

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

Honorable Fredrick E. Clement
Fresno Federal Courthouse
2500 Tulare Street, 5th Floor
Courtroom 11, Department A
Fresno, California

PRE-HEARING DISPOSITIONS

DAY: WEDNESDAY
DATE: SEPTEMBER 19, 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. [18-13300](#)-A-13 **IN RE: MELISSA OMOS**
[SL-1](#)

MOTION TO EXTEND AUTOMATIC STAY
8-23-2018 [[10](#)]

MELISSA OMOS/MV
SCOTT LYONS

Tentative Ruling

Motion: Extend the Automatic Stay

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

Disposition: Denied

Order: Civil minute order

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. 11 U.S.C. § 362(c)(3)(B) (emphasis added). Otherwise, if notice and the hearing are not completed before the end of the 30-day period, "the automatic stay terminates in its entirety 30 days after the petition date for a repeat filer." *In re Reswick*, 446 B.R. 362, 365, 371-73 (B.A.P. 9th Cir. 2011).

The debtor has had a previous case pending within the one-year period prior to the filing of this case. Although the motion to extend the stay and notice of hearing on such motion were filed and served before the expiration of the 30-day period after the petition date, the hearing on this matter has not been completed before such deadline.

Accordingly, the automatic stay has already terminated, and the court has no authority to grant the relief requested. The motion will be denied.

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 denied.

2. [18-12708](#)-A-13 **IN RE: JAMES/CELENA WATSON**
[MHM-2](#)

MOTION TO DISMISS CASE
8-9-2018 [[22](#)]

MICHAEL MEYER/MV
DAVID JENKINS
WITHDRAWN

Final Ruling

The motion withdrawn, the matter is dropped as moot.

3. [17-10116](#)-A-13 **IN RE: PAULA PARDO**
[TOG-3](#)

MOTION TO MODIFY PLAN
7-31-2018 [[79](#)]

PAULA PARDO/MV
THOMAS GILLIS
OPPOSITION WITHDRAWN

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.

4. [17-12729](#)-A-13 **IN RE: VIRGINIA SOTO**
[JRL-4](#)

MOTION TO TERMINATE WAGE ORDER
9-4-2018 [[48](#)]

VIRGINIA SOTO/MV
JERRY LOWE

No Ruling

5. [17-14529](#)-A-13 **IN RE: BRIAN FOLLAND**
[DRJ-2](#)

CONTINUED MOTION TO VALUE COLLATERAL OF CIT BANK, N.A.
5-10-2018 [[53](#)]

BRIAN FOLLAND/MV
DAVID JENKINS

No Ruling

6. [17-14529](#)-A-13 **IN RE: BRIAN FOLLAND**
[DRJ-2](#)

CONTINUED MOTION TO CONFIRM PLAN
4-13-2018 [[45](#)]

BRIAN FOLLAND/MV
DAVID JENKINS

No Ruling

7. [18-12630](#)-A-13 **IN RE: JOSE/IRMA FLORES**
[MHM-1](#)

MOTION TO DISMISS CASE
8-10-2018 [[17](#)]

MICHAEL MEYER/MV
THOMAS GILLIS
WITHDRAWN

Final Ruling

The motion withdrawn, the matter is dropped as moot.

8. [17-14334](#)-A-13 **IN RE: BRANDY BUMP**
[JRL-1](#)

OBJECTION TO CLAIM OF PORTFOLIO RECOVERY ASSOCIATES, LLC,
CLAIM NUMBER 25
8-14-2018 [[21](#)]

BRANDY BUMP/MV
JERRY LOWE

Final Ruling

Objection: Objection to Claim

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

Disposition: Denied without prejudice

Order: Civil minute order

This is a claim objection. Procedurally defective, it will be denied without prejudice.

DISCUSSION

Under the Local Rules for the Bankruptcy Court in and for the Eastern District of California, claims objections may be filed on 44 days notice or on 30 days notice. LBR 3007-1(b)(1),(2). If 44 days notice is given, opposition must be in writing filed and served 14 days prior to the hearing. LBR 3007-1(b)(A). If 30 days notice is given, opposition need not be filed in advance and may be offered orally at the hearing. LBR 3007-1(b)(2)(A).

Here, the objection was filed 35 days prior to the hearing but incorrectly indicates that opposition must be made 14 days prior to the hearing. This notice does not comply with LBR 9014-1(d)(3)(B)(i), which requires that the notice accurately stated the due date for opposition. As a result, the objection will be overruled without prejudice.

CIVIL MINUTE ORDER

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

Brandy Bump's objection has been presented to the court. Having considered the objection together with papers filed in support and opposition, and having heard the arguments of counsel, if any,

IT IS ORDERED that the objection is overruled without prejudice.

9. [17-14334](#)-A-13 **IN RE: BRANDY BUMP**
[JRL-2](#)

OBJECTION TO CLAIM OF QUANTUM3 GROUP LLC, CLAIM NUMBER 18
8-14-2018 [[24](#)]

BRANDY BUMP/MV
JERRY LOWE

Final Ruling

Objection: Objection to Claim

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

Disposition: Denied without prejudice

Order: Civil minute order

This is a claim objection. Procedurally defective, it will be denied without prejudice.

DISCUSSION

Under the Local Rules for the Bankruptcy Court in and for the Eastern District of California, claims objections may be filed on 44 days notice or on 30 days notice. LBR 3007-1(b)(1),(2). If 44 days notice is given, opposition must be in writing filed and served 14 days prior to the hearing. LBR 3007-1(b)(A). If 30 days notice is given, opposition need not be filed in advance and may be offered orally at the hearing. LBR 3007-1(b)(2)(A).

Here, the objection was filed 35 days prior to the hearing but incorrectly indicates that opposition must be made 14 days prior to the hearing. This notice does not comply with LBR 9014-1(d)(3)(B)(i), which requires that the notice accurately stated the due date for opposition. As a result, the objection will be overruled without prejudice.

CIVIL MINUTE ORDER

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

Brandy Bump's objection has been presented to the court. Having considered the objection together with papers filed in support and opposition, and having heard the arguments of counsel, if any,

IT IS ORDERED that the objection is overruled without prejudice.

10. [17-14334](#)-A-13 **IN RE: BRANDY BUMP**
[JRL-3](#)

OBJECTION TO CLAIM OF QUANTUM3 GROUP LLC, CLAIM NUMBER 16
8-14-2018 [\[27\]](#)

BRANDY BUMP/MV
JERRY LOWE

Final Ruling

Objection: Objection to Claim

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

Disposition: Denied without prejudice

Order: Civil minute order

This is a claim objection. Procedurally defective, it will be denied without prejudice.

DISCUSSION

Under the Local Rules for the Bankruptcy Court in and for the Eastern District of California, claims objections may be filed on 44 days notice or on 30 days notice. LBR 3007-1(b)(1),(2). If 44 days notice is given, opposition must be in writing filed and served 14 days prior to the hearing. LBR 3007-1(b)(A). If 30 days notice is given, opposition need not be filed in advance and may be offered orally at the hearing. LBR 3007-1(b)(2)(A).

Here, the objection was filed 35 days prior to the hearing but incorrectly indicates that opposition must be made 14 days prior to the hearing. This notice does not comply with LBR 9014-1(d)(3)(B)(i), which requires that the notice accurately stated the due date for opposition. As a result, the objection will be overruled without prejudice.

CIVIL MINUTE ORDER

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

Brandy Bump's objection has been presented to the court. Having considered the objection together with papers filed in support and opposition, and having heard the arguments of counsel, if any,

IT IS ORDERED that the objection is overruled without prejudice.

11. [17-14334](#)-A-13 **IN RE: BRANDY BUMP**
[JRL-4](#)

OBJECTION TO CLAIM OF QUANTUM3 GROUP LLC, CLAIM NUMBER 14
8-14-2018 [[30](#)]

BRANDY BUMP/MV
JERRY LOWE

Final Ruling

Objection: Objection to Claim

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

Disposition: Denied without prejudice

Order: Civil minute order

This is a claim objection. Procedurally defective, it will be denied without prejudice.

DISCUSSION

Under the Local Rules for the Bankruptcy Court in and for the Eastern District of California, claims objections may be filed on 44 days notice or on 30 days notice. LBR 3007-1(b)(1),(2). If 44 days notice is given, opposition must be in writing filed and served 14 days prior to the hearing. LBR 3007-1(b)(A). If 30 days notice is given, opposition need not be filed in advance and may be offered orally at the hearing. LBR 3007-1(b)(2)(A).

Here, the objection was filed 35 days prior to the hearing but incorrectly indicates that opposition must be made 14 days prior to the hearing. This notice does not comply with LBR 9014-1(d)(3)(B)(i), which requires that the notice accurately stated the due date for opposition. As a result, the objection will be overruled without prejudice.

CIVIL MINUTE ORDER

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

Brandy Bump's objection has been presented to the court. Having considered the objection together with papers filed in support and opposition, and having heard the arguments of counsel, if any,

IT IS ORDERED that the objection is overruled without prejudice.

12. [17-14334](#)-A-13 **IN RE: BRANDY BUMP**
[JRL-5](#)

OBJECTION TO CLAIM OF NAVIENT PC TRUST, CLAIM NUMBER 12
8-14-2018 [[33](#)]

BRANDY BUMP/MV
JERRY LOWE

Final Ruling

Objection: Objection to Claim

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

Disposition: Denied without prejudice

Order: Civil minute order

This is a claim objection. Procedurally defective, it will be denied without prejudice.

DISCUSSION

Under the Local Rules for the Bankruptcy Court in and for the Eastern District of California, claims objections may be filed on 44 days notice or on 30 days notice. LBR 3007-1(b)(1),(2). If 44 days notice is given, opposition must be in writing filed and served 14 days prior to the hearing. LBR 3007-1(b)(A). If 30 days notice is given, opposition need not be filed in advance and may be offered orally at the hearing. LBR 3007-1(b)(2)(A).

Here, the objection was filed 35 days prior to the hearing but incorrectly indicates that opposition must be made 14 days prior to the hearing. This notice does not comply with LBR 9014-1(d)(3)(B)(i), which requires that the notice accurately stated the due date for opposition. As a result, the objection will be overruled without prejudice.

CIVIL MINUTE ORDER

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

Brandy Bump's objection has been presented to the court. Having considered the objection together with papers filed in support and opposition, and having heard the arguments of counsel, if any,

IT IS ORDERED that the objection is overruled without prejudice.

13. [17-14334](#)-A-13 **IN RE: BRANDY BUMP**
[JRL-6](#)

OBJECTION TO CLAIM OF NELNET, CLAIM NUMBER 1
8-14-2018 [[36](#)]

BRANDY BUMP/MV
JERRY LOWE

No Ruling

14. [17-14334](#)-A-13 **IN RE: BRANDY BUMP**
[JRL-7](#)

OBJECTION TO CLAIM OF QUANTUM3 GROUP LLC, CLAIM NUMBER 20
8-14-2018 [[39](#)]

BRANDY BUMP/MV
JERRY LOWE

Final Ruling

Objection: Objection to Claim

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

Disposition: Denied without prejudice

Order: Civil minute order

This is a claim objection. Procedurally defective, it will be denied without prejudice.

DISCUSSION

Under the Local Rules for the Bankruptcy Court in and for the Eastern District of California, claims objections may be filed on 44 days notice or on 30 days notice. LBR 3007-1(b)(1),(2). If 44 days notice is given, opposition must be in writing filed and served 14 days prior to the hearing. LBR 3007-1(b)(A). If 30 days notice is given, opposition need not be filed in advance and may be offered orally at the hearing. LBR 3007-1(b)(2)(A).

Here, the objection was filed 35 days prior to the hearing but incorrectly indicates that opposition must be made 14 days prior to the hearing. This notice does not comply with LBR 9014-1(d)(3)(B)(i), which requires that the notice accurately stated the due date for opposition. As a result, the objection will be overruled without prejudice.

CIVIL MINUTE ORDER

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

Brandy Bump's objection has been presented to the court. Having considered the objection together with papers filed in support and opposition, and having heard the arguments of counsel, if any,

IT IS ORDERED that the objection is overruled without prejudice.

15. [18-11844](#)-A-13 **IN RE: NOEL MUNERLYN AND ROBYN
HASKINS-MUNERLYN
[MHM-4](#)**

MOTION TO DISMISS CASE
8-10-2018 [[35](#)]

MICHAEL MEYER/MV
PETER BUNTING
WITHDRAWN

Final Ruling

The motion withdrawn, the matter is dropped as moot.

16. [17-12047](#)-A-13 **IN RE: TAMMY ABELS
[FW-4](#)**

MOTION TO MODIFY PLAN
8-6-2018 [[97](#)]

TAMMY ABELS/MV
PETER FEAR

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.

17. [18-10449](#)-A-13 **IN RE: BRUCE/SHARON YEAGER**
[FJG-4](#)

MOTION TO CONFIRM PLAN
8-14-2018 [\[64\]](#)

BRUCE YEAGER/MV
F. GIST

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.

18. [18-12249](#)-A-13 **IN RE: TRISHALL WASHINGTON**
[TCS-2](#)

MOTION TO VALUE COLLATERAL OF AMERICREDIT FINANCIAL
SERVICES, INC.
8-22-2018 [[20](#)]

TRISHALL WASHINGTON/MV
TIMOTHY SPRINGER

No Ruling

19. [17-13954](#)-A-13 **IN RE: LESLIE HARRIS**
[FW-2](#)

MOTION TO MODIFY PLAN
8-6-2018 [[27](#)]

LESLIE HARRIS/MV
GABRIEL WADDELL

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.

20. [18-12661](#)-A-13 **IN RE: GEORGE WRIGHT**
[MHM-2](#)

MOTION TO DISMISS CASE
8-9-2018 [[18](#)]

MICHAEL MEYER/MV
JANINE ESQUIVEL
WITHDRAWN

Final Ruling

The motion withdrawn, the matter is dropped as moot.

21. [18-13565](#)-A-13 **IN RE: STEVEN/SARAH WILLIAMS**
[SL-1](#)

MOTION TO EXTEND AUTOMATIC STAY
9-5-2018 [[8](#)]

STEVEN WILLIAMS/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.

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.

22. [18-11467](#)-A-13 **IN RE: FRANKLIN BAER**
[KSB-2](#)

MOTION TO CONFIRM PLAN
7-18-2018 [[41](#)]

FRANKLIN BAER/MV
KELLY BRESSO

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.

23. [18-11975](#)-A-13 **IN RE: KEITH/KRISTI BLACKETT**
[MHM-1](#)

CONTINUED MOTION TO DISMISS CASE
7-9-2018 [[32](#)]

MICHAEL MEYER/MV
D. GARDNER

No Ruling

24. [13-16683](#)-A-13 **IN RE: SENG SAEPHAN AND INKHAM SAYAVONG**
[MHM-1](#)

MOTION TO DISMISS CASE
8-6-2018 [[63](#)]

MICHAEL MEYER/MV
PETER FEAR

Final Ruling

The motion withdrawn, the matter is dropped as moot.

25. [13-14785](#)-A-13 **IN RE: MICHAEL WHITE**
[MHM-2](#)

MOTION TO DISMISS CASE
8-20-2018 [[55](#)]

MICHAEL MEYER/MV
PETER BUNTING
WITHDRAWN

Final Ruling

The motion withdrawn, the matter is dropped as moot.

26. [17-14095](#)-A-13 **IN RE: KEITH HORTON AND JENNIFER ROGERS**
[GEG-2](#)

MOTION FOR COMPENSATION BY THE LAW OFFICE OF GATES LAW GROUP
FOR GLEN E. GATES, DEBTORS ATTORNEY(S)
8-15-2018 [[48](#)]

GLEN GATES

Tentative Ruling

The court will inquire whether debtor's counsel received a retainer prior to the petition and, if so, the amount. The application for compensation, August 15, 2017, ECF # 48, and the Disclosure of Compensation, November 16, 2017, ECF # 14, indicate no retainer was received. But the plan, November 16, 2017, ECF # 15, and the fee agreement, Application for Compensation, Exhibit E, indicate a \$2,000 retainer was received.

27. [18-12195](#)-A-13 **IN RE: JAY/BRENDA SINGLETON**
[PLG-2](#)

MOTION TO VALUE COLLATERAL OF KERN SCHOOLS FEDERAL CREDIT
UNION
8-20-2018 [[39](#)]

JAY SINGLETON/MV
STEVEN ALPERT

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 2013 Hyundai Santa Fe GLS Sport Utility 4D. The debt secured by the vehicle was not incurred within the 910-day period preceding the date of the petition. The court values the vehicle at \$15,740.

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 2013 Hyundai Santa Fe GLS Sport Utility 4D has a value of \$15,740. No senior liens on the collateral have been identified. The respondent has a secured claim in the amount of \$23,063.01 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.

28. [18-13096](#)-A-13 **IN RE: CATHERINE GARCIA**
[PBB-2](#)

MOTION TO VALUE COLLATERAL OF INTERNAL REVENUE SERVICE
8-7-2018 [[15](#)]

CATHERINE GARCIA/MV
PETER BUNTING

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 personal property described on Schedule D, July 30, 2018, ECF # 1. 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 \$2,812.48.

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 Schedule D, July 30, 2018, ECF # 1 has a value of \$2,812.48. No senior liens on the collateral have been identified. The respondent has a secured claim in the amount of \$72,907.94 equal to the value of the collateral that is unencumbered by senior liens. The respondent has a priority and/or general unsecured claim for the balance of the claim.

29. [16-10697](#)-A-13 **IN RE: DARCY NUNES**
[TCS-7](#)

MOTION TO MODIFY PLAN
8-2-2018 [[98](#)]

DARCY NUNES/MV
TIMOTHY SPRINGER

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.

30. [15-13698](#)-A-13 **IN RE: XIONG HEU AND BAO VANG**
[TCS-2](#)

MOTION TO MODIFY PLAN
8-14-2018 [\[47\]](#)

XIONG HEU/MV
TIMOTHY SPRINGER

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.

31. [18-11599](#)-A-13 **IN RE: SILVIA ABARCA**
[MHM-2](#)

MOTION TO DISMISS CASE
8-10-2018 [[24](#)]

MICHAEL MEYER/MV
HENRY NUNEZ
WITHDRAWN

Final Ruling

The motion withdrawn, the matter is dropped as moot.

32. [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

Final Ruling

The motion withdrawn, the matter is dropped as moot.