A.P. 9th Cir. 2003). This exemption is conceptually distinct from the declared homestead exemption provided in Article 5 of Part 2, Title 9, Division 2, Chapter 4 of the California Code of Civil Procedure. See §§ 704.910-704.995; *Kelley*, 300 B.R. at 18-19.

The automatic homestead exemption under Article 4 is limited to the "principal dwelling" of the debtor or the debtor's spouse. A "dwelling" is defined by statute to include any place a person "resides." Cal. Civ. Proc. Code § 704.710(a), (c).

Section 704.730 of the C.C.P. provides for the amount of the homestead exemption. It states in pertinent part as to the \$175,000 homestead exemption:

(3) One hundred seventy-five thousand dollars (\$175,000) if the judgment debtor or spouse of the judgment debtor who resides in the homestead is at the time of the attempted sale of the homestead any one of the following:

(A) A person 65 years of age or older.

(B) A person physically or mentally disabled who as a result of that disability is unable to engage in substantial gainful employment. There is a rebuttable presumption affecting the burden of proof that a person receiving disability insurance benefit payments under Title II or supplemental security income payments under Title XVI of the

federal Social Security Act satisfies the requirements of this paragraph as to his or her inability to engage in substantial gainful employment.

(C) A person 55 years of age or older with a gross annual income of not more than twenty-five thousand dollars (\$25,000) or, if the judgment debtor is married, a gross annual income, including the gross annual income of the judgment debtor's spouse, of not more than thirty-five thousand dollars (\$35,000) and the sale is an involuntary sale.

Cal. Civ. Proc. Code § 704.730(a)(3).

APPLICATION

The trustee objects to the debtors' claim of a homestead exemption in real property. The homestead exemption is claimed in the amount of \$175,000, but Schedule C does not specify which subsection of C.C.P. § 704.730(a)(3) is the basis for the exemption.

By default, the court finds that neither debtor is over the age of 65. So paragraph (3)(A) of § 704.730(a) does not apply.

The court also finds that the debtors' gross annual income is more than \$35,000. Schedule I as amended shows gross annual income of over \$154,000 per year. So paragraph (3)(C) of § 704.730(a) does not apply.

Schedule I indicates that one joint debtor is "disabled." But there is no evidence in the record that this joint debtor is disabled. And there is no evidence to show she is unable to engage in substantial gainful employment. Without such evidence in response to the objection, the court must sustain the objection.

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 objection to the debtors' homestead exemption 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 objection,

IT IS ORDERED that the objection is sustained.

2. [17-14503](#)-A-13 **IN RE: JOEY/AUDREA ESTRADA**
[DMG-7](#)

MOTION TO MODIFY PLAN
6-6-2018 [[97](#)]

JOEY ESTRADA/MV
D. GARDNER

No Ruling

3. [18-11829](#)-A-13 **IN RE: FERNANDO LEYVA**
[MHM-1](#)

MOTION TO DISMISS CASE
6-12-2018 [[16](#)]

MICHAEL MEYER/MV
RICHARD STURDEVANT

No Ruling

4. [18-11241](#)-A-13 **IN RE: ELIAS RIVAS AND NICOLE BARRIENTE**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES
6-6-2018 [[27](#)]

Final Ruling

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

5. [18-11241](#)-A-13 **IN RE: ELIAS RIVAS AND NICOLE BARRIENTE**
[EMM-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY FREEDOM HOME MORTGAGE
CORPORATION
5-11-2018 [[18](#)]

FREEDOM MORTGAGE CORPORATION/MV
PHILLIP GILLET
ERIN MCCARTNEY/ATTY. FOR MV.

No Ruling

6. [18-11241](#)-A-13 **IN RE: ELIAS RIVAS AND NICOLE BARRIENTE**
[MHM-1](#)

MOTION TO DISMISS CASE
6-4-2018 [[23](#)]

MICHAEL MEYER/MV
PHILLIP GILLET
RESPONSIVE PLEADING

Final Ruling

The motion withdrawn, the matter is dropped as moot.

7. [18-10543](#)-A-13 **IN RE: CHARLES MASSEY**
[MHM-3](#)

OBJECTION TO CONFIRMATION OF PLAN BY MICHAEL H. MEYER
5-29-2018 [[40](#)]

MICHAEL MEYER/MV
PATRICK KAVANAGH

No Ruling

8. [18-10543](#)-A-13 **IN RE: CHARLES MASSEY**
[MHM-4](#)

OBJECTION TO DEBTOR'S CLAIM OF EXEMPTIONS
6-6-2018 [[44](#)]

MICHAEL MEYER/MV
PATRICK KAVANAGH

Final Ruling

Objection: Objection to Claim of Exemptions
Notice: LBR 9014-1(f)(1); written opposition required
Disposition: Sustained
Order: Civil minute order

Unopposed objections are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c); LBR 9001-1(d), (n) (contested matters include objections). Written opposition to the sustaining of this objection was required not less than 14 days before the hearing on this motion. 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).

DEBTOR'S EXEMPTION CLAIM IN TOOLS

The trustee objects to the debtor's claim of exemption in "hand tools, air compressor, meters, and 3 tool boxes." The exemption is claimed in the amount of \$10,000. Under C.C.P. 703.140(b)(6), the debtor may exempt the debtor's interest in implements, books, or tools of the trade of the debtor.

The Statement of Financial Affairs reveals that the debtor has received no income from the operation of a business since 2016. Fed. R. Evid. 201(b)(2), 801(d)(2). The debtor previously operated a business called "Massey Repairs" in 2015-2016. But without evidence to the contrary, the court must conclude that the business no longer exists and is no longer operated.

Absent an operating business, the debtor cannot claim an exemption in these assets as "implements, books, and tools of the trade of the debtor" under § 703.140(b)(6). The objection will be sustained.

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 objection to the debtors' homestead exemption 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 objection,

IT IS ORDERED that the objection is sustained.

9. [18-10543](#)-A-13 **IN RE: CHARLES MASSEY**
[PK-1](#)

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

PATRICK KAVANAGH

No Ruling

10. [18-11543](#)-A-13 **IN RE: TERRANCE TAYLOR**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES
6-25-2018 [[23](#)]

Tentative Ruling

If the filing fee installment of \$77 due June 18, 2018, has not been paid by the time of the hearing, the case may be dismissed without further notice or hearing.

11. [18-11543](#)-A-13 **IN RE: TERRANCE TAYLOR**
[MHM-1](#)

MOTION TO DISMISS CASE
6-4-2018 [[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).

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.

12. [18-10050](#)-A-13 **IN RE: EDWIN/LALAIN CARDENAS**
[MHM-3](#)

MOTION TO DISMISS CASE
6-4-2018 [[29](#)]

MICHAEL MEYER/MV
ROBERT WILLIAMS
WITHDRAWN

Final Ruling

The motion withdrawn, the matter is dropped as moot.

13. [18-10656](#)-A-13 **IN RE: ERIN FAIRBANK**
[WDO-1](#)

MOTION TO CONFIRM PLAN
5-4-2018 [[15](#)]

ERIN FAIRBANK/MV
WILLIAM OLCOTT

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.

14. [18-10656](#)-A-13 **IN RE: ERIN FAIRBANK**
[WDO-2](#)

MOTION TO AVOID LIEN OF ONEMAIN FINANCIAL GROUP, LLC
6-5-2018 [\[19\]](#)

ERIN FAIRBANK/MV
WILLIAM OLCOTT

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 2003 Mercury Grand Marquis. The debt owed to the respondent is not secured by a purchase money security interest. See 11 U.S.C. § 1325(a) (hanging paragraph). The court values the vehicle at \$2,000.

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 2003 Mercury Grand Marquis has a value of \$2,000. No senior liens on the collateral have been identified. The respondent has a secured claim in the amount of \$2,000 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.

15. [18-10761](#)-A-13 **IN RE: EMILY MARTIN**
[MHM-1](#)

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

MICHAEL MEYER/MV
ROBERT WILLIAMS

No Ruling

16. [18-10761](#)-A-13 **IN RE: EMILY MARTIN**
[RSW-2](#)

MOTION TO CONFIRM PLAN
5-23-2018 [[36](#)]

EMILY MARTIN/MV
ROBERT WILLIAMS

Tentative 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.

17. [18-11763](#)-A-13 **IN RE: JASON/KIMBERLY WHITLOCK**
[APN-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY TOYOTA MOTOR CREDIT
CORPORATION
6-21-2018 [[28](#)]

TOYOTA MOTOR CREDIT CORPORATION/MV
AUSTIN NAGEL/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.

INTEREST RATE ON SECURED CLAIM

The plan's interest rate on a secured claim should be evaluated under the principles established in *Till v. SCS Credit Corp.*, 541 U.S. 465 (2004). The court in *Till* held that the "prime-plus or formula rate best comports with the purposes of the Bankruptcy Code." *Till v. SCS Credit Corp.*, 541 U.S. at 480.

The *Till* Court found that "[i]t is sufficient for our purposes to note that, under 11 U.S.C. § 1325(a)(6), a court may not approve a plan unless, after considering all creditors' objections and receiving the advice of the trustee, the judge is persuaded that 'the debtor will be able to make all payments under the plan and to comply with the plan.' Together with the cramdown provision, this requirement obligates the court to select a rate high enough to compensate the creditor for its risk but not so high as to doom the plan. If the court determines that the likelihood of default is so high as to necessitate an 'eye-popping' interest rate, the plan probably should not be confirmed." *Id.* (citations omitted).

"The appropriate size of that risk adjustment depends, of course, on such factors as the circumstances of the estate, the nature of the security, and the duration and feasibility of the reorganization plan." *Id.* at 479. Without deciding the issue of the proper scale of the risk adjustment, the plurality opinion noted that other courts have generally approved upward adjustments of 1% to 3% to the interest rate. See *id.* at 480.

Here, the plan provides for an interest rate of 0% on the objecting secured creditor's class 2 claim. The court takes judicial notice of the prime rate of interest as published in a leading newspaper. *Bonds, Rates & Credit Markets: Consumer Money Rates*, Wall St. J., July 6, 2018, http://online.wsj.com/mdc/public/page/mdc_bonds.html. The prime rate is 5% as of Friday, July 6, 2018.

The court finds that the appropriate interest rate should be about 1% to 2% above the current prime rate given the nature of the security, the risk of default, and the lack of evidence submitted by the creditor that would warrant upward adjustment.

As a result, the plan's proposed interest rate does not comply with *Till* and § 1325(a)(5). The proper interest rate on this class 2 claim should be at least 6%.

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.

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.

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).

18. [18-11763](#)-A-13 **IN RE: JASON/KIMBERLY WHITLOCK**
[MHM-1](#)

MOTION TO DISMISS CASE
6-12-2018 [[17](#)]

MICHAEL MEYER/MV
RICHARD STURDEVANT

No Ruling

19. [18-12363](#)-A-13 **IN RE: MANUEL/JINA VILLALOVOS**
[SL-1](#)

MOTION TO EXTEND AUTOMATIC STAY
6-19-2018 [[9](#)]

MANUEL VILLALOVOS/MV
SCOTT LYONS

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.

20. [17-14574](#)-A-13 **IN RE: MITCHELL/ELIZABETH GARCIA**
[PLG-1](#)

MOTION TO MODIFY PLAN
5-16-2018 [[16](#)]

MITCHELL GARCIA/MV
RABIN POURNAZARIAN

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.

21. [16-10680](#)-A-13 **IN RE: CHRISTOPHER/AMANDA GONZALES**
[PK-2](#)

MOTION TO MODIFY PLAN
6-4-2018 [[58](#)]

CHRISTOPHER GONZALES/MV
PATRICK KAVANAGH

No Ruling