

**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:** SEPTEMBER 5, 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.

**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. [18-12500](#)-A-13     **IN RE: HOLLY EDBLAD**  
[MHM-2](#)

MOTION TO DISMISS CASE  
8-16-2018    [[32](#)]

MICHAEL MEYER/MV

**No Ruling**

2. [15-14303](#)-A-13     **IN RE: LORI SILVA**  
[NLG-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY  
8-1-2018    [[62](#)]

FEDERAL NATIONAL MORTGAGE  
ASSOCIATION/MV  
ROBERT WILLIAMS  
NICHOLE GLOWIN/ATTY. FOR MV.

**Final Ruling**

**Motion:** Stay Relief

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

**Disposition:** Granted

**Order:** Civil minute order

**Subject:** 6901 Bandolero Way, Bakersfield, California

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).

**STAY RELIEF**

The debtor is obligated to make loan payments to the moving party pursuant to a promissory note secured by a deed of trust on the real property described above. The debtor has defaulted on the loan as 8 postpetition payments are past due. Section 362(d)(1) authorizes stay relief for cause shown. 11 U.S.C. § 362(d)(1). Cause exists to grant relief under § 362(d)(1).

Alternatively, because the plan does not provide for the moving party's claim, the court concludes that such property is not necessary to the debtor's financial reorganization. And the moving party has shown that there is no equity in the property. Therefore, relief from the automatic stay under § 362(d)(2) is warranted as well.

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.

Federal National Mortgage Association'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 6901 Bandolero Way, Bakersfield, California, 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.

3. [17-14503](#)-A-13     **IN RE: JOEY/AUDREA ESTRADA**  
[DMG-8](#)

MOTION TO MODIFY PLAN  
8-1-2018    [[117](#)]

JOEY ESTRADA/MV  
D. GARDNER

#### **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.

4. [18-12106](#)-A-13     **IN RE: HECTOR SOLIZ AND BEATRIZ GOMEZ SOLIZ**  
[MHM-1](#)

MOTION TO DISMISS CASE  
7-12-2018    [[18](#)]

MICHAEL MEYER/MV  
ROBERT WILLIAMS  
RESPONSIVE PLEADING

**Final Ruling**

The motion withdrawn, the matter is dropped as moot.

5. [18-11829](#)-A-13     **IN RE: FERNANDO LEYVA**  
[MHM-2](#)

MOTION TO DISMISS CASE  
8-1-2018    [[30](#)]

MICHAEL MEYER/MV  
RICHARD STURDEVANT  
RESPONSIVE PLEADING

**No Ruling**

6. [18-10435](#)-A-13     **IN RE: SERENA VALDEZ**  
[WSL-3](#)

MOTION TO VALUE COLLATERAL OF WELLS FARGO BANK, N.A.  
8-8-2018    [\[79\]](#)

SERENA VALDEZ/MV  
HAROUT BOULDOUKIAN

### **Final Ruling**

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

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

**Disposition:** Granted

**Order:** Civil minute order

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). None has been filed. The default of the respondent is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

### **VALUATION OF COLLATERAL**

Chapter 13 debtors may value collateral by noticed motion. Fed. R. Bankr. P. 3012. Section 506(a) of the Bankruptcy Code provides, "An allowed claim of a creditor secured by a lien on property in which the estate has an interest . . . is a secured claim to the extent of the value of such creditor's interest in the estate's interest in such property" and is unsecured as to the remainder. 11 U.S.C. § 506(a). For personal property, value is defined as "replacement value" on the date of the petition. *Id.* § 506(a)(2). For "property acquired for personal, family, or household purposes, replacement value shall mean the price a retail merchant would charge for property of that kind considering the age and condition of the property at the time value is determined." *Id.* The costs of sale or marketing may not be deducted. *Id.*

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

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

### **CIVIL MINUTE ORDER**

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

The debtor's motion to value non-vehicular, personal property collateral has been presented to the court. Having entered the default of respondent for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the motion,

IT IS ORDERED that the motion is granted. The personal property collateral described as a household furniture sets has a value of \$5,726.50. No senior liens on the collateral have been identified. The respondent has a secured claim in the amount of \$5,726.50 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.

7. [18-11241](#)-A-13      **IN RE: ELIAS RIVAS AND NICOLE BARRIENTE**  
[MHM-3](#)

MOTION TO DISMISS CASE  
8-6-2018    [[65](#)]

MICHAEL MEYER/MV  
PHILLIP GILLET

### **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 trustee moves to dismiss this chapter 13 case. For the reasons stated in the motion, cause exists under § 1307(c)(1) to dismiss the case. This case was filed March 30, 2018. The debtor has not yet confirmed a plan, nor is there a motion to confirm a plan pending. Finding cause, the case is dismissed.

## **CIVIL MINUTE ORDER**

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

The trustee's motion to dismiss this chapter 13 case has been presented to the court. Having entered the default of respondent debtor for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the motion,

IT IS ORDERED that the motion is granted given the debtor's failure to confirm a chapter 13 plan. The court hereby dismisses this case.

8. [18-10742](#)-A-13     **IN RE: F. OLIVER COOPER**  
[MHM-3](#)

OBJECTION TO CONFIRMATION OF PLAN BY MICHAEL H. MEYER  
8-21-2018    [[61](#)]

MICHAEL MEYER/MV

**No Ruling**

9. [18-12344](#)-A-13     **IN RE: DANIEL LOPEZ**  
[MHM-1](#)

MOTION TO DISMISS CASE  
7-19-2018    [[18](#)]

MICHAEL MEYER/MV  
PHILLIP GILLET

**No Ruling**

10. [18-12344](#)-A-13     **IN RE: DANIEL LOPEZ**  
[MHM-2](#)

MOTION TO DISMISS CASE  
8-1-2018    [[22](#)]

MICHAEL MEYER/MV  
PHILLIP GILLET

**No Ruling**

11. [18-13245](#)-A-13     **IN RE: RODNEY/VICKI SLATER**  
[PK-1](#)

MOTION TO EXTEND AUTOMATIC STAY  
8-15-2018    [[9](#)]

RODNEY SLATER/MV  
PATRICK KAVANAGH

**No Ruling**

12. [18-11763](#)-A-13     **IN RE: JASON/KIMBERLY WHITLOCK**  
[MHM-3](#)

CONTINUED MOTION TO DISMISS CASE  
6-21-2018    [[24](#)]

MICHAEL MEYER/MV  
RICHARD STURDEVANT  
RESPONSIVE PLEADING

**No Ruling**

13. [18-11763](#)-A-13     **IN RE: JASON/KIMBERLY WHITLOCK**  
[MHM-4](#)

OBJECTION TO CONFIRMATION OF PLAN BY MICHAEL H. MEYER  
8-20-2018    [[51](#)]

MICHAEL MEYER/MV  
RICHARD STURDEVANT

**No Ruling**

14. [18-12067](#)-A-13     **IN RE: CARLOS MORALES AND ANGELMARIE ESPARZA**  
[MHM-1](#)

MOTION TO DISMISS CASE  
7-19-2018    [[26](#)]

MICHAEL MEYER/MV  
SUSAN SALEHI  
WITHDRAWN

**Final Ruling**

The motion withdrawn, the matter is dropped as moot.



15. [16-10680](#)-A-13     **IN RE: CHRISTOPHER/AMANDA GONZALES**  
[PK-3](#)

MOTION FOR COMPENSATION FOR PATRICK KAVANAGH, DEBTORS  
ATTORNEY(S)  
8-1-2018    [[77](#)]

PATRICK KAVANAGH

### **Final Ruling**

**Application:** Allowance of Interim 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 interim compensation and reimbursement of expenses. The application requests that the court allow compensation in the amount of \$7,617.00 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.

Patrick Kavanagh'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 \$7,617.00 and reimbursement of expenses in the amount of \$0.00. The aggregate allowed amount equals \$7,617.00. As of the date of the application, the applicant held a retainer in the amount of \$0.00. The amount of \$7,617.00 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.

16. [17-14784](#)-A-13     **IN RE: RICHARD/GINA ESPITIA**  
[LKW-2](#)

MOTION TO CONFIRM PLAN  
7-13-2018    [[42](#)]

RICHARD ESPITIA/MV  
LEONARD WELSH  
RESPONSIVE PLEADING

### **Final Ruling**

The plan withdrawn, the matter is dropped as moot.

17. [16-10794](#)-A-13     **IN RE: JASON/ANDREA THOMPSON**  
[RSW-2](#)

MOTION TO MODIFY PLAN  
7-11-2018    [\[41\]](#)

JASON THOMPSON/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 modification 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. "[T]he only limits on modification are those set forth in the language of the Code itself, coupled with the bankruptcy judge's discretion and good judgment in reviewing the motion to modify." *In re Powers*, 202 B.R. 618, 622 (B.A.P. 9th Cir. 1996).

Chapter 13 debtors seeking plan modification have the burden of proving that all requirements of § 1322(a) and (b) and § 1325(a) have been met. See 11 U.S.C. §§ 1322(a)-(b), 1325(a), 1329(b)(1); see also *In re Powers*, 202 B.R. at 622 ("[Section] 1329(b)(1) protects the parties from unwarranted modification motions by ensuring that the proposed modifications satisfy the same standards as required of the initial plan."); see also *In re Barnes*, 32 F.3d 405, 407 (9th Cir. 1994); *In re Andrews*, 49 F.3d 1404, 1408 (9th Cir. 1995).

The court finds that the debtor has sustained this burden of proof. The court will grant the motion and approve the modification.

18. [18-12195](#)-A-13     **IN RE: JAY/BRENDA SINGLETON**  
[MHM-2](#)

MOTION TO DISMISS CASE  
7-19-2018    [[18](#)]

MICHAEL MEYER/MV  
STEVEN ALPERT

**Final Ruling**

The motion withdrawn, the matter is dropped as moot.

19. [18-12195](#)-A-13     **IN RE: JAY/BRENDA SINGLETON**  
[PLG-1](#)

MOTION TO CONFIRM PLAN  
7-30-2018    [[24](#)]

JAY SINGLETON/MV  
STEVEN ALPERT  
RESPONSIVE PLEADING

**No Ruling**