

**UNITED STATES BANKRUPTCY COURT
Eastern District of California**

Honorable Christopher D. Jaime
Robert T. Matsui U.S. Courthouse
501 I Street, Sixth Floor
Sacramento, California

PRE-HEARING DISPOSITIONS COVER SHEET

DAY: TUESDAY

DATE: May 4, 2021

CALENDAR: 1:00 P.M. CHAPTER 13

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 and no appearance is necessary. 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 seven (7) days of the final hearing on the matter.

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Christopher D. Jaime

Bankruptcy Judge

Sacramento, California

May 4, 2021 at 1:00 p.m.

1. [19-23402](#)-B-13 LILA BAUMGARTNER MOTION FOR RELIEF FROM
[JHK](#)-1 Len ReidReynoso AUTOMATIC STAY
3-25-21 [[23](#)]

ACAR LEASING LTD VS.

Final Ruling

The motion has been set for hearing on 28-days notice. Local Bankruptcy Rule 9014-1(f)(1). The failure of the respondent and other parties in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(B) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Non-opposition was filed by the Debtor. The matter will be resolved without oral argument. No appearance at the hearing is required.

The court's decision is to grant the motion for relief from stay.

Acar Leasing Ltd d/b/a GM Financial Leasing moves for relief from stay as to a 2018 Chevrolet Cruze. Debtor filed a response stating that she has no objection to the relief from stay and had actually returned the vehicle on March 30, 2021, to the Chase Chevrolet dealership located at 6441 Holman Road, Stockton, California.

The motion for relief from stay is granted. The 14-day stay of enforcement under Rule 4001(a)(3) is waived.

No other or additional relief is granted by the court.

The motion is ORDERED GRANTED for reasons stated in the minutes.

The court will issue an order.

May 4, 2021 at 1:00 p.m.

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2. [20-22120](#)-B-13 STEPHON TYLER MOTION TO CONFIRM PLAN
[RS-3](#) Richard L. Sturdevant 3-30-21 [[63](#)]

Final Ruling

The motion has been set for hearing on the 35-days notice required by Local Bankruptcy Rules 3015-1(d)(1), 9014-1(f)(1), and Federal Rule of Bankruptcy Procedure 2002(b). The failure of the respondent and other parties in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(B) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Opposition was filed.

The court has determined this matter may be decided on the papers. See General Order No. 618 at p.3, ¶ 3 (E.D. Cal. May 13, 2020) (ordering courthouse closure "until further notice" due to the COVID-19 pandemic and further ordering that all civil matters are to be decided on the papers unless the presiding judge determines a hearing is necessary). The court has also determined that oral argument will not assist in the decision-making process or resolution of the motion. See Local Bankr. R. 9014-1(h), 1001-1(f).

The court's decision is to confirm the third amended plan.

The Chapter 13 Trustee objects to confirmation of the plan on grounds that the Debtor is delinquent in payments. The total post-petition arrears owed to Class 1 creditor Nationstar is \$6,047.25, representing the forbearance months of May through September 2020. In the event that Debtor's motion is granted, Trustee requests language in the order confirming plan to confirm the total post-petitions due are \$6,047.25. 11 U.S.C. §1325(a)(6). Trustee also requests language in the order confirming to state that the lump sum payment of \$6,047.25 will be paid with funds on hand in May 2021.

The Debtor filed a response stating that the Trustee's requested language will be included in the order confirming. Debtor also states that plan payments shall be as follows: Debtor shall pay the Trustee \$1,875.00 for month 1, \$676.83 for months 2-7, \$1,757.68 for month 8, \$2,229 for months 9-12, and \$2,183 for months 13-60. These proposals will cure the Trustee's opposition and allow for a confirmed plan. The Debtor's plan delinquency was due to an error in the attorney's calculations of plan payments. The changes proposed above cure the delinquency.

The plan complies with 11 U.S.C. §§ 1322, 1323, and 1325(a) and is confirmed.

The motion is ORDERED GRANTED for reasons stated in the minutes. Counsel for the Debtor shall prepare an appropriate order confirming the Chapter 13 Plan, transmit the proposed order to the Chapter 13 Trustee for approval as to form, and if so approved, the Chapter 13 Trustee will submit the proposed order to the court.

The court will issue an order.

3. [20-24933](#)-B-13 THOMAS/RENEE IRELAND
[JHK](#)-1 Brian S. Haddix

MOTION FOR RELIEF FROM
AUTOMATIC STAY
4-1-21 [[23](#)]

FORD MOTOR CREDIT COMPANY
LLC VS.

Final Ruling

The motion has been set for hearing on 28-days notice. Local Bankruptcy Rule 9014-1(f)(1). The failure of the respondent and other parties in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(B) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Non-opposition was filed by the Debtors. The matter will be resolved without oral argument. No appearance at the hearing is required.

The court's decision is to grant the motion for relief from stay.

Ford Motor Credit Company LLC moves for relief from stay as to a 2020 Ford Fusion. Debtors filed a response stating that they have no objection to the relief from stay and waive the 14-day stay of enforcement under Rule 4001(a)(3) is waived.

The motion for relief from stay is therefore granted. The 14-day stay of enforcement under Rule 4001(a)(3) is waived.

No other or additional relief is granted by the court.

The motion is ORDERED GRANTED for reasons stated in the minutes.

The court will issue an order.

4. [21-21237](#)-B-13 JOEY RODRIGUEZ
[DJH](#)-1 Pro Se

MOTION FOR RELIEF FROM
AUTOMATIC STAY
4-20-21 [[11](#)]

SO-CAL CAPITAL, INC. VS.

CASE DISMISSED 4/23/21

Final Ruling

SO-CAL Capital, Inc. ("SO-CAL"), as loan servicer for Richard R. Reiter and Paula A. Reiter, Trustees of the Reiter Family Trust dated July 27, 2005 ("Reiter Trust"), moves for relief from the automatic stay of 11 U.S.C. § 362(a) pursuant to 11 U.S.C. §§ 362(d)(1), (2), and (d)(4).¹

The court will decide the motion on the papers. See General Order No. 618 at p.3, ¶ 3 (E.D. Cal. May 13, 2020) (ordering courthouse closure "until further notice" due to the Covid-19 pandemic and further ordering that all civil matters are to be decided on the papers unless the presiding judge determines a hearing is necessary). The court has also determined that oral argument will not assist in the decision-making process or resolution of the motion. See Local Bankr. R. 9014-1(h), 1001-1(f). And because relief cannot be granted, further briefing is unnecessary. See Local Bankr. R. 9014-1(f)(2)(C).

The court's decision is to deny the motion for relief from automatic stay.

SO-CAL and/or the Reiter Trust request relief from the automatic stay to commence and/or continue post-foreclosure unlawful detainer proceedings to recover possession of - and to remove Debtor Joey Rodriguez and others from - real property. The property at issue is located at 6724 Plymouth Rd. #65, Stockton, California ("Property"). The Reiter Trust held a deed of trust on the Property as security for a loan to Prestige Legacy, LLC. The Reiter Trust foreclosed on the deed of trust, it was the sole bidder at the trustee's sale, and a trustee's deed was recorded on April 23, 2020. The Reiter Trust now owns the Property.

This chapter 13 case was filed on April 5, 2021, and dismissed on April 23, 2021. Dismissal means there is no longer an estate vested with property. See 11 U.S.C. § 349(b)(3); *Koo v. VNO Shops on the Lake (In re Koo)*, 2013 WL 5460138 at *2 (9th Cir. BAP Oct. 1, 2013) ("With the dismissal of a bankruptcy case, property of the bankruptcy estate reverts in the debtor (or other entity that owned the estate property prepetition). See § 349(b)(3). The dismissal order terminates the bankruptcy estate."). Dismissal also means there is no longer an automatic stay to terminate.

¹SO-CAL only cites §§ 362(d)(1) and (d)(2). However, the motion states that "the Debtor is involved in a scheme with persons related to the original borrower on the subject property to transfer various interests and rights in and to the property to delay the owner's rightful possession after a foreclosure sale." Dkt. 11 at 1:8-10. The motion also states: "Multiple bankruptcies have been filed by various persons to thwart foreclosure and repossession. In particular, Movant is requesting in rem relief so that additional bankruptcies cannot stop the repossession of the Property." *Id.* at 1:18-20. The memorandum of points and authorities further argues that in rem relief is warranted because the Debtor has engaged in tactics that have hindered and delayed SO-CAL's ability to exercise state law remedies by unauthorized transfers of the Property and multiple bankruptcy filings. See Dkt. 13 at 8:13-9:15. Properly construed, SO-CAL requests relief that falls under § 362(d)(4). *First Yorkshire Holdings, Inc. v. Pacifica L 22, LLC (In re First Yorkshire Holdings, Inc.)*, 470 B.R. 864, 870 (9th Cir. BAP 2012) ("[Section 362(d)(4)] permits the bankruptcy court to grant in rem relief from the automatic stay in order to address schemes using bankruptcy to thwart legitimate foreclosure efforts through one or more transfers of interest in real property.").

See 11 U.S.C. § 362(c). SO-CAL's request for relief from the automatic stay under §§ 362(d)(1) and (d)(2) is therefore moot and will be denied as such.

As noted above, SO-CAL also effectively requests relief under § 362(d)(4). Dismissal does not necessarily moot a request for relief under § 362(d)(4). See *Benzeen, Inc. v. JP Morgan Chase Bank (In re Benzeen, Inc.)*, 2018 WL 6627275 at *4 (9th Cir. BAP Dec. 18, 2018) (remanding for consideration of § 362(d)(4) relief despite dismissal of bankruptcy case); see also *Azkam v. U.S. Bank N.A.*, 2020 WL 1700028, *3 (E.D. Cal. April 8, 2020) ("An order granting relief under [§ 362(d)(4)] may survive the dismissal of the bankruptcy in some cases.").

Section 362(d)(4) permits the court to grant relief,

with respect to a stay of an act against real property under [§ 362(a)], by a creditor whose claim is secured by an interest in such 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) (emphasis added). If the court's order granting relief under § 362(d)(4) is recorded in compliance with applicable state law, it is binding in any other bankruptcy case filed in the next two years purporting to affect the same real property. *Id.*

The operative phrase here is the party to whom relief may be granted under § 362(d)(4), i.e., "a creditor whose claim is secured by an interest in such real property." As the successful bidder that acquired the Property at a prepetition foreclosure sale now attempting to recover possession of the Property and evict persons from it, the Reiter Trust is an owner and therefore not a secured creditor within the context of § 362(d)(4). See e.g., *In re Hernandez*, 2016 WL 4385066 at *1-2 (Bankr. N.D. Cal. Aug. 15, 2016); see also *Ellis v. Yu (In re Ellis)*, 523 B.R. 623, 678-79 (9th Cir. BAP 2014) (reversing the bankruptcy court's order granting in rem relief to assignee of secured creditor that foreclosed and recorded trustee's deed). Relief under § 362(d)(4) will therefore be denied.²

The motion as to §§ 362(d)(1) and (d)(2) is ORDERED DENIED AS MOOT and the motion as to § 362(d)(4) is ORDERED DENIED for reasons stated in the minutes.

The court will issue an order.

²The court declines to grant some other generalized in rem relief under § 105(a) or any other theory because doing so would be an unwarranted expansion of the Congressional limitation imposed under § 362(d)(4). See e.g., *Hernandez*, 2016 WL 4385066 at *2.

5. [17-26647](#)-B-13 ESMERALDA GARCIA
[JCK](#)-3 Kathleen H. Crist

MOTION TO MODIFY PLAN
3-23-21 [[56](#)]

Final Ruling

The motion has been set for hearing on the 35-days' notice required by Local Bankruptcy Rule 3015-1(d)(2), 9014-1(f)(1), and Federal Rule of Bankruptcy Procedure 3015(g). The failure of the respondent and other parties in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(B) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). No opposition was filed. The matter will be resolved without oral argument. No appearance at the hearing is required.

The court's decision is to permit the requested modification and confirm the modified plan.

11 U.S.C. § 1329 permits a debtor to modify a plan after confirmation. The Debtor has filed evidence in support of confirmation. No opposition to the motion was filed by the Chapter 13 Trustee or creditors. The modified plan complies with 11 U.S.C. §§ 1322, 1325(a), and 1329, and is confirmed.

The motion is ORDERED GRANTED for reasons stated in the minutes. Counsel for the Debtor shall prepare an appropriate order confirming the Chapter 13 Plan, transmit the proposed order to the Chapter 13 Trustee for approval as to form, and if so approved, the Chapter 13 Trustee will submit the proposed order to the court.

The court will issue an order.

6. [21-20149](#)-B-13 JAMES/SHERINE MCMANUS
[RDG-1](#) Jennifer G. Lee

CONTINUED OBJECTION TO
CONFIRMATION OF PLAN BY RUSSELL
D. GREER
3-8-21 [[15](#)]

Final Ruling

The objection was properly filed at least 14 days prior to the hearing on the motion to confirm a plan. See Local Bankruptcy Rules 3015-1(c)(4) & (d)(1) and 9014-1(f)(2). Parties in interest may, at least 7 days prior to the date of the hearing, serve and file with the court a written reply to any written opposition. Local Bankruptcy Rule 9014-1(f)(1)(C). A supplemental response was filed by the Chapter 13 Trustee to its objection.

Because the plan is not confirmable and the objection is not one that may be resolved in a confirmation order, the court has determined that this matter may be decided on the papers. See General Order No. 618 at p.3, ¶ 3 (E.D. Cal. May 13, 2020) (ordering courthouse closure "until further notice" due to the COVID-19 pandemic and further ordering that all civil matters are to be decided on the papers unless the presiding judge determines a hearing is necessary). The court has also determined that oral argument will not assist in the decision-making process or resolution of the motion. See Local Bankr. R. 9014-1(h), 1001-1(f).

The court's decision is to sustain the objection and deny confirmation of the plan.

This matter was continued from April 6, 2021, so that it could be heard after Debtors' continued meeting of creditors held April 28, 2021. The Debtors appeared at the continued meeting of creditors, where the parties agreed that an amended plan was necessary. The meeting of creditors was concluded.

Therefore, the plan filed January 18, 2021, does not comply with 11 U.S.C. §§ 1322 and 1325(a). The objection is sustained and the plan is not confirmed.

The objection is ORDERED SUSTAINED for reasons stated in the minutes.

The court will issue an order.

7. [20-24859](#)-B-13 RAMZI/GHADA ZUMOUT MOTION TO AVOID LIEN OF
[CDL](#)-4 Colby D. LaVelle CITIBANK N.A.
Thru #9 3-18-21 [[85](#)]

Final Ruling

The motion has been set for hearing on 28-days notice. Local Bankruptcy Rule 9014-1(f)(1). The failure of the respondent and other parties in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(B) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). No opposition was filed. The matter will be resolved without oral argument. No appearance at the hearing is required.

The court's decision is to grant the motion to avoid lien of Citibank N.A.

This is a request for an order avoiding the judicial lien of Citibank N.A. ("Creditor") against the Debtors' property commonly known as 10558 Dnieper Lane, Stockton, California ("Property").

A judgment was entered against Joint Debtor in favor of Creditor in the amount of \$8,733.74. An abstract of judgment was recorded with San Joaquin County on August 29, 2019, which encumbers the Property.

Pursuant to the Debtors' Schedule A, the Property has an approximate value of \$421,000.00 as of the date of the petition. Debtors claimed an exemption pursuant to Cal. Civ. Proc. Code § 100,000.00 in the amount of \$704,730 on Schedule C. Senior other liens recorded against the Property total \$372,803.00.

After application of the arithmetical formula required by 11 U.S.C. § 522(f)(2)(A), there is no equity to support the judicial lien. Therefore, the fixing of this judicial lien impairs the Debtors' exemption of the real property and its fixing is avoided subject to 11 U.S.C. § 349(b)(1)(B).

The motion is ORDERED GRANTED for reasons stated in the minutes.

The court will issue an order.

8. [20-24859](#)-B-13 RAMZI/GHADA ZUMOUT MOTION TO AVOID LIEN OF CAPITAL
[CDL](#)-5 Colby D. LaVelle ONE
3-18-21 [[90](#)]

Final Ruling

The motion has been set for hearing on 28-days notice. Local Bankruptcy Rule 9014-1(f)(1). The failure of the respondent and other parties in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(B) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). No opposition was filed. The matter will be resolved without oral argument. No appearance at the hearing is required.

The court's decision is to grant the motion to avoid lien of Capital One.

This is a request for an order avoiding the judicial lien of Capital One ("Creditor") against the Debtors' property commonly known as 10558 Dnieper Lane, Stockton, California ("Property").

A judgment was entered against Debtor in favor of Creditor in the amount of \$11,407.14. An abstract of judgment was recorded with San Joaquin County on January 2, 2020, which

encumbers the Property.

Pursuant to the Debtors' Schedule A, the Property has an approximate value of \$421,000.00 as of the date of the petition. Debtors claimed an exemption pursuant to Cal. Civ. Proc. Code § 100,000.00 in the amount of \$704.730 on Schedule C. Senior other liens recorded against the Property total \$372,803.00.

After application of the arithmetical formula required by 11 U.S.C. § 522(f) (2) (A), there is no equity to support the judicial lien. Therefore, the fixing of this judicial lien impairs the Debtors' exemption of the real property and its fixing is avoided subject to 11 U.S.C. § 349(b) (1) (B).

The motion is ORDERED GRANTED for reasons stated in the minutes.

The court will issue an order.

9. [20-24859](#)-B-13 RAMZI/GHADA ZUMOUT MOTION TO AVOID LIEN OF
[CDL-6](#) Colby D. LaVelle DEPARTMENT STORES NATIONAL BANK
3-18-21 [[95](#)]

Final Ruling

The motion has been set for hearing on 28-days notice. Local Bankruptcy Rule 9014-1(f) (1). The failure of the respondent and other parties in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f) (1) (B) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). No opposition was filed. The matter will be resolved without oral argument. No appearance at the hearing is required.

The court's decision is to grant the motion to avoid lien of Department Stores National Bank.

This is a request for an order avoiding the judicial lien of Department Stores National Bank ("Creditor") against the Debtors' property commonly known as 10558 Dnieper Lane, Stockton, California ("Property").

A judgment was entered against Debtor in favor of Creditor in the amount of \$5,515.39. An abstract of judgment was recorded with San Joaquin County on September 17, 2020, which encumbers the Property.

Pursuant to the Debtors' Schedule A, the Property has an approximate value of \$421,000.00 as of the date of the petition. Debtors claimed an exemption pursuant to Cal. Civ. Proc. Code § 100,000.00 in the amount of \$704.730 on Schedule C. Senior other liens recorded against the Property total \$372,803.00.

After application of the arithmetical formula required by 11 U.S.C. § 522(f) (2) (A), there is no equity to support the judicial lien. Therefore, the fixing of this judicial lien impairs the Debtors' exemption of the real property and its fixing is avoided subject to 11 U.S.C. § 349(b) (1) (B).

The motion is ORDERED GRANTED for reasons stated in the minutes.

The court will issue an order.

10. [17-27467](#)-B-13 MAHMADHUSAN ULLHA
[JCK](#)-4 Gregory J. Smith

MOTION TO MODIFY PLAN
3-23-21 [[63](#)]

Final Ruling

The Debtor filed a request for voluntary dismissal of chapter 13 case on May 3, 2021. The court entered an order dismissing the case. Therefore, the motion to modify plan is denied as moot.

The motion is ORDERED DENIED AS MOOT for reasons stated in the minutes.

The court will issue an order.

Final Ruling

The motion been set for hearing on the 35-days' notice required by Local Bankruptcy Rules 3015-1(d)(2), 9014-1(f)(1), and Federal Rule of Bankruptcy Procedure 3015(g). The failure of the respondent and other parties in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(B) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Opposition was filed.

Because the modified plan is not confirmable, the court has determined this matter may be decided on the papers. See General Order No. 618 at p.3, ¶ 3 (E.D. Cal. May 13, 2020) (ordering courthouse closure "until further notice" due to the COVID-19 pandemic and further ordering that all civil matters are to be decided on the papers unless the presiding judge determines a hearing is necessary). The court has also determined that oral argument will not assist in the decision-making process or resolution of the motion. See Local Bankr. R. 9014-1(h), 1001-1(f).

The court's decision is to not permit the requested modification and not confirm the modified plan.

First, Debtor's plan does not provide a monthly dividend to pay the balance of the claim owed to Class 1 Freedom Mortgage Company.

Second, Debtor's plan fails to provide for post-petition arrears totaling \$1,322.78 to Class 1 creditor Freedom Mortgage Corporation ("Freedom Mortgage"), representing the month of December 2020. Without providing for these post-petition arrears, Trustee is unable to determine whether the Debtor's plan is feasible.

Third, Section 3.08 of Debtor's plan modifies the monthly dividend to Class 2 creditor San Joaquin County Tax Collector from \$43.26 to \$39.99. Debtor filed a response stating that this was a scrivener's error.

Fourth, Section 7.01 of Debtor's plan states that payments of \$100.00 per month are to commence on or before January 25, 2020, in light of the Notice of Forbearance Due to the COVID-19 Pandemic filed by Freedom Mortgage. However, according to that notice, the forbearance period spans months of January 2021 through June 2021. Debtor filed a response stating that the forbearance period begins 2021.

Fifth, the plan does not account for the post-petition forbearance arrears of \$7,836.68 owed Freedom Mortgage and how that will be paid at the end of the forbearance period. In response, Debtor states that her counsel cannot yet engage with Freedom Mortgage because the suspension period is not yet over and that the Trustee's objection presumes that the forbearance arrears must be paid through the plan. Debtor states that there are many options to repay the forbearance arrears, including deferment to the end of the loan. This is supported by the Notice of Forbearance Due to the COVID-19 Pandemic filed by Freedom Mortgage on March 3, 2021 (page 2, line 3), which states, "Near the end of the forbearance period, Debtor, through counsel, will need to engage with creditor on a solution for payments suspended during the forbearance."

Sixth, Debtor's plan is not proposed in good faith under 11 U.S.C. §1325(a)(3) since she is not contributing all of her disposable income into the plan. Debtor's supplemental Schedule J at line 21, dkt. 62, provides for a monthly expense of \$1,322.78 for "Deed of Trust payment under forbearance." However, according to the plan and Notice of Forbearance Due to the COVID-19 Pandemic, has elected to tender \$100.00 per month from January 2021 through June 2021. Accordingly, the expense on Schedule J at line 21 is inappropriate. Debtor is not contributing all of the disposable income into the plan.

The court appreciates counsel's offer to fix a number of these deficiencies in the

confirmation order. However, in this court's view, only minor corrections may be made in the confirmation order. In other words, the confirmation order is not a vehicle to revise a plan that is otherwise unconfirmable so that it may be confirmed.

The modified plan does not comply with 11 U.S.C. §§ 1322 and 1325(a) and is not confirmed.

The motion is ORDERED DENIED for reasons stated in the minutes.

The court will issue an order.

12. [21-21095](#)-B-13 JESSE PERALTA
[MC-1](#) Muoi Chea

MOTION TO VALUE COLLATERAL OF
ONEMAIN FINANCIAL GROUP, LLC
4-5-21 [[9](#)]

Final Ruling

The motion has been set for hearing on 28-days notice. Local Bankruptcy Rule 9014-1(f)(1). The failure of the respondent and other parties in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(B) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). No opposition was filed. The matter will be resolved without oral argument. No appearance at the hearing is required.

The court's decision is to value the secured claim of OneMain Financial Group, LLC at \$7,262.00.

Debtor moves to value the secured claim of OneMain Financial Group, LLC ("Creditor"). Debtor is the owner of a 2007 Nissan Titan ("Vehicle"). The Debtor seeks to value the Vehicle at a replacement value of \$7,262.00 as of the petition filing date. As the owner, Debtor's opinion of value is evidence of the asset's value. See Fed. R. Evid. 701; see also *Enewally v. Wash. Mut. Bank (In re Enewally)*, 368 F.3d 1165, 1173 (9th Cir. 2004).

Proof of Claim Filed

The court has reviewed the Claims Registry for this bankruptcy case. Claim No. 3-1 filed by OneMain Financial Group, LLC is the claim which may be the subject of the present motion.

Discussion

The lien on the Vehicle's title does not secure a purchase-money loan and instead was a lien against the Vehicle in exchange for a loan of \$9,200.00. Because of this, the requirement that the loan be incurred more than 910 days prior to filing of the petition is not applicable. The Creditor's claim secured by a lien on the asset's title is under-collateralized. The Creditor's secured claim is determined to be in the amount of \$7,262.00. See 11 U.S.C. § 506(a). The valuation motion pursuant to Fed. R. Civ. P. 3012 and 11 U.S.C. § 506(a) is granted.

The motion is ORDERED GRANTED for reasons stated in the minutes.

The court will issue an order.