

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

Honorable Fredrick E. Clement
Sacramento Federal Courthouse
501 I Street, 6th Floor
Courtroom 34, Department A
Sacramento, California

PRE-HEARING DISPOSITIONS

DAY: TUESDAY
DATE: AUGUST 13, 2019
CALENDAR: 11:00 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.

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. [19-23718](#)-D-13 **IN RE: JAMES SHROPSHIRE**
[JHW-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
7-11-2019 [\[21\]](#)

TD AUTO FINANCE, LLC VS.

Final Ruling

Motion: Stay Relief

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

Disposition: Granted

Order: Civil minute order

Subject: 2018 Nissan NV200 vehicle

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).

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 one postpetition payments are past due. The total postpetition delinquency is approximately \$384. The court also notes that the debtor's plan provides for surrender of the vehicle.

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.

TD Auto Finance, LLC's motion for relief from the automatic stay has been presented to the court. Having entered the default of respondent for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the motion,

IT IS ORDERED that the motion is granted. The automatic stay is vacated with respect to the property described in the motion, commonly known as a 2018 Nissan NV200 vehicle, 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.

2. [19-22519](#)-D-13 **IN RE: CURTIS/BIANCA PERNICE**
[RDG-1](#)

CONTINUED OBJECTION TO CONFIRMATION OF PLAN BY RUSSELL D. GREER
6-10-2019 [[23](#)]

No Ruling

3. [19-23321](#)-D-13 **IN RE: DAWNN NWARACHE**
[RDG-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY RUSSELL D. GREER
7-12-2019 [[14](#)]

No Ruling

4. [17-22229](#)-D-13 **IN RE: DENNIS/SHERRY CRUZ**
[TBK-5](#)

MOTION TO MODIFY PLAN
7-3-2019 [[108](#)]

RESPONSIVE PLEADING

No Ruling

5. [18-27740](#)-D-13 **IN RE: HENRIETTA DEBROUWER**
[MJD-4](#)

CONTINUED MOTION TO CONFIRM PLAN
6-21-2019 [\[76\]](#)

RESPONSIVE PLEADING

No Ruling

6. [19-24640](#)-D-13 **IN RE: MOLICA SON**
[GMW-1](#)

MOTION TO EXTEND AUTOMATIC STAY
7-25-2019 [\[7\]](#)

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.

A motion to extend the automatic stay has been presented to the court in this case. 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.

7. [19-24543](#)-D-13 **IN RE: SHARON DALTON**
[ETW-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
7-26-2019 [\[11\]](#)

ROCKWOOD VENTURES, LLC VS.

Tentative Ruling

Motion: Stay Relief under § 362(d) (4)

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

Disposition: Granted

Order: Civil minute order

Subject: 480 Magnolia Lane, Tracy, CA

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).

STAY RELIEF UNDER SECTION 362(D) (1)

There has been a default on a loan held by the moving party and secured by the subject property, and postpetition payments are past due. In addition, there is no plan filed in this case. This is cause for the granting of relief from stay under section 362(d) (1).

The basis for granting relief from stay under section 362(d) (4) below is further cause for the granting of prospective relief from stay under section 362(d) (1).

Accordingly, prospective relief from stay will be granted and the 14-day stay of Federal Rule of Bankruptcy Procedure 4001(a) (3) will be waived.

SECTION 362(d) (4)

Section 362(d) (4) authorizes binding, in rem relief from stay with respect to real property "if the court finds that the filing of the petition was part of a scheme to delay, hinder, or defraud creditors that involved either-(A) transfer of all or part ownership of, or other interest in, such real property without the consent of the

secured creditor or court approval; or (B) multiple bankruptcy filings affecting such real property.” 11 U.S.C. § 362(d)(4).

The B.A.P. has specified the elements for relief under this subsection of § 362. “To obtain relief under § 362(d)(4), the court must find three elements to be present. [1] First, debtor’s bankruptcy filing must have been part of a scheme. [2] Second, the object of the scheme must be to delay, hinder, or defraud creditors. [3] Third, the scheme must involve either (a) the transfer of some interest in the real property without the secured creditor’s consent or court approval, or (b) multiple bankruptcy filings affecting the property.” *In re First Yorkshire Holdings, Inc.*, 470 B.R. 864, 870-71 (B.A.P. 9th Cir. 2012) (footnote omitted). [4] Fourth, the movant creditor must be a creditor whose claim is secured by real property. *In re Ellis*, 523 B.R. 673, 678 (B.A.P. 9th Cir. 2014) (“Applying its plain meaning, this provision of the Code authorizes a bankruptcy court to grant the extraordinary remedy of in rem stay relief only upon the request of a creditor whose claim is secured by an interest in the subject property.”).

An order entered under this subsection must be recorded in compliance with state law to “be binding in any other case under this title purporting to affect such real property filed not later than 2 years after the date of the entry of such order.” § 362(d)(4).

In this case, the debtor obtained a \$304,000 loan in June 2018. She has made no payments on the loan. The debtor filed a chapter 13 bankruptcy case in the Northern District of California on June 29, 2018. The debtor filed virtually no bankruptcy schedules or statements. A July 2, 2018 entry on that case dockets notes eight prior bankruptcy cases filed by the debtor:

Notice of Debtor's Prior Filings for debtor Sharon Kay Dalton
Case Number **08-50118**, Chapter 13 filed in Texas Northern
Bankruptcy Court on 04/01/2008 , **Dismissed** for failure to pay
filing fee on 02/10/2009; Case Number **17-41378**, Chapter 13
filed in California Northern Bankruptcy Court on 05/24/2017 ,
Dismissed for failure to make plan payments on 05/14/2018;
Case Number **11-73530**, Chapter 7 filed in California Northern
Bankruptcy Court on 12/30/2011 , **Dismissed** for Abuse on
01/12/2012; Case Number **00-50243**, Chapter 7 filed in Texas
Northern Bankruptcy Court on 03/07/2000 , **Standard Discharge**
on 08/16/2000; Case Number **11-50394**, Chapter 7 filed in Texas
Northern Bankruptcy Court on 10/03/2011 , **Dismissed** for Other
Reason on 12/16/2011; Case Number **02-51439**, Chapter 13 filed
in Texas Northern Bankruptcy Court on 12/03/2002 , **Dismissed**
for Other Reason on 09/05/2003; Case Number **04-50548**, Chapter
13 filed in Texas Northern Bankruptcy Court on 05/04/2004 ,
Dismissed for Other Reason on 07/12/2004; Case Number **17-41133**,
Chapter 13 filed in California Northern Bankruptcy
Court on 04/27/2017 , **Dismissed** for Failure to File
Information on 05/15/2017.(Admin) (Entered: 07/02/2018)

In re Dalton, Case No. 18-41490 (Bankr. N.D. Cal. 2018).

Case No. 18-41490 was dismissed by the court on July 16, 2018 due to the debtor's failure to file bankruptcy schedules and statements. Case No. 18-41490, ECF No. 12.

The movant started foreclosure on the subject property in December 2018. A May 3, 2019 notice of a trustee's sale set a foreclosure sale for June 3, 2019.

The debtor filed another chapter 13 bankruptcy case in pro per, in this district, on May 30, 2019. Case No. 19-23450. The debtor listed the subject property in her Schedule A/B. But, the debtor did not file a chapter 13 plan and the case was dismissed on June 17, 2019.

The debtor filed the instant chapter 13 bankruptcy case in pro per on July 19, 2019. The debtor has filed a chapter 13 plan but not using the form plan for this district.

The movant is a creditor secured by the subject property.

From the debtor's failure to ever make payments on account of the movant's loan, the numerous past bankruptcy cases filed by the debtor - cases the debtor repeatedly failed to prosecute, and the timing of the instant and most recent filings to coincide with the movant's foreclosure efforts, the court infers that the filing of this case is part of a scheme to delay, hinder, or defraud creditors, including the movant. This scheme involves multiple bankruptcy filings affecting the property, including the debtor's last three filings. Accordingly, relief under section 362(d)(4) is appropriate.

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.

Rockwood Ventures, LLC's motion for relief from the automatic stay under § 362(d)(1) and (4) 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 480 Magnolia Lane, Tracy, CA, 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 AND DECLARED, under 11 U.S.C. § 362(d)(4), that the filing of the petition was part of a scheme to delay, hinder, or defraud creditors that involved multiple bankruptcy filings affecting the subject real property.

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.

8. [18-26550](#)-D-13 **IN RE: ANNA REYNOSO**
[PLG-3](#)

CONTINUED MOTION TO MODIFY PLAN
5-30-2019 [[48](#)]

RESPONSIVE PLEADING

No Ruling

9. [19-21550](#)-D-13 **IN RE: DANIEL/JAMIE DOLE**
[JCK-2](#)

MOTION TO CONFIRM PLAN
6-27-2019 [[27](#)]

RESPONSIVE PLEADING

No Ruling

10. [19-23166](#)-D-13 **IN RE: DANILO/WENDILINA DIWA**
[RDG-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY RUSSELL D. GREER
7-12-2019 [[27](#)]

No Ruling

11. [19-22368](#)-D-13 **IN RE: WALTER/SHIRLEY SAUNDERS**
[TAG-3](#)

MOTION TO CONFIRM PLAN
7-1-2019 [[24](#)]

RESPONSIVE PLEADING

Final Ruling

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

12. [18-26974](#)-D-13 **IN RE: FERNANDO CANTILLO**
[JCK-4](#)

MOTION TO MODIFY PLAN
7-4-2019 [\[50\]](#)

RESPONSIVE PLEADING

No Ruling

13. [19-21675](#)-D-13 **IN RE: ARNOLD ANDRADE**
[RDG-1](#)

CONTINUED MOTION TO DISMISS CASE
7-9-2019 [\[26\]](#)

RESPONSIVE PLEADING

No Ruling

14. [19-23379](#)-D-13 **IN RE: RAMON/NANCY CASTILLO**
[RDG-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY TRUSTEE RUSSELL D.
GREER
7-12-2019 [\[19\]](#)

No Ruling

15. [19-24479](#)-D-13 **IN RE: MIKE/OLIVIA BANUELOS**
[RKW-1](#)

MOTION TO EXTEND AUTOMATIC STAY
7-22-2019 [\[11\]](#)

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.

A motion to extend the automatic stay has been presented to the court in this case. 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.

16. [11-47081](#)-D-13 **IN RE: ANA LEMOS**
[19-2032](#) [TOG-1](#)

CONTINUED MOTION TO DISMISS ADVERSARY PROCEEDING
3-22-2019 [\[12\]](#)

LEMOS V. GILLIS
RESPONSIVE PLEADING

Tentative Ruling

Motion: Dismiss the Adversary Proceeding Complaint (one cause of action, for malpractice)

Notice: N/A, Continued from July 30, 2019

Disposition: Granted

Order: Civil minute order

This is a motion for dismissal, for lack of subject matter jurisdiction, of the sole malpractice cause of action against the defendant, Thomas Gillis.

Prior to the transfer of this adversary proceeding from Judge Robert Bardwil to Judge Fredrick Clement, Judge Bardwil disposed of this motion, granting dismissal for lack of subject matter jurisdiction. See ECF No. 28.

Judge Bardwil had continued the hearing on the motion to July 30, 2019 in order to provide the parties with the opportunity for a further hearing on the motion. See ECF No. 28. The plaintiff did not appear at the July 30 hearing, however. See ECF No. 35.

As a result, Judge Bardwil once again continued the hearing on the motion to August 13, prescribing that "if the plaintiff does not appear at the continued hearing the adversary proceeding will be dismissed without further notice or hearing." ECF No. 36.

Accordingly, subject to a further hearing on the motion on August 13, this court will adopt the ruling of Judge Bardwil granting the motion and dismissing the adversary proceeding for lack of subject matter jurisdiction. The court incorporates here by reference Judge Bardwil's ruling dismissing the adversary proceeding, ECF No. 28. 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 defendant's motion for dismissal of the adversary proceeding has been presented to the court in this case. 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 adversary proceeding, including a single malpractice cause of action, is dismissed, for lack of subject matter jurisdiction. No other relief is awarded.

17. [19-23385](#)-D-13 **IN RE: SHELDON/ANGIE SMITH**
[ETL-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY HARLEY-DAVIDSON
7-18-2019 [\[27\]](#)

No Ruling

18. [15-27287](#)-D-13 **IN RE: GINA TOSCANO**
[PGM-8](#)

CONTINUED MOTION TO MODIFY PLAN
5-31-2019 [[136](#)]

RESPONSIVE PLEADING

No Ruling

19. [19-23389](#)-D-13 **IN RE: CHRISTINA MORONES**
[RDG-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY RUSSELL D. GREER
7-12-2019 [[18](#)]

No Ruling

20. [19-23294](#)-D-13 **IN RE: WILLIAM GRASSO AND LAUREN CANEPA**
[RDG-2](#)

OBJECTION TO CONFIRMATION OF PLAN BY RUSSELL D. GREER
7-12-2019 [[20](#)]

RESPONSIVE PLEADING

No Ruling

21. [19-22298](#)-D-13 **IN RE: DORIAN/CATHERINE ANNE COLBERT**
[RDG-2](#)

CONTINUED OBJECTION TO CONFIRMATION OF PLAN BY RUSSELL D.
GREER
6-10-2019 [[21](#)]

No Ruling

22. [19-22299](#)-D-13 **IN RE: RICHARD/STACIE FRANK**
[RWF-3](#)

OBJECTION TO CLAIM OF PRIMARY RESIDENTIAL MORTGAGE, INC.,
CLAIM NUMBER 1
6-27-2019 [\[30\]](#)

RESPONSIVE PLEADING

Tentative Ruling

Objection: Objection to Proof of Claim 1-1

Notice: LBR 3007-1(b)(1); written opposition required

Disposition: Overruled

Order: Civil minute order

The debtors object to the allowance of secured Proof of Claim No. 1-1 in the amount of \$374,931.28 filed by claimant Primary Residential Mortgage, Inc.

Specifically, the debtors object to the pre-petition arrears in the claim. The claim says that the pre-petition arrears are \$32,862.18, whereas the debtors contend that the arrears are \$29,638.95, based on Primary's March 20, 2019 mortgage statement (last pre-petition mortgage statement; case was filed on April 12, 2019), a difference of \$3,223.23.

Primary opposes the objection.

The court will overrule the objection for the reasons discussed.

Section 502(a) provides that "[a] claim or interest, proof of which is filed under section 501 of this title, is deemed allowed, unless a party in interest . . . objects." 11 U.S.C. § 502(a). A claim must be disallowed if it is unenforceable under applicable nonbankruptcy law. See 11 U.S.C. § 502(b)(1); *accord Diamant v. Kasparian (In re S. Cal. Plastics, Inc.)*, 165 F.3d 1243, 1247 (9th Cir. 1999).

Federal Rule of Bankruptcy Procedure 3001(f) prescribes the evidentiary effect of "[a] proof of claim executed and filed in accordance with [the] rules." Fed. R. Bankr. P. 3001(f). If properly executed and filed under the rules along with all supporting documentation that may be required, *see, e.g.,* Fed. R. Bankr. P. 3001(c), the proof of claim is given an evidentiary presumption of validity. See Fed. R. Bankr. P. 3001(f); *Diamant*, 165 F.3d at 1247-48.

The evidentiary presumption created by Rule 3001(f) "operates to shift the burden of going forward but not the burden of proof." See *Litton Loan Servicing, LP v. Garvida (In re Garvida)*, 347 B.R. 697, 706 (B.A.P. 9th Cir. 2006) (citing *Garner v. Shier (In re Garner)*, 246 B.R. 617, 622 (B.A.P. 9th Cir. 2000); *Diamant*, 165 F.3d at 1248). But this evidentiary presumption is rebuttable. *Id.* at 706. "One rebuts evidence with counter-evidence." *Id.* at 707; *see also Am. Express Bank, FSB v. Askenaizer (In re Plourde)*, 418 B.R. 495,

504 (B.A.P. 1st Cir. 2009) ("[T]o rebut the prima facie evidence a proper proof of claim provides, the objecting party must produce 'substantial evidence' in opposition to it.").

The court is not persuaded that the debtors have overcome the presumptive validity of the proof of claim. The debtors' figure of \$32,862.18 consists of: \$24,295 in outstanding payments, \$2,973.47 in fees and charges, and \$2,467.66 representing the monthly payment due on April 1, 2019.

Primary has submitted evidence, however, indicating that the debtors also had an escrow account, with a shortage of \$816.70.

The debtors' figure also does not include \$2,848.38, consisting of:

- \$25 3/28/19 property inspection cost,
- \$450 4/5/19 appraisal fee, and
- \$2,373.38 in pre-petition foreclosure fees and costs.

ECF No. 47, Exs. 2-4.

The court has reviewed the basis for the above-itemized costs and expenses and has confirmed that Primary incurred such costs and expenses pre-petition. See ECF No. 47, Exs. 2-4.

Given the evidence from Primary, the court is not convinced that the debtors have overcome the presumptive validity of Primary's proof of claim, as it involves the pre-petition arrears. The court cannot sustain the objection. It will be overruled.

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 debtors' objection to proof of claim 1-1 has been presented to the court. Having considered the motion, any oppositions or replies, and having heard oral argument presented at the hearing, if any,

IT IS ORDERED that the objection is overruled.

23. [19-22399](#)-D-13 **IN RE: JULIUS CARVER**
[WLG-1](#)

MOTION TO CONFIRM PLAN
6-27-2019 [\[27\]](#)

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 has the burden of proving that the plan complies with all statutory requirements of confirmation. *In re Andrews*, 49 F.3d 1404, 1407-08 (9th Cir. 1995); *In re Barnes*, 32 F.3d 405, 407-08 (9th Cir. 1994). The court finds that the debtor has sustained that burden, and the court will approve confirmation of the plan.

24. [19-24690](#)-D-13 **IN RE: RICHARD/JENE ROSE SAMSON**
[SMJ-1](#)

MOTION TO EXTEND AUTOMATIC STAY O.S.T.
8-5-2019 [\[14\]](#)

Tentative Ruling

Motion: Extend the Automatic Stay

Notice: LBR 9014-1(f)(3); 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.

A motion to extend the automatic stay has been presented to the court in this case. 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.

25. [19-24650](#)-A-13 **IN RE: SHANE DOSIO**
[PGM-1](#)

MOTION TO EXTEND AUTOMATIC STAY O.S.T.
8-8-2019 [\[16\]](#)

PETER MACALUSO

Tentative Ruling

Motion: Extend the Automatic Stay

Notice: LBR 9014-1(f)(3); 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.

A motion to extend the automatic stay has been presented to the court in this case. 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.