

**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: June 9, 2020

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.

2. [20-21905](#)-B-13 DIANE MORRIS OBJECTION TO CONFIRMATION OF
[AP-1](#) Thomas L. Amberg PLAN BY CITIBANK, N.A.
Thru #3 5-4-20 [[28](#)]

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).

The court's decision is to overrule the objection as moot.

Subsequent to the filing of Citibank, N.A.'s objection, the Debtor filed an amended plan on May 29, 2020. The confirmation hearing for the amended plan is scheduled for July 14, 2020. The earlier plan filed April 7, 2020, is not confirmed.

The objection is ORDERED OVERRULED AS MOOT for reasons stated in the minutes.

The court will issue an order.

3. [20-21905](#)-B-13 DIANE MORRIS OBJECTION TO CONFIRMATION OF
[DPC-1](#) Thomas L. Amberg PLAN BY DAVID P. CUSICK
5-13-20 [[35](#)]

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).

The court's decision is to overrule the objection as moot.

Subsequent to the filing of Chapter 13 Trustee's objection, the Debtor filed an amended plan on May 29, 2020. The confirmation hearing for the amended plan is scheduled for July 14, 2020. The earlier plan filed April 7, 2020, is not confirmed.

The objection is ORDERED OVERRULED AS MOOT for reasons stated in the minutes.

The court will issue an order.

4. [20-21907](#)-B-13 NED/EDNA SMITH
[ALG-1](#) Mary Ellen Terranella

OBJECTION TO CONFIRMATION OF
PLAN BY CHAMPION MORTGAGE
COMPANY
4-10-20 [[19](#)]

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 written reply has been filed to the 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 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 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.

Objecting creditor Champion Mortgage Company (Nationstar Mortgage LLC, DBA) holds a deed of trust secured by the Debtors' residence. The creditor has filed a timely proof of claim in which it asserts \$17,348.91 in pre-petition arrearages. To pay the creditor in full, and other claims, this would require a monthly plan payment of \$462.38 for 60 months. However, Debtors' plan currently proposes paying \$448.00 per month, which is the full amount of Debtors' monthly disposable income based on Schedule J. Dkt. 1.

Debtors filed a response to cure the pre-petition arrears in full by proposing to provide in the order confirming monthly plan payments of \$448.00 for 24 months and \$515.00 for 36 months. However, Debtors' Schedule J shows a monthly disposable income of \$448.00, thus an inability to afford the increased plan payment. The plan is not feasible and cannot be confirmed pursuant to 11 U.S.C. § 1325(a)(6).

The plan filed April 1, 2020, 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.

5. [20-21909](#)-B-13 FELICIA SPILLER
[EAT-1](#) Mary Ellen Terranella

OBJECTION TO CONFIRMATION OF
PLAN BY NATIONSTAR MORTGAGE LLC
5-15-20 [[14](#)]

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 written reply has been filed to the objection.

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 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 overrule the objection and conditionally confirm the plan.

Objecting creditor Nationstar Mortgage LLC ("Creditor") holds a deed of trust secured by the Debtor's residence. The Creditor has filed a timely proof of claim in which it asserts \$2,818.50 in pre-petition arrearages; this amount represents the April 1, 2020, principal and interest due plus projected escrow shortage. Creditor is provided for in Class 4 of the plan. Debtor's petition was filed on April 1, 2020.

Debtor filed a response stating that the April 2020 payment was made and was posted on April 15, 2020. Dkt. 20, exh. A. In other words, Debtor was not delinquent on her April 1, 2020, mortgage and the Creditor may be listed in Class 4 of the plan. Debtor has filed as Exhibit B a proposed order that states plan payments shall be \$310.00 per month and that Creditor shall be allowed to apply the post-petition payment received to pre-petition arrears (the April 1, 2020, mortgage payment).

Provided that the order confirming also indicates that the ongoing mortgage payment owed to Creditor is \$2,484.23 per month (and not \$2,452.00 as listed in the plan), the plan filed April 1, 2020, will be deemed to comply with 11 U.S.C. §§ 1322 and 1325(a). The objection will be overruled and the plan will be confirmed.

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

IT IS FURTHER ORDERED that the plan is CONDITIONALLY CONFIRMED and 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. [20-21618](#)-B-13 CHRISTINA CORTINO
[DPC-1](#) Pro Se
Thru #7

OBJECTION TO CONFIRMATION OF
PLAN BY DAVID P. CUSICK
5-13-20 [[16](#)]

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). No written reply has been filed to the 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 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 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.

Although the meeting of creditors has been continued to June 11, 2020, and even if the Debtor has cured her delinquency, at a minimum the Debtor does not appear to be able to comply with the plan and make plan payments pursuant to 11 U.S.C. § 1325(a)(6). Section 2.02 of the plan states that Debtor "will attempt to obtain funds by gift from close relatives and GoFund Me fundraising. Will inquire about spouse's separate property, too" (dkt. 10, p. 1). There is no evidence that the Debtor will receive these funds and is merely speculative.

Separately, the Debtor does not have sufficient disposable income to make the proposed monthly plan payment and the plan fails to include an arrearage dividend and monthly post-petition mortgage payment (dkt. 10, p. 3). Without this information, the Trustee cannot comply with Section 3.07 of the plan.

The plan filed March 31, 2020, 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. [20-21618](#)-B-13 CHRISTINA CORTINO
[RPZ-1](#) Pro Se

OBJECTION TO CONFIRMATION OF
PLAN BY PENNYMAC LOAN SERVICES,
LLC
5-14-20 [[21](#)]

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). No written reply has been filed to the 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 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 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 overrule as moot the objection and deny confirmation of the plan.

The Chapter 13 Trustee raised the issue of Debtor's failure to provide for an arrearage dividend and monthly post-petition mortgage payment in her plan (dkt. 10, p. 3) and the plan is not confirmable as stated at Item #6, DPC-1. Therefore, the Pennymac Loan Services, LLC's objection is overruled as moot.

The plan filed March 31, 2020, does not comply with 11 U.S.C. §§ 1322 and 1325(a) and is not confirmed.

The objection is ORDERED OVERRULED AS MOOT for reasons stated in the minutes.

The court will issue an order.

8. [20-21919](#)-B-13 DENNIS ROBBINS
[DPC-1](#) Michael O'Dowd Hays

OBJECTION TO CONFIRMATION OF
PLAN BY DAVID P. CUSICK
5-20-20 [[16](#)]

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). No written reply has been filed to the 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 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 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.

First, the plan will take approximately 49 months to complete, which exceeds the proposed plan length of 36 months pursuant to 11 U.S.C. § 1322(d) and which results in a commitment period that exceeds the permissible limit imposed by 11 U.S.C. § 1325(b)(4).

Second, the Debtor has not amended his voluntary petition to reflect the correct filing date of a previous case. The Debtor has not complied with 11 U.S.C. § 521(a)(3).

Third, the Debtor has not amended Form 122C-1 and Form 122C-2 to accurately list household number, income, and expenses. The Debtor has not complied with 11 U.S.C. §§ 1325(a)(1), (a)(3) and § 521(a)(3).

Fourth, the Debtor has not amended Schedules I and J to update the income and expense information for Debtor's non-filing spouse. The Debtor has not complied with 11 U.S.C. §§ 1325(a)(1), (a)(3) and § 521(a)(3).

Fifth, according to Schedule I, the Debtor owes a domestic support obligation. Pursuant to Local Bankr. R. 3015-1(b)(6), the Debtor is required to serve upon the Trustee no later than 14 days after filing the petition a Domestic Support Obligation Checklist. The Debtor has not provided the Trustee with this checklist, thus hindering the Trustee from performing his duties under 11 U.S.C. §§ 1302(b)(6) and (d)(1). The Debtor has not complied with 11 U.S.C. § 521(a)(3) and Local Bankr. R. 3015-1(c)(2).

Sixth, the Debtor is married and has not filed a spousal waiver of right to claim exemptions pursuant to California Code of Civil Procedure § 703.140(a).

The plan filed April 1, 2020, 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.

9. [20-21920](#)-B-13 LAMONT LEWIS AND OBJECTION TO CONFIRMATION OF
[DPC-1](#) DEEPANJALI SHANKAR LEWIS PLAN BY DAVID P. CUSICK
Candace Y. Brooks 5-13-20 [[29](#)]

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). No written reply has been filed to the objection.

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 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 overrule the objection and confirm the plan.

Feasibility depends on the granting of two separate motions to value collateral for CarMax Business Services, LLC. Those matters were granted on June 2, 2020.

The plan complies with 11 U.S.C. §§ 1322 and 1325(a). The objection is overruled and the plan filed April 1, 2020, is confirmed.

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

IT IS FURTHER ORDERED that the plan is CONFIRMED and counsel for the Debtors 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.

10. [20-21929](#)-B-13 THOMAS/LAURETTA HALL
[CYB-1](#) Candace Y. Brooks
Thru #11

MOTION TO VALUE COLLATERAL OF
CITI BANK, N.A.
5-26-20 [[19](#)]

Final Ruling

The motion has been set for hearing on less than 28-days notice. Local Bankruptcy Rule 9014-1(f)(2). 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 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 conditionally value the secured claim of Citi Bank, N.A. at \$100.00 and continue the hearing to June 23, 2020, at 1:00 p.m.

Debtors' motion to value the secured claim of Citi Bank, N.A. ("Creditor") is accompanied by Debtor's declaration. Debtors are the owner of a television and soundbar (collectively "Personal Property"). The Debtors seek to value the Personal Property at a replacement value of \$100.00 as of the petition filing date. As the owner, Debtors' 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).

No Proof of Claim Filed

The court has reviewed the Claims Registry for this bankruptcy case. No proof of claim has been filed by Creditor for the claim to be valued.

Discussion

In the Chapter 13 context, the replacement value of personal property used by a debtor for personal, household, or family purposes is "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." See 11 U.S.C. § 506(a)(2). The time limitation to offer the fair market value of personal property, including furniture, appliances, and boats, is more than one year prior to the filing of the petition. See 11 U.S.C. § 1325(a).

The total dollar amount of the obligation represented by the financing agreement with Citi Bank, N.A. is \$1,984.27 as stated in the Debtors' declaration. Debtors assert that the Personal Property has been used daily since 2018 for personal use and that the price a retail merchant would charge for the Personal Property is \$100.00. Therefore, 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 \$100.00. 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.

Conditional Nature of this Ruling

Because the motion has been filed, set, and served under Local Bankruptcy Rule 9014-1(f)(2) Creditor shall have until 5:00 p.m. on June 16, 2020, to file and serve an opposition or other response to the motion. See Local Bankr. R. 9014-1(f)(2)(C). Any opposition or response shall be served on the Debtors, the Chapter 13 Trustee, and the United States Trustee by facsimile or email.

If no opposition or response is timely filed and served, Debtors' motion will be deemed granted for the reasons stated hereinabove, this ruling will no longer be conditional and will become the court's final decision, and the continued hearing on June 23, 2020, at 1:00 p.m. will be vacated.

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

The court will issue an order.

11. [20-21929](#)-B-13 THOMAS/LAURETTA HALL OBJECTION TO CONFIRMATION OF
[DPC-1](#) Candace Y. Brooks PLAN BY DAVID P. CUSICK
5-13-20 [[13](#)]

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 written reply has been filed to the objection.

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 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 overrule the objection and conditionally confirm the plan.

First, the Debtors filed an amended voluntary petition on May 24, 2020, to state their full middle names. The Debtors have complied with 11 U.S.C. § 521(a)(3).

Second, the Joint Debtor appeared at the continued meeting of creditors held May 7, 2020, and Debtor appeared at the continued meeting of creditors held May 21, 2020. The Debtors have fulfilled their requirement pursuant to 11 U.S.C. § 343.

Third, feasibility depends on the granting of a motion to value collateral, which is heard at Item #10, CYB-1, and conditionally granted.

Fourth, due to claims being filed higher than that which the Debtors scheduled, the plan is overextended and will take approximately 95 months, which exceeds the maximum length of 60 months. Debtors filed a response stating that they are prepared to continue to pay 100% to unsecured creditors that timely file claims and would like to increase their plan payment from \$1,105.00 to \$1,870.00. The increase in plan payments will come from some of Debtor's social security income that is not currently being contributed to their disposable income. *Drummond v. Welsh (In re Welsh)*, 465 B.R. 843, 848 (B.A.P. 9th Cir. 2012), *In re Suttice*, 487 B.R. 245, 251 (Bankr. C.D. Cal. 2013). Debtors propose to increase their plan payment starting in the second month of the plan and to make this change in the order confirming.

Provided that the court's conditional granting of the motion to value collateral of Citi Bank, N.A. becomes a final decision, the plan filed April 2, 2020, will be deemed to comply with 11 U.S.C. §§ 1322 and 1325(a) and will be confirmed.

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

IT IS FURTHER ORDERED that the plan is CONDITIONALLY CONFIRMED and counsel for the Debtors 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.

12. [20-21832](#)-B-13 JUAN RODRIGUEZ OBJECTION TO CONFIRMATION OF
[DPC](#)-1 Jeffrey M. Meisner PLAN BY DAVID P. CUSICK
Thru #14 5-13-20 [[25](#)]

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). No written reply has been filed to the 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 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 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.

First, the plan will take approximately 69 months to complete, which exceeds the maximum length of 60 months pursuant to 11 U.S.C. § 1322(d) and which results in a commitment period that exceeds the permissible limit imposed by 11 U.S.C. § 1325(b)(4).

The plan filed March 30, 2020, 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.

13. [20-21832](#)-B-13 JUAN RODRIGUEZ OBJECTION TO CONFIRMATION OF
[KMM](#)-1 Jeffrey M. Meisner PLAN BY GLOBAL LENDING SERVICES
LLC
5-18-20 [[30](#)]

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). No written reply has been filed to the 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 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 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 only as to the plan being unconfirmable.

Feasibility depends on the granting of a motion to value collateral of Global Lending

Services LLC. To date, no motion to value has been filed by the Debtor.

The plan filed March 30, 2020, 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.

14. [20-21832](#)-B-13 JUAN RODRIGUEZ OBJECTION TO CONFIRMATION OF
[MMJ-1](#) Jeffrey M. Meisner PLAN BY CAPITAL ONE AUTO
FINANCE
5-11-20 [[21](#)]

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). No written reply has been filed to the 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 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 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 only as to the plan being unconfirmable.

Feasibility depends on the granting of a motion to value collateral of Capital One Auto Finance. To date, no motion to value has been filed by the Debtor.

The plan filed March 30, 2020, 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.

15. [20-21544](#)-B-13 [MRL](#)-1 MARCUS WOODFORK AND SHERI MOTION TO VALUE COLLATERAL OF
TOMKINS EXETER FINANCE, LLC
Mikalah R. Liviakis 5-11-20 [[18](#)]

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 Chapter 13 Trustee. 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 Exeter Finance, LLC at \$8,000.00.

Debtors' motion to value the secured claim of Exeter Finance, LLC ("Creditor") is accompanied by Debtor's declaration. Debtors are the owner of a 2011 Mini Cooper Clubman ("Vehicle"). The Debtors seek to value the Vehicle at a replacement value of \$8,000.00 as of the petition filing date. As the owner, Debtors' 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. 6-1 filed by Exeter Finance LLC is the claim which may be the subject of the present motion.

Discussion

The lien on the Vehicle's title secures a purchase-money loan incurred on April 2017, which is more than 910 days prior to filing of the petition, to secure a debt owed to Creditor with a balance of approximately \$10,205.16 based on the Claim No. 6-1. Therefore, 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 \$8,000.00. 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.

16. [20-21047](#)-B-13 PAUL DENNO AND SANDRA MOTION TO CONFIRM PLAN
[MWB](#)-1 MURRAY 4-16-20 [[25](#)]
Mark W. Briden

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 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 confirm the first amended plan.

First, feasibility depends on the Debtors selling real property located at 6732 Airport Road, Redding, California, by month 36 of the plan. No evidence of the condition of the real estate market of Debtors' ability to sell at that time has been presented. Debtors have failed to carry their burden of showing that the plan complies with 11 U.S.C. § 1325(a)(6).

Second, feasibility depends on the Debtors selling real property located at 6424 Whippoorwill Circle, Shingletown, California, by month 36 of the plan. No evidence of the condition of the real estate market of Debtors' ability to sell at that time has been presented. Debtors have failed to carry their burden of showing that the plan complies with 11 U.S.C. § 1325(a)(6).

The Debtors have resolved a third issue raised by the Chapter 13 Trustee, namely the filing of amended Forms 122C-1 and 122C-2 on June 2, 2020.

For the two issues stated above, the amended plan does not comply with 11 U.S.C. §§ 1322, 1323, and 1325(a) and is not confirmed.

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

The court will issue an order.

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 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 confirm the first amended plan.

First, the plan payment in the amount of \$2,932.00 does not equal the aggregate of the Trustee's fees, monthly post-petition contract installments due on Class 1 claims, the monthly payment for administrative expenses, and monthly dividends payable on account of Class 1 arrearage claims, Class 2 secured claims, and executory contract and unexpired lease arrearage claims. The aggregate of these monthly amounts plus Trustee's fees is \$3,074.56. The plan does not comply with Section 5.02 of the mandatory form plan.

Second, the Debtor is delinquent to the Chapter 13 Trustee in the amount of \$3,36.06, which represents approximately 1.36 plan payments. The Debtor does not appear to be able to make plan payments proposed and has not carried the burden of showing that the plan complies with 11 U.S.C. § 1325(a)(6).

Third, the plan fails to specify a cure of the post-petition arrearage owed to Freedom Mortgage Corp. in Class 1 for March 2020 in the amount of \$1,939.59. The plan does not comply with 11 U.S.C. § 1325(a)(1).

The amended plan does not comply with 11 U.S.C. §§ 1322, 1323, and 1325(a) and is not confirmed.

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

The court will issue an order.

Final Ruling

The motion has been set for hearing on the 35-days' notice required by Local Bankruptcy Rule 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). 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 confirm the third amended plan.

11 U.S.C. § 1323 permits a debtor to amend a plan any time before confirmation. The Debtor has provided evidence in support of confirmation. No opposition to the motion has been filed by the Chapter 13 Trustee or creditors. The amended plan complies with 11 U.S.C. §§ 1322 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.

19. [20-21977](#)-B-13 CHRISTINE BONILLA
[DPC-1](#) Peter G. Macaluso

OBJECTION TO CONFIRMATION OF
PLAN BY DAVID P. CUSICK
5-20-20 [[18](#)]

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). No written reply has been filed to the 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 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 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.

The Debtor has not provided the Trustee with a copy of a federal income tax return for the most recent tax year a return was filed. The Debtor has not complied with 11 U.S.C. § 521(e) (2) (A) (1).

The plan filed April 7, 2020, 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.

20. [20-21783](#)-B-13 TEMA ROBINSON OBJECTION TO CONFIRMATION OF
[DPC-1](#) Peter G. Macaluso PLAN BY DAVID P. CUSICK
Thru #21 5-13-20 [[28](#)]

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). No written reply has been filed to the 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 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 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.

The Debtor has not provided the Trustee with copies of payment advices or other evidence of income received within the 60-day period prior to the filing of the petition. The Debtor has not complied with 11 U.S.C. § 521(a)(1)(B)(iv).

The issue that feasibility depends on the granting of a motion to value collateral of Wheels Financial Group, LLC has been resolved. That motion is granted at Item #21, PGM-2.

Due to the unresolved issue regarding payment advices stated above, the plan filed March 26, 2020, 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.

21. [20-21783](#)-B-13 TEMA ROBINSON MOTION TO VALUE COLLATERAL OF
[PGM-2](#) Peter G. Macaluso WHEELS FINANCIAL GROUP, LLC
5-11-20 [[23](#)]

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). Opposition was filed by Wheels Financial Group, LLC dba LoanMart. Non-opposition was filed by the Chapter 13 Trustee. A reply was filed by the Debtor.

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 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 value the secured claim of Wheels Financial Group, LLC dba LoanMart at \$4,000.00.

Debtor's motion to value the secured claim of Wheels Financial Group, LLC dba LoanMart ("Creditor") is accompanied by Debtor's declaration. Debtor is the owner of a 2005 Dodge Ram 1500 ("Vehicle"). The Debtor seeks to value the Vehicle at a replacement value of \$4,000.00 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).

Opposition

Creditor has filed an opposition asserting a valuation for the Vehicle at \$6,075.00. Creditor bases this value on the Kelley Blue Book, which is filed as an exhibit. Although Creditor asserts in its motion that the \$6,075.00 value is the price a retail merchant would charge, Creditor's exhibit shows that this is a private party valuation. Dkt. 34, p. 7.

Proof of Claim Filed

The court has reviewed the Claims Registry for this bankruptcy case. Claim No. 4-1 filed by Wheels Financial Group, LLC dba 1-800LoanMart is the claim which may be the subject of the present motion.

Discussion

The court finds issue with the Creditor's valuation. First, the declaration states that the valuation of the Vehicle is based on a Kelley Blue Book printout but this is a third-party industry source and, therefore, Creditor's opinion of value is based on hearsay. Fed R. Evid. 801-803; see also *In re Guerra*, 2008 WL 3200931, *2 n.4 (Bankr. E.D. Cal. 2008) ("Filed with Guerra's declaration was an unauthenticated document titled: 'Edmonds.com True Market Value Pricing Report.' The court has not considered this attachment in that it is inadmissible hearsay[.]"). Second, Creditor's exhibits show that the \$6,075.00 valuation is a "private party" value. This is the value in which a private party, who is not a retailer, could buy or sell a car. The standard here must be a retail valuation, taking into account the condition of the car. See 11 U.S.C. § 506(a).

The court can accept a debtor's lay opinion of the value of his or her property and, in the absence of evidence to the contrary, may even accept a debtor's opinion of value as conclusive. *In re Enewally*, 368 F.3d 1165, 1173 (9th Cir. 2004). Because the court gives no weight to the Creditor's valuation, the court will accept the Debtor's opinion of value.

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

The court will issue an order.

22. [20-21689](#)-B-13 ROSEMARIE HIGGS-SILER OBJECTION TO CONFIRMATION OF
[DPC](#)-1 Peter G. Macaluso PLAN BY DAVID P. CUSICK
5-13-20 [[29](#)]

CONTINUED TO 6/23/2020 AT 1:00 P.M. TO BE HEARD WITH THE MOTION TO VALUE
COLLATERAL OF MAIN STREET LAUNCH, DKT. 15, PGM-1.

Final Ruling

No appearance at the June 2, 2020, hearing is required. The court will issue an order.

23. [20-20691](#)-B-13 DON MICHAEL LUMAQUIN MOTION TO MODIFY PLAN
[PSE-1](#) Pauldeep Bains 5-5-20 [[21](#)]

Final Ruling

The Debtor having filed a notice of withdrawal for the pending motion, the withdrawal being consistent with any opposition filed to the motion, the court interpreting the notice of withdrawal to be an ex parte motion pursuant to Fed. R. Civ. P. 41(a)(2) and Fed. R. Bankr. P. 9014 and 7014 for the court to dismiss without prejudice the motion, and good cause appearing, the motion is dismissed without prejudice.

The motion is ORDERED DISMISSED WITHOUT PREJUDICE for reasons stated in the minutes.

The court will issue an order.