

**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: THURSDAY
DATE: JANUARY 9, 2020
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. [19-13701](#)-A-13 **IN RE: PAUL/KATHERINE MCCURRY**
[DMG-1](#)

MOTION TO CONFIRM PLAN
11-26-2019 [[27](#)]

PAUL MCCURRY/MV
D. GARDNER/ATTY. FOR DBT.

No Ruling

2. [19-13701](#)-A-13 **IN RE: PAUL/KATHERINE MCCURRY**
[MHM-2](#)

MOTION TO DISMISS CASE
11-26-2019 [[23](#)]

MICHAEL MEYER/MV
D. GARDNER/ATTY. FOR DBT.

No Ruling

3. [19-13807](#)-A-13 **IN RE: ROD/ANGELIQUE REED**
[MHM-1](#)

CONTINUED OBJECTION TO CONFIRMATION OF PLAN BY TRUSTEE
MICHAEL H. MEYER
10-17-2019 [[12](#)]

ROBERT WILLIAMS/ATTY. FOR DBT.

No Ruling

4. [19-12709](#)-A-13 **IN RE: HANS YEAGER**
[RSW-1](#)

MOTION TO CONFIRM PLAN
12-3-2019 [[44](#)]

HANS YEAGER/MV
ROBERT WILLIAMS/ATTY. FOR DBT.

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 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.

5. [19-14310](#)-A-13 **IN RE: TRACY FLAHERTY**
[MHM-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY TRUSTEE MICHAEL H.
MEYER
11-27-2019 [[22](#)]

ROBERT WILLIAMS/ATTY. FOR DBT.

Final Ruling

This objection having been withdrawn, the calendar will drop this matter from the calendar as moot.

6. [19-14310](#)-A-13 **IN RE: TRACY FLAHERTY**
[MHM-2](#)

MOTION TO DISMISS CASE
12-11-2019 [[25](#)]

MICHAEL MEYER/MV
ROBERT WILLIAMS/ATTY. FOR DBT.

Final Ruling

The Debtor having filed to convert this case to Chapter 7 (ECF 32), this matter will be dropped from the calendar as moot.

7. [19-14515](#)-A-13 **IN RE: SANOVIO GARCIA**
[MHM-1](#)

MOTION TO DISMISS CASE
12-11-2019 [[29](#)]

MICHAEL MEYER/MV
ROBERT WILLIAMS/ATTY. FOR DBT.

Final Ruling

This motion having been withdrawn, the calendar will drop this matter from the calendar as moot.

8. [17-12220](#)-A-13 **IN RE: KRISTOPHER FRANZEN AND VIRGINIA**
GONZALEZ-FRANZEN
[NES-2](#)

MOTION TO MODIFY PLAN
11-19-2019 [[41](#)]

KRISTOPHER FRANZEN/MV
NEIL SCHWARTZ/ATTY. FOR DBT.

No Ruling

9. [19-10853](#)-A-13 **IN RE: BEATRIZ AGUILAR**
[RSW-1](#)

MOTION TO MODIFY PLAN
11-13-2019 [\[22\]](#)

BEATRIZ AGUILAR/MV
ROBERT WILLIAMS/ATTY. FOR DBT.

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 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.

10. [19-13856](#)-A-13 **IN RE: DARRIN/REBECCA STACEY**
[MHM-1](#)

CONTINUED OBJECTION TO CONFIRMATION OF PLAN BY TRUSTEE
MICHAEL H. MEYER
10-16-2019 [[16](#)]

D. GARDNER/ATTY. FOR DBT.

Final Ruling

This case having been dismissed, the court will drop this matter from the calendar as moot.

11. [19-14161](#)-A-13 **IN RE: GARY GOODMAN**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES
12-5-2019 [[19](#)]

PHILLIP GILLET/ATTY. FOR DBT.
FINAL INSTALLMENT OF \$231.00 PAID ON 12/9/19

Final Ruling

The installment having been paid, the order to show cause is discharged. The case will remain pending.

12. [19-14161](#)-A-13 **IN RE: GARY GOODMAN**
[MHM-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY TRUSTEE MICHAEL H.
MEYER
11-27-2019 [[16](#)]

PHILLIP GILLET/ATTY. FOR DBT.

Tentative Ruling

Objection: Trustee'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.

The plan is short \$67.73 per month, and therefore fails to provide all income to the Trustee as necessary under 11 U.S.C. §1322(a).

Debtor is unable to pay required support payments and testified at the 341 meeting he is unable to locate his former spouse to whom support is due. The plan fails to provide for full payment of all claims entitled to priority under 11 U.S.C. §1322(a).

The plan fails to provide that unsecured creditors would receive at least as much as if this were a Chapter 7. 11 U.S.C. §1325(a)(4). The plan proposes to pay \$11,071.35 to unsecured creditors. However, in Debtor's last case No. 19-12838 that has been dismissed, Debtor valued his residence at \$597,918.00. In this current case, Debtor valued the same residence at \$523,638.00, but provided no evidence demonstrating a reduction in value. Assuming the value of the property is \$597,638.00, Trustee finds that Debtors have nonexempt equity in the property at \$75,969.87, and additional nonexempt equity in personal property assets at \$10,275.76. Under the Trustee's calculations, the plan's proposed payment of \$11,071.35 does not constitute what unsecured creditors would receive if this were a Chapter 7.

Debtor testified at the 341 meeting he is unable to locate his former spouse to whom spousal support is due. The plan therefore does not comply with 11 U.S.C. §1325(a)(8) requirements to pay all domestic support obligations.

The plan would take over 60 months to fund, and therefore does not comply with 11 U.S.C. §1322(d). Trustee requests that the plan payment increase to at least \$3,870.65 to be able to fund a 60-month plan.

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 chapter 13 trustee'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.

13. [19-15061](#)-A-13 **IN RE: MILDRED MARISCAL**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES
12-17-2019 [[17](#)]

WILLIAM EDWARDS/ATTY. FOR DBT.

Tentative Ruling

If the filing fee has not been paid in full by the time of the hearing, the case may be dismissed without further notice or hearing.

14. [17-14665](#)-A-13 **IN RE: VICKI/ANGELA VALENTYN**
[RSW-3](#)

MOTION TO MODIFY PLAN
11-22-2019 [[102](#)]

VICKI VALENTYN/MV
ROBERT WILLIAMS/ATTY. FOR DBT.

No Ruling

15. [19-14266](#)-A-13 **IN RE: BENJAMIN TORRES**
[MHM-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY TRUSTEE MICHAEL H. MEYER
11-27-2019 [[16](#)]

RABIN POURNAZARIAN/ATTY. FOR DBT.

Tentative Ruling

Objection: Trustee'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.

The plan cannot discriminate between classes of unsecured claims. 11 U.S.C. §1322(b). Here, the plan proposes to pay 6% to unsecured creditors and to pay student loan direct. *In re Sperna*, 173 B.R. 654, 660-61 (B.A.P. 9th Cir. 1994)(finding that even though student

loans are nondischargeable that is not, by itself, a reasonable basis for giving them preferential treatment). The plan therefore violates 11 U.S.C. §1322(b).

A chapter 13 plan must provide unsecured creditors at least the amount they would have been paid if this were a Chapter 7 case. 11 U.S.C. §1325(a)(4). 11 U.S.C. § 544 provides for the avoiding of any transfer of interest of the debtor in property that is voidable under applicable law by a creditor holding an unsecured claim. 11 U.S.C. § 548 allows for the avoiding of certain transfer of interest of the debtor in property that was made or incurred on or within two years of filing the petition. It is the debtor's burden to demonstrate that the plan complies with 11 U.S.C. § 1325(a)(4). See *In re Barnes*, 32 F.3d 405, 407 (9th Cir. 1994).

According to the Statement of Financial Affairs, Question 18, Debtor was given half interest in real property. Debtor then transferred his interest in said real property to his uncle for \$18,000.00. The value at the time of transfer was \$140,000.00. ECF 1. Debtor testified at the 341 meeting that his interest in transferred real property was \$70,000.00, and did not receive the equivalent value in exchange for transfer of his interest to his uncle. Trustee has not yet received from Debtor requested documents regarding transfer of real property. Debtor has not adequately demonstrated that the plan complies with § 1325(a)(4).

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 chapter 13 trustee'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.

16. [15-12283](#)-A-13 **IN RE: RYAN MCKAY**
[PK-7](#)

MOTION FOR COMPENSATION FOR PATRICK KAVANAGH, DEBTORS
ATTORNEY(S)
12-6-2019 [\[117\]](#)

RYAN MCKAY/MV
PATRICK KAVANAGH/ATTY. FOR DBT.

No Ruling

17. [18-14493](#)-A-13 **IN RE: ALICIA GOMEZ**
[RSW-3](#)

MOTION TO MODIFY PLAN
11-13-2019 [[56](#)]

ALICIA GOMEZ/MV
ROBERT WILLIAMS/ATTY. FOR DBT.

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 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. [19-12709](#)-A-13 **IN RE: HANS YEAGER**
[MHM-2](#)

CONTINUED MOTION TO DISMISS CASE
11-7-2019 [[38](#)]

MICHAEL MEYER/MV
ROBERT WILLIAMS/ATTY. FOR DBT.

Final Ruling

This plan having been confirmed, and plan confirmation being the sole basis for Trustee's motion to dismiss, the court will drop this motion to dismiss from the calendar as moot.

19. [19-14645-A-13](#) **IN RE: ROGELIO VALENCIA**
[MHM-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY TRUSTEE MICHAEL H.
MEYER
12-23-2019 [[16](#)]

NEIL SCHWARTZ/ATTY. FOR DBT.

Tentative Ruling

Objection: Trustee'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.

Debtor has not shown the plan has been filed in good faith under 11 U.S.C. §§ 1325(a)(3), (7). Debtors have not used the required form EDC 3-080 for the plan. Official Form 122C-1 is missing both debtor's and non-filing spouse's income and reflects \$0, but still states a total annual income of \$45,000.00, thereby making the household below median. Schedules A/B and D do not adequately describe the vehicle, so Trustee cannot determine the value of the vehicle. Schedule A/B fails to list clothing. Trustee has not received the required Class 1 Checklist with mortgage statement and Authorization and Release. The schedules, statements, and plan are not filed in a condition to support a confirmable plan.

The plan does not provide Trustee all income as necessary to execute the plan under 11 U.S.C. § 1322(a). The plan is short at least

\$16.76 to fund all monthly dividends required in Section 5.02 of the plan.

The plan is not feasible under 11 U.S.C. § 1325(a)(6). The plan payment is \$2,100.00 per month, but Schedule J reflects a net income of \$1,748.13.

The plan does not provide for all of Debtor's projected disposable income to be applied to unsecured creditors in compliance with 11 U.S.C. § 1325(b). The Form 122C-1 is not filled out correctly, stating Debtor's and non-filing spouse's income is \$0.00 while also stating a total annual income of \$45,000.00. Trustee also has no evidence of what Debtor earned in the 6 months prior to filing. Debtor did not fill out 122C-1 correctly and did not submit paystubs from his prior employer for May - August 2019. Based on the paystubs from his new employer that Debtor submitted, Trustee anticipates Debtor will earn \$4,475.91 going forward, and that Debtor's spouse would earn \$4,200.00 per month. Without further evidence, Trustee cannot tell whether Debtors are above or below median. Trustee therefore cannot calculate disposable income.

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 chapter 13 trustee'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.

20. [19-14578-A-13](#) **IN RE: STEVE/SANDY GONZALES**
[MHM-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY TRUSTEE MICHAEL H.
MEYER
12-23-2019 [[29](#)]

THOMAS MOORE/ATTY. FOR DBT.

Tentative Ruling

Objection: Trustee'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.

Debtor's plan must be in compliance with applicable provisions of the Bankruptcy Code under 11 U.S.C. § 1325(a)(1). Debtors are required pursuant to 11 U.S.C. § 521(a)(3) to cooperate with the trustee. Debtor has not submitted requested recent mortgage statement and October 18, 2019 paystub to Trustee. Debtors therefore have not complied with 11 U.S.C. § 1325(a)(1).

Debtor has not shown the plan has been filed in good faith under 11 U.S.C. §§ 1325(a)(3), (7). Schedule H does not list the current and former spouses and their addresses. Schedule A/B does not list clothes and jewelry. Schedule C claims both, 703 and 704 exemptions, when the California Code of Civil Procedures requires that debtors pick only one or the other. The schedules are therefore not filed in a condition to support a confirmable plan.

The plan does not provide Trustee all income as necessary to execute the plan under 11 U.S.C. § 1322(a). Creditor Santander Consumer USA Inc. has a Class 1 claim in the plan. This loan will mature during the plan, and should therefore be in Class 2. Also, the monthly amount of \$14,17 will not pay the claim in full, which is \$25,300.38.

The plan also does not comply with other applicable provisions of the code under 11 U.S.C. § 1325(a)(1). Administrative claims must be paid before or at the same time as other creditors in the plan. 11 U.S.C. § 1326(b)(1). The plan provides \$1,500.00 of administrative fees to be paid, but 3.06 designates \$0.00 to be paid monthly. Further, Local Bankruptcy Rule 2016-1 allows up to \$4,000.00 for attorney's fees. The plan indicates attorney has been paid \$2,500.00 up front. However, the Statement of Financial Affairs indicates

Debtors paid the attorney \$7,000.00. Statement of Financial Affairs, item 16.

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 chapter 13 trustee'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.

21. [19-13473-A-13](#) **IN RE: CHRISTOPHER LOCASCIO**
[CJK-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
12-23-2019 [[32](#)]

ROUNDPOINT MORTGAGE SERVICING
CORPORATION/MV
ROBERT WILLIAMS/ATTY. FOR DBT.
CHRISTINA O/ATTY. FOR MV.

Tentative Ruling

Motion: Stay Relief

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

Disposition: Continued to January 29, 2020 at 9:00 a.m.

Order: Civil minute order

Subject: 23800 Coyote Court, Tehachapi, CA 93561

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

Subsection (d)(1) of § 362 of Title 11 provides for relief from stay for "cause, including the lack of adequate protection of an interest in property of such party." 11 U.S.C. § 362(d)(1). Adequate protection may consist of a lump sum cash payment or periodic cash payments to the entity entitled to adequate protection "to the

extent that the stay . . . results in a decrease in the value of such entity's interest in property." 11 U.S.C. § 361(1).

In the originally filed plan (ECF 2), Movant was placed in Class 4. Movant has filed for stay relief for cause under § 362(d)(1). The basis for the motion is the debtor's delinquency in payments to the movant on account of its claim. If the original plan had been confirmed, the court would have granted stay relief. However, there has been no confirmation, and Debtors have filed an amended chapter 13 plan (ECF 30). The amended plan places Movant in Class 1 and provides for the cure of the asserted delinquency. The confirmation date for the amended plan has been set for January 29, 2020 at 9:00 a.m.

Subsection (e)(1) of § 362 of Title 11 provides that "Thirty days after a request under subsection (d) of this section for relief from the stay of any act against property of the estate, such stay is terminated with respect to the party in interest making such request, unless the court, after notice and a hearing, orders such stay continued in effect pending the conclusion of, or as a result of, a final hearing and determination under subsection (d) of this section. The court shall order such stay continued in effect pending the conclusion of the final hearing under subsection (d) of this section if there is a reasonable likelihood that the party opposing relief from such stay will prevail at the conclusion of such final hearing." 11 U.S.C. § 362(e)(1).

Having compared the Debtor's projected income in filed Schedules I and J with the proposed plan payment, the court finds reasonable likelihood that Debtor will achieve confirmation. The court orders that the stay will remain in effect until the court rules on the motion for stay relief. This matter will be continued to coincide with the plan confirmation hearing.

CIVIL MINUTE ORDER

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

IT IS ORDERED that the application is continued to January 29, 2020, at 9:00 a.m. to coincide with the hearing on plan confirmation.

IT IS FURTHER ORDERED that the stay remains in effect until the court hears this matter.