

**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

DAY: TUESDAY

DATE: October 9, 2018

CALENDAR: 1:00 P.M. CHAPTER 13

**PLEASE REVIEW CAREFULLY AS THE COURT'S ORDER PREPARATION AND SUBMISSION
PROCEDURE IN CHAPTER 13 CASES HAS CHANGED EFFECTIVE SEPTEMBER 3, 2018.**

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

October 9, 2018 at 1:00 p.m.

1. [17-25411](#)-B-13 JAMES/LILLIE JOHNSON MOTION TO CONVERT CASE FROM
[JPJ](#)-1 Mary Ellen Terranella CHAPTER 13 TO CHAPTER 7 (FILING
FEE NOT PAID OR NOT REQUIRED),
MOTION TO DISMISS CASE
8-29-18 [[42](#)]

No Ruling

2. [18-24113](#)-B-13 WAYNE ROSEMOND
[PGM-1](#) Peter G. Macaluso
DEBTOR DISMISSED: 09/07/2018

MOTION TO CONFIRM PLAN
9-3-18 [[46](#)]

Final Ruling

This motion is denied as moot, the case having been dismissed on September 7, 2018.
Dkt. 62.

THE COURT SHALL PREPARE AN APPROPRIATE MINUTE ORDER.

3. [17-28123](#)-B-13 QUENTIN/SHEELAH HOLLOMAN MOTION TO CONVERT CASE FROM
[JPJ](#)-2 Mikalah R. Liviakis CHAPTER 13 TO CHAPTER 7 AND/OR
MOTION TO DISMISS CASE
9-7-18 [[40](#)]

No Ruling

4. [18-22724](#)-B-13 ANGELO NOLASCO AND DEBRA CONTINUED MOTION TO DISMISS
[JPJ](#)-3 RODRIQUEZ-NOLASCO CASE
Thru #5 Peter G. Macaluso 8-16-18 [[38](#)]

No Ruling

5. [18-22724](#)-B-13 ANGELO NOLASCO AND DEBRA MOTION TO CONFIRM PLAN
[PGM](#)-1 RODRIQUEZ-NOLASCO 9-3-18 [[42](#)]
Peter G. Macaluso

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). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See *Law Offices of David A. Boone v. Derham-Burk (In re Eliapo)*, 468 F.3d 592, 602 (9th Cir. 2006). Therefore, the defaults of the respondent and other parties in interest are entered. Upon review of the record there are no disputed material factual issues and the matter will be resolved without oral argument. The court will issue its ruling from the parties' pleadings.

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

11 U.S.C. § 1323 permits a debtor to amend a plan any time before confirmation. Debtors have 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 granted for reasons stated in the ruling appended to the minutes.

COUNSEL FOR THE DEBTORS SHALL LODGE AN APPROPRIATE ORDER GRANTING THE MOTION WITHIN SEVEN (7) DAYS AND A SEPARATE ORDER CONFIRMING WHICH SHALL BE TRANSMITTED TO THE TRUSTEE FOR REVIEW AND APPROVAL.

Tentative 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). Debtor filed a written reply to the objection.

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

Creditor's Objection

Richard W. Orser, trustee of the Richard W. Orser Living Trust ("Creditor") filed this objection to plan confirmation on September 6, 2018. Dkt. 17.

First, Creditor argues the plan filed July 28, 2018 ("Plan"), by Sullay Din Gabisi, the debtor ("Debtor"), does not properly cure all arrears on Creditor's secured claim.

Second, Creditor argues that the Plan's feasibility cannot be assessed because Debtor did not attach a separate statement detailing the gross receipts, expenses, and total monthly income of Debtor's business/rental income Schedule I, despite listing \$3,954.00 in rental/business income. Without the complete schedules and required attachments, Creditor argues that the plan's feasibility cannot be assessed under 11 U.S.C. § 1325(a)(6).

Debtor's Reply

Debtor filed a reply October 2, 2018. Dkt. 22.

Debtor argues that no proof of claim was filed for Creditor as of October 2, 2018. Dkt. 22, p. 1, ln. 24. Debtor then contradicts this argument and states that "The Proof of Claim was just recently filed by creditor Orser on September 24, 2018." *Id.*, p. 2, ln. 8. Debtor disputes the basis of the arrears calculated, and predicts a claim objection to follow. Debtor argues that the plan should be confirmed and later modified if Creditor's arrearage calculation is correct.

Next, Debtor explains that the income from business or rental property is from Debtor's operation of Christ Chapel Ministries, a not-for-profit church. Debtor argues that the money previously used for charitable work through the church is now being diverted to Debtor as rent so that he can more easily afford to pay the high-interest loan to Orser. Dkt. 22, ¶ 6.

Debtor then argues that the plan is feasible, and the income is not speculative, because Debtor has increased his hours of employment and has diverted income from the church to Debtor to pay Creditor's claim.

Finally, Debtor argues that Creditor's rights are being modified pursuant to 11 U.S.C. § 1322(b)(2). Thus, the arrearages should be paid as provided in the plan.

Discussion

First, Creditor filed Proof of Claim No. 4 on September 24, 2018, which states a secured claim of \$474,306.19, with \$86,418.49 in pre-petition arrears. POC 4, p. 2. However, the Plan only provides for \$76,706.00 in arrears. Dkt. 10 p. 3. Creditor did not accept the Plan, the Plan does not provide for payment in full, Debtor has not yet filed an objection to Creditor's Claim No. 4 and has not filed a motion to value the collateral pursuant to § 506, and Debtor did not propose to surrender the real property securing Creditor's claim. Thus, the Plan does not comply with 11 U.S.C. § 1325(a)(5).

Second, the Plan's feasibility cannot be assessed because Debtor did not attach a separate statement detailing the gross receipts, expenses, and total monthly income of Debtor's business/rental income Schedule I, despite listing \$3,954.00 in rental/business income. It is troubling that Debtor is "diverting" funds from a not-for-profit entity to provide Debtor with more income, especially without disclosing the income and expenses of the entity through a separate statement attached to Schedule I, as is required. Dkt. 22, p. 2, ln. 24, and p. 3, ln. 9. Without the complete schedules and required attachments demonstrating how Debtor is able to unilaterally increase his income from his not-for-profit entity, and the viability of the entity itself, the court cannot assess the plan's feasibility under 11 U.S.C. § 1325(a)(6).

The plan filed July 28, 2018, 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 sustained for reasons stated in the ruling appended to the minutes.

COUNSEL FOR THE CREDITOR SHALL LODGE AN APPROPRIATE MINUTE ORDER.

7. [18-23928](#)-B-13 REX MORRISON
[JPJ](#)-1 L. Rodkey

CONTINUED OBJECTION TO
CONFIRMATION OF PLAN BY JAN P.
JOHNSON
8-8-18 [[18](#)]

No Ruling

8. [18-23532](#)-B-13 MELODY SIMPSON
[JPJ](#)-2 W. Steven Shumway

MOTION TO CONVERT CASE FROM
CHAPTER 13 TO CHAPTER 7 AND/OR
MOTION TO DISMISS CASE
9-7-18 [[23](#)]

No Ruling

9. [18-25739](#)-B-13 DARIN SUNDAR
[VVF-1](#) Joseph Angelo

MOTION FOR RELIEF FROM
AUTOMATIC STAY
9-19-18 [[8](#)]

AMERICAN HONDA FINANCE
CORPORATION VS.

Tentative Ruling

Because less than 28 days' notice of the hearing was given, the motion is deemed brought pursuant to Local Bankruptcy Rule 9014-1(f)(2). Consequently, parties in interest were not required to file a written response or opposition. If any of these potential respondents appear at the hearing and offers opposition to the motion, the court will set a briefing schedule and a final hearing unless there is no need to develop the record further. Debtor filed a non-opposition on October 4, 2018. Dkt. 19. If no opposition is offered at the hearing, the court will take up the merits of the motion.

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

American Honda Finance Corporation ("Movant") seeks relief from the automatic stay with respect to an asset identified as a 2017 Honda Civic, VIN SHHF-K7H2-1HU4-28691 ("Vehicle"). The moving party has provided the Declaration of Angela Gallimore, a bankruptcy specialist for Movant, to introduce into evidence the documents upon which it bases the claim and the obligation owed by the Debtor.

The Gallimore Declaration provides testimony there are 3 pre-petition payments in default, with a pre-petition arrearage of \$1,993.07. Dkt. 10, ¶ 6. Also, Debtor has not made a post-petition payment, and has proposed a Chapter 13 plan to surrender the Vehicle. Dkt. 2, p. 4.

From the evidence provided to the court, and only for purposes of this motion, the debt secured by this asset is determined to be \$23,626.39, as stated in the Gallimore Declaration, while the value of the Vehicle is determined to be \$18,648.00, as stated in Schedules A/B and D filed by Debtor. Dkt. 1, p. 12.

Discussion

Once a movant under 11 U.S.C. § 362(d)(2) establishes that a debtor or estate has no equity, it is the burden of the debtor or trustee to establish that the collateral at issue is necessary to an effective reorganization. *United Savings Ass'n of Texas v. Timbers of Inwood Forest Associates, Ltd.*, 484 U.S. 365, 375-76 (1988); 11 U.S.C. § 362(g)(2). Based upon the evidence submitted, the court determines that there is no equity in Vehicle for either the Debtor or the Estate. 11 U.S.C. § 362(d)(2). No opposition or showing having been made by the Debtor or the Trustee, the court determines that the Vehicle is not necessary for any effective reorganization in this Chapter 13 case.

The court shall issue an order terminating and vacating the automatic stay to allow Movant, its agents, representatives, and successors, and all other creditors having lien rights against the Vehicle, to repossess, dispose of, or sell the asset pursuant to applicable nonbankruptcy law and their contractual rights, and for any purchaser, or successor to a purchaser, to obtain possession of the Vehicle.

COUNSEL FOR THE CREDITOR SHALL LODGE AN APPROPRIATE MINUTE ORDER.

10. [15-22643](#)-B-13 LUIS/MELISSA VEGA
[KWS](#)-1 Kyle W. Schumacher

CONTINUED MOTION TO INCUR DEBT
8-14-18 [[26](#)]

No Ruling

11. [18-23651](#)-B-13 THOMAS HURST
[PGM](#)-1 Peter G. Macaluso

MOTION TO CONFIRM PLAN
9-3-18 [[29](#)]

No Ruling

Tentative Ruling

Because less than 28 days' notice of the hearing was given, the motion is deemed brought pursuant to Local Bankruptcy Rule 9014-1(f)(2). Consequently, parties in interest were not required to file a written response or opposition. If any of these potential respondents appear at the hearing and offers opposition to the motion, the court will set a briefing schedule and a final hearing unless there is no need to develop the record further. If no opposition is offered at the hearing, the court will take up the merits of the motion.

The court's decision is to grant the motion to extend automatic stay.

Debtor seeks to have the provisions of the automatic stay provided by 11 U.S.C. § 362(c)(3) extended beyond 30 days in this case. Debtor filed the instant case on September 12, 2018. Dkt. 1. Debtor's prior bankruptcy case was dismissed on July 17, 2018, due to delinquent plan payments (case no. 17-20765, dkts. 226, 228). Therefore, this is the Debtor's second bankruptcy petition pending in the past 12 months and, pursuant to 11 U.S.C. § 362(c)(3)(A), the provisions of the automatic stay end as to the Debtor 30 days after filing of the petition, which is October 12, 2018.

Discussion

Upon motion of a party in interest and after notice and hearing, the court may order the provisions extended beyond 30 days if the filing of the subsequent petition was in good faith. 11 U.S.C. § 362(c)(3)(B). The subsequently filed case is presumed to be filed in bad faith if the debtor failed to perform under the terms of a confirmed plan. *Id.* at § 362(c)(3)(C)(i)(II)(cc). The subsequently filed case may also be presumed to be filed in bad faith if there has not been a substantial change in the financial or personal affairs of the debtor since the dismissal of the next most previous case under chapter 7, 11, or 13. *Id.* at § 362(c)(3)(C)(i)(III). The presumption of bad faith may be rebutted by clear and convincing evidence. *Id.* at § 362(c)(3)(C).

In determining if good faith exists, the court considers the totality of the circumstances. *In re Elliot-Cook*, 357 B.R. 811, 814 (Bankr. N.D. Cal. 2006); *see also* Laura B. Bartell, *Staying the Serial Filer - Interpreting the New Exploding Stay Provisions of § 362(c)(3) of the Bankruptcy Code*, 82 Am. Bankr. L.J. 201, 209-210 (2008).

Debtor asserts that the prior plan failed due to his limited income, as Debtor was a student living on financial aid and food stamps, and some help from his family. Dkt. 16, ¶ 2. However, since the last case was dismissed, Debtor now has a job as a Building Inspector for the City of El Cerrito. *Id.*, ¶ 3. Debtor's Schedule I states net monthly income of \$4,818.25, as opposed to \$2,700.00 of net monthly income in the prior bankruptcy case, which consisted of \$1,170.00 in business or rental income, \$600 in financial aid, \$330 in food stamps and \$600.00 in assistance from his oldest son. *Compare* dkt. 1, p. 8, *and* case no. 17-20765, dkt. 177, p. 5.

The Debtor has sufficiently rebutted, by clear and convincing evidence, the presumption of bad faith under the facts of this case and the prior case for the court to extend the automatic stay.

The motion is granted and the automatic stay is extended for all purposes and parties, unless terminated by operation of law or further order of this court.

COUNSEL FOR THE DEBTOR SHALL LODGE AN APPROPRIATE MINUTE ORDER.

Tentative 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). Therefore, the defaults of the respondent and other parties in interest are entered. The court will address the merits of the motion at the hearing.

The court's decision is to deny confirmation of the amended plan.

11 U.S.C. § 1323 permits a debtor to amend a plan any time before confirmation. No opposition to the motion has been filed by the Chapter 13 Trustee or creditors. However, as discussed below, the amended plan does not comply with 11 U.S.C. §§ 1322 and 1325(a). See *United Student Aid Funds, Inc. v. Espinosa*, 130 S. Ct. 1367, 1380-1381 (2010) (explaining that bankruptcy courts have an obligation to review a chapter 13 plan to ensure that it complies with all applicable provisions of the Bankruptcy Code).

First, the plan filed by Kimberly Childress, the debtor ("Debtor"), relies on schedules with various estimates and assumptions, and on contingent future events that the schedules show may or may not occur. For example, Debtor's Schedule I states that "[a]ll items ending with \$0.88 are close approximations, ending with \$0.99 are very educated guesses." Dkt. 29, p. 23, ln. 13. These approximations appear on Schedule C for tax refunds for tax years 2013, 2014, and 2015, which Debtor's plan heavily relies upon for annual distributions of \$1,750.00. Dkt. 53, § 2.02. Debtor undercuts the reliability of these refunds by not only estimating their values, but also stating that these refunds are at risk of "being beyond statute of limitations for applying for a refund." *Id.*, p. 10. Debtor's Schedule J also contains a statement that Debtor is "[t]rying to get some preferential garnishment payments returned in order to pay to get tax returns prepared[.]" Dkt. 29, p. 25, ln. 24. Debtor's only evidence that claims for refunds were filed is in her declaration, where she states "[t]he initial plan was not confirmed, but now that tax returns have been filed I am ready to confirm a plan." Dkt. 52, ¶ 2. There is no further valuation of the 2013 through 2015 refunds, no evidence that the preferential garnishments were resolved, and no evidence provided on whether the statute of limitations issues were resolved.

Beyond the issues with the refunds for tax years 2013 through 2015, Debtor states that she is trying to get her withholdings "unlocked," which would necessarily impact the refunds for tax years throughout the pendency of the plan. Dkt. 29, p. 25, ln. 8h. No explanation or evidence of the changes to future withholdings were provided to show that Debtor would receive refunds allowing her to pay \$1,750.00 each year from future tax refunds. Thus, Debtor has not carried her burden of showing the amended plan complies with 11 U.S.C. § 1325(a)(6).

Second, Debtor's plan does not fully provide for the claim of creditor Capital One Auto Finance ("Creditor"). Creditor's Proof of Claim No. 1 states there is a pre-petition arrearage of \$688.86 to be cured. POC 1, p. 2. No evidence is provided that this arrearage has been cured or waived. Thus, the amended plan does not comply with 11 U.S.C. § 1325(a)(5).

Third, the amended plan gives blanket authority for any prior disbursements by the trustee, but does not disclose how much has been paid to date. Dkt. 53, p. 7. Without the specific amount paid to date, the court cannot evaluate whether the amended plan meets the "best interest of creditors" test required by 11 U.S.C. § 1325(a)(4).

Because the plan is not confirmable, Debtor will be given a further opportunity to confirm a plan. But, if Debtor is unable to confirm a plan within a reasonable period

of time, the court concludes that the prejudice to creditors will be substantial and that there will then be cause for dismissal. If Debtor has not confirmed a plan within 60 days, the case will be dismissed on the Trustee's ex parte application.

The motion is denied without prejudice for reasons stated in the ruling appended to the minutes.

THE COURT SHALL PREPARE AN APPROPRIATE MINUTE ORDER.

14. [18-24865](#)-B-13 MICHAEL TOLLE
[MJ-1](#) Stephan M. Brown

OBJECTION TO CONFIRMATION OF
PLAN BY WELLS FARGO BANK, NA
9-17-18 [[24](#)]

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15. [18-24684](#)-B-13 STEVEN/SUSAN GARDNER
[JPJ](#)-1 Nikki Farris

OBJECTION TO CONFIRMATION OF
PLAN BY JAN JOHNSON
9-19-18 [[14](#)]

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

Jan Johnson, the Chapter 13 trustee ("Trustee"), argues that the plan does not meet the liquidation analysis because the plan provides for \$6,395.69 to general unsecured creditors, while a proceeding under Chapter 7 would provide a distribution of approximately \$25,968.38 through avoidable preference payments. Dkt. 14, p. 2.

Bankruptcy courts must consider preference payments that may be recoverable by a Chapter 7 trustee under the "best interest of the creditors" test. *Schoenmann v. Bank of the West (In re Tenderloin Health)*, 849 F.3d 1231, 1238 (9th Cir. 2017). Here, Steven and Susan Gardner, the debtors ("Debtors"), stated that they paid \$3,675.00 to Sheryn Barker within the year preceding their bankruptcy, and a total of \$26,012.09 to Michael Gardner within 2 years of the petition filing date. Dkt. 1, pp. 41-2. Based on the representation by Trustee that these third parties are both insiders of Debtors, and based on Debtors' failure to oppose the objection, the court must take these transfers into account when reviewing any proposed plan. Because the plan filed July 26, 2018, only proposes distributions totaling \$6,944.23, which is less than the value of the potentially voidable preference payments, the plan does not comply with 11 U.S.C. § 1325(a)(4).

The plan filed July 26, 2018, does not comply with 11 U.S.C. §§ 1322 and 1325(a). The objection is sustained and the plan is not confirmed.

THE CHAPTER 13 TRUSTEE SHALL LODGE AN APPROPRIATE MINUTE ORDER.

16. [18-23887](#)-B-13 TIMOTHY NEHER
[JRD](#)-1 Pro Se

MOTION TO DISMISS CASE
9-6-18 [[90](#)]

No Ruling

The court will entertain oral argument and dispose of this motion by a written memorandum and 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). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See *Law Offices of David A. Boone v. Derham-Burk (In re Eliapo)*, 468 F.3d 592, 602 (9th Cir. 2006). Therefore, the defaults of the respondent and other parties in interest are entered. Upon review of the record there are no disputed material factual issues and the matter will be resolved without oral argument. The court will issue its ruling from the parties' pleadings.

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

11 U.S.C. § 1323 permits a debtor to amend a plan any time before confirmation. Debtor has provided evidence in support of confirmation. No opposition to the motion has been filed. The amended plan complies with 11 U.S.C. §§ 1322 and 1325(a) and is confirmed.

However, it appears that no order confirming the plan filed on June 29, 2018, at Docket 3, was filed after the Trustee withdrew his objection to confirmation of that plan, at Dockets 19 and 28, and the June 29, 2018 plan was ordered confirmed on September 4, 2018. Dkt. 44. For purposes of clarity on the docket, and consistent with the civil minutes at Docket 44, an order confirming the June 29, 2018 plan shall be lodged before an order granting this motion and a separate order confirming the September 3, 2018 amended plan is filed.

COUNSEL FOR THE DEBTOR SHALL LODGE AN APPROPRIATE ORDER CONFIRMING THE JUNE 29, 2018 PLAN WHICH SHALL BE TRANSMITTED TO THE TRUSTEE FOR REVIEW AND APPROVAL, THEN LODGE AN ORDER GRANTING THE MOTION WITHIN SEVEN (7) DAYS AND A SEPARATE ORDER CONFIRMING THE SEPTEMBER 3, 2018 AMENDED PLAN WHICH SHALL BE TRANSMITTED TO THE TRUSTEE FOR REVIEW AND APPROVAL.

18. [18-24892](#)-B-13 KISA BROWN
[JPJ](#)-1 Mohammad M. Mokkaram

CONTINUED OBJECTION TO
CONFIRMATION OF PLAN BY JAN P
JOHNSON AND/OR MOTION TO
DISMISS CASE
9-12-18 [[21](#)]

Final Ruling

The objection was originally 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's decision is to overrule the objection as moot, deny the motion to dismiss, and confirm the Chapter 13 plan.

Debtor did not appear at the first meeting of creditors set for September 7, 2018, as required pursuant to 11 U.S.C. § 343. This matter was continued from October 2, 2018, to allow the debtor to attend the continued Meeting of Creditors scheduled for October 4, 2018, at 8:30 a.m. A review of the court's docket shows that Jan Johnson, the Chapter 13 Trustee, uploaded his report on October 5, 2018, showing that Kisa Brown, the debtor, appeared at the continued Meeting of Creditors. This report resolves the only objection raised by the trustee.

The plan filed August 2, 2018, complies with 11 U.S.C. §§ 1322 and 1325(a). The objection is overruled and the plan is confirmed.

The objection is overruled for reasons stated in the ruling appended to the minutes.

COUNSEL FOR THE DEBTOR SHALL LODGE AN APPROPRIATE ORDER OVERRULING THE OBJECTION WITHIN SEVEN (7) DAYS AND A SEPARATE ORDER CONFIRMING WHICH SHALL BE TRANSMITTED TO THE TRUSTEE FOR REVIEW AND APPROVAL.