UNITED STATES BANKRUPTCY COURT
Eastern District of California

Honorable Michael S. McManus
Bankruptcy Judge
Sacramento, California

November 26, 2018 at 1:30 p.m.

THIS CALENDAR IS DIVIDED INTO TWO PARTS. THEREFORE, TO FIND ALL MOTIONS AND OBJECTIONS SET FOR HEARING IN A PARTICULAR CASE, YOU MAY HAVE TO LOOK IN BOTH PARTS OF THE CALENDAR. WITHIN EACH PART, CASES ARE ARRANGED BY THE LAST TWO DIGITS OF THE CASE NUMBER.

THE COURT FIRST WILL HEAR ITEMS 1 THROUGH 13. A TENTATIVE RULING FOLLOWS EACH OF THESE ITEMS. THE COURT MAY AMEND OR CHANGE A TENTATIVE RULING BASED ON THE PARTIES' ORAL ARGUMENT. IF ALL PARTIES AGREE TO A TENTATIVE RULING, THERE IS NO NEED TO APPEAR FOR ARGUMENT. HOWEVER, IT IS INCUMBENT ON EACH PARTY TO ASCERTAIN WHETHER ALL OTHER PARTIES WILL ACCEPT A RULING AND FOREGO ORAL ARGUMENT. IF A PARTY APPEARS, THE HEARING WILL PROCEED WHETHER OR NOT ALL PARTIES ARE PRESENT. AT THE CONCLUSION OF THE HEARING, THE COURT WILL ANNOUNCE ITS DISPOSITION OF THE ITEM AND IT MAY DIRECT THAT THE TENTATIVE RULING, AS ORIGINALLY WRITTEN OR AS AMENDED BY THE COURT, BE APPENDED TO THE MINUTES OF THE HEARING AS THE COURT'S FINDINGS OF FACT AND CONCLUSIONS OF LAW.

IF A MOTION OR AN OBJECTION IS SET FOR HEARING PURSUANT TO LOCAL BANKRUPTCY RULE 3015-1(c), (d) [eff. May 1, 2012], GENERAL ORDER 05-03, ¶ 3(c), LOCAL BANKRUPTCY RULE 3007-1(c)(2)[eff. through April 30, 2012], OR LOCAL BANKRUPTCY RULE 9014-1(f)(2), RESPONDENTS WERE NOT REQUIRED TO FILE WRITTEN OPPOSITION TO THE RELIEF REQUESTED. RESPONDENTS MAY APPEAR AT THE HEARING AND RAISE OPPOSITION ORALLY. IF THAT OPPOSITION RAISES A POTENTIALLY MERITORIOUS DEFENSE OR ISSUE, THE COURT WILL GIVE THE RESPONDENT AN OPPORTUNITY TO FILE WRITTEN OPPOSITION AND SET A FINAL HEARING UNLESS THERE IS NO NEED TO DEVELOP THE WRITTEN RECORD FURTHER. IF THE COURT SETS A FINAL HEARING, UNLESS THE PARTIES REQUEST A DIFFERENT SCHEDULE THAT IS APPROVED BY THE COURT, THE FINAL HEARING WILL TAKE PLACE DECEMBER 17, 2018 AT 1:30 P.M. OPPOSITION MUST BE FILED AND SERVED BY DECEMBER 3, 2018, AND ANY REPLY MUST BE FILED AND SERVED BY DECEMBER 10, 2018. THE MOVING/OBJECTING PARTY IS TO GIVE NOTICE OF THE DATE AND TIME OF THE CONTINUED HEARING DATE AND OF THESE DEADLINES.

THERE WILL BE NO HEARING ON ITEMS 14 THROUGH 19 AS INDICATED IN THE FINAL RULING BELOW. THAT RULING WILL BE APPENDED TO THE MINUTES. THIS FINAL RULING MAY OR MAY NOT BE A FINAL ADJUDICATION ON THE MERITS; IF IT IS, IT INCLUDES THE COURT'S FINDINGS AND CONCLUSIONS. IF ALL PARTIES HAVE AGREED TO A CONTINUANCE OR HAVE RESOLVED THE MATTER BY STIPULATION, THEY MUST ADVISE THE COURTROOM DEPUTY CLERK PRIOR TO HEARING IN ORDER TO DETERMINE WHETHER THE COURT VACATE THE FINAL RULING IN FAVOR OF THE CONTINUANCE OR THE STIPULATED DISPOSITION.

IF THE COURT CONCLUDES THAT FED. R. BANKR. P. 9014(d) REQUIRES AN EVIDENTIARY HEARING, UNLESS OTHERWISE ORDERED, IT WILL BE SET ON DECEMBER 3, 2018, AT 2:30 P.M.

Matters to be Called for Argument

1. 18-26800-A-13 MICHAEL/EMMA POST — MOTION TO EXTEND AUTOMATIC STAY
PLG-1 — 11-12-18 [9]

- ☐ Telephone Appearance
- ☐ Trustee Agrees with Ruling

Tentative Ruling: Because less than 28 days' notice of the hearing was given by the debtor, this motion is deemed brought pursuant to Local Bankruptcy Rule 9014-1(f)(2). Consequently, the creditors, the trustee, the U.S. Trustee, and any other parties in interest were not required to file a written response or opposition to the motion. 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. Below is the court's tentative ruling, rendered on the assumption that there will be no opposition to the motion. Obviously, if there is opposition, the court may reconsider this tentative ruling.

The motion will be granted.

This is the second chapter 13 case filed by the debtor. A prior case was dismissed within one year of the most recent petition when the debtor failed to maintain all plan payments.

11 U.S.C. § 362(c)(3)(A) provides that if a single or joint case is filed by or against a debtor who is an individual in a case under chapter 7, 11, or 13, and if a single or joint case of the debtor was pending within the preceding one-year period but was dismissed, the automatic stay with respect to a debt, property securing such debt, or any lease terminates on the 30th day after the filing of the new case.

Section 362(c)(3)(B) allows a debtor to file a motion requesting the continuation of the stay. A review of the docket reveals that the debtor has filed this motion to extend the automatic stay before the 30th day after the filing of the petition. The motion will be adjudicated before the 30-day period expires.

In order to extend the automatic stay, the party seeking the relief must demonstrate that the filing of the new case was in good faith as to the creditors to be stayed. For example, in In re Whitaker, 341 B.R. 336, 345 (Bankr. S.D. Ga. 2006), the court held: "[T]he chief means of rebutting the presumption of bad faith requires the movant to establish 'a substantial change in the financial or personal affairs of the debtor . . . or any other reason to conclude' that the instant case will be successful. If the instant case is one under chapter 7, a discharge must now be permissible. If it is a case under chapters 11 or 13, there must be some substantial change."

Here, it appears that the debtor was unable to maintain plan payments in the prior case due to serious health condition that spiked medical expenses. While the debtor's medical issues are not resolved, the debtor's retirement income is steady and with the reduction in secured debt that occurred in the prior case, the debtor's plan payment in this case will be approximately $800 less. This will free up sufficient monthly cash to meet both medical expenses and the plan payments. This is a sufficient change in circumstances rebut the presumption

of bad faith.

2. 15-25308-A-13 LARRY PERKINS
MRG-1
ASPEN PROPERTIES GROUP, L.L.C. VS.

MOTION FOR
RELIEF FROM AUTOMATIC STAY
10-23-18 [54]

- ☐ Telephone Appearance
- ☐ Trustee Agrees with Ruling

Tentative Ruling: The motion will be dismissed. This motion is duplicative of an earlier motion with same docket control number filed on October 12 and granted on November 13.

3. 18-25923-A-13 CLIFFORD SHACKLEFORD
JPJ-1

OBJECTION TO
CONFIRMATION OF PLAN AND MOTION TO DISMISS CASE
11-7-18 [16]

- ☐ Telephone Appearance
- ☐ Trustee Agrees with Ruling

Tentative Ruling: Because this hearing on an objection to the confirmation of the proposed chapter 13 plan and a motion to dismiss the case was set pursuant to the procedure required by Local Bankruptcy Rule 3015-1(c)(4), the debtor was not required to file a written response. If no opposition is offered at the hearing, the court will take up the merits of the objection. Below is the court's tentative ruling, rendered on the assumption that there will be no opposition. Obviously, if there is opposition, the court may reconsider this tentative ruling.

The objection will be sustained and the motion to dismiss the case conditionally denied.

The trustee maintains that the debtor is not making his best effort to pay unsecured creditors because the plan fails to step up the plan payment to the trustee when at the point in time the debtor will satisfy a pension/retirement plan loan. According to Schedule I, this loan is being repaid through a monthly payroll deduction of $259.76. According to the trustee, the loan will be repaid in "one or two" years after the commencement of this case. The trustee wants the $259.76 to be devoted to the plan once the loan is repaid.

Form 122C indicates that the debtor is an under-median income debtor. Therefore, to determine whether the debtor is paying all projected disposable income to unsecured creditors, the court must rely on Schedules I and J to determine future income and expenses in order to determine if the debtor is devoting all projected disposable income to unsecured creditors as required by 11 U.S.C. § 1325(b).

For an over-median income debtor the court is required to rely upon Form 122C when determining a debtor's likely projected disposable income. This form estimates future income based on actual income in the six-month period prior to bankruptcy and a mixture of actual, average, and normative expenses as specified in 11 U.S.C. §§ 707(b)(2) and 1325(b)(3). As to secured obligations, an over-median income debtor must list 1/60th of each secured debt that must be paid during the term to the plan. Hence, for a secured obligation that required monthly payments of $259.76 for two years, the debtor would deduct $103.90 a month (259.76 x 24 = $6,234.24/60 = $103.90).

Here, the debtor has projected future disposable income simply by deducting $259.76 from current income and promising to pay the remaining to creditors over the 60 months of the plan. This has the effect of overstating this expense by at least $12,468.48 (assuming the loan requires monthly payments for 24 months).

The proposed plan promises nothing to Class 7 unsecured creditors. Given that the court calculates that the debtor will have a further $12,468.48 over the life of the plan, this violates section 1325(b).

Because the plan proposed by the debtor is not confirmable, the debtor will be given a further opportunity to confirm a plan. But, if the 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 the debtor has not confirmed a plan within 60 days, the case will be dismissed on the trustee's ex parte application.

4. 18-25924-A-13 DANIEL SPOLARICH — OBJECTION TO CONFIRMATION OF PLAN AND MOTION TO DISMISS CASE
JPJ-1 — 11-7-18 [16]

- ☐ Telephone Appearance
- ☐ Trustee Agrees with Ruling

Tentative Ruling: Because this hearing on an objection to the confirmation of the proposed chapter 13 plan and a motion to dismiss the case was set pursuant to the procedure required by Local Bankruptcy Rule 3015-1(c)(4), the debtor was not required to file a written response. If no opposition is offered at the hearing, the court will take up the merits of the objection. Below is the court's tentative ruling, rendered on the assumption that there will be no opposition. Obviously, if there is opposition, the court may reconsider this tentative ruling.

The objection will be sustained and the motion to dismiss the case conditionally denied.

First, the debtor has failed to commence making plan payments and has not paid approximately $1,375 to the trustee as required by the proposed plan. This has resulted in delay that is prejudicial to creditors and suggests that the plan is not feasible. This is cause to deny confirmation of the plan and for dismissal of the case. See 11 U.S.C. §§ 1307(c)(1) & (c)(4), 1325(a)(6).

Second, the debtor has failed to give the trustee a copy of state tax return he requested. This is a breach of the duties imposed by 11 U.S.C. § 521(a)(3) & (a)(4). To attempt to confirm a plan while withholding relevant financial information from the trustee is bad faith. See 11 U.S.C. § 1325(a)(3).

Because the plan proposed by the debtor is not confirmable, the debtor will be given a further opportunity to confirm a plan. But, if the 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 the debtor has not confirmed a plan within 60 days, the case will be dismissed on the trustee's ex parte application.

5. 18-25924-A-13 DANIEL SPOLARICH
EAT-1
WELLS FARGO USA HOLDINGS, INC. VS.

OBJECTION TO
CONFIRMATION OF PLAN
10-24-18 [13]

- ☐ Telephone Appearance
- ☐ Trustee Agrees with Ruling

Tentative Ruling: Because this hearing on an objection to the confirmation of the proposed chapter 13 plan was set pursuant to the procedure required by Local Bankruptcy Rule 3015-1(c)(4), the debtor was not required to file a written response. If no opposition is offered at the hearing, the court will take up the merits of the objection. Below is the court's tentative ruling, rendered on the assumption that there will be no opposition. Obviously, if there is opposition, the court may reconsider this tentative ruling.

The objection will be sustained.

The plan assumes the arrears on the objecting creditor's Class 1 secured claim are approximately $8,517. The creditor indicates that the arrears are more than $13,000. At this higher level, the plan either is not feasible or it will not pay the objecting secured claim in full. The plan fails to comply with 11 U.S.C. §§ 1325(a)(5)(B) & (a)(6).

6. 18-24937-A-13 JOHN HUGHES
PLC-1

MOTION TO
CONFIRM PLAN
9-28-18 [25]

- ☐ Telephone Appearance
- ☐ Trustee Agrees with Ruling

Tentative Ruling: The motion will be denied and the objection sustained.

First, 11 U.S.C. § 521(e)(2)(B) & (C) requires the court to dismiss a petition if an individual chapter 7 or 13 debtor fails to provide to the case trustee a copy of the debtor's federal income tax return for the most recent tax year ending before the filing of the petition. This return must be produced seven days prior to the date first set for the meeting of creditors. The failure to provide the return to the trustee justifies dismissal and denial of confirmation. In addition to the requirement of section 521(e)(2) that the petition be dismissed, an uncodified provision of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 found at section 1228(a) of BAPCPA provides that in chapter 11 and 13 cases the court shall not confirm a plan of an individual debtor unless requested tax documents have been turned over. This has not been done.

Second, the debtor has not filed an income tax return for 2016. The return is delinquent. Prior to the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 becoming effective, the Bankruptcy Code did not require chapter 13 debtors to file delinquent tax returns. If a debtor did not file tax returns, the trustee might object to the plan on the grounds of lack of feasibility or that the plan was not proposed in good faith. See, e.g., Greatwood v. United States (In re Greatwood), 194 B.R. 637 (9th Cir. B.A.P. 1996), *affirmed*, 120 F.3d. 268 (9th Cir. 1997).

Since BAPCPA became effective, a chapter 13 debtor must file most pre-petition delinquent tax returns. See 11 U.S.C. § 1308. Section 1308(a) requires a chapter 13 debtor who has failed to file tax returns under applicable

nonbankruptcy law to file all such returns if they were due for tax periods during the 4-year period ending on the date of the filing of the petition. The delinquent returns must be filed by the date of the meeting of creditors. This was not done.

There are two consequences to a failure to comply with section 1308. The failure is cause for dismissal. See 11 U.S.C. § 1307(e). In this case, however, the trustee has not moved for dismissal. Also, 11 U.S.C. § 1325(a)(9) and an uncodified provision of BAPCPA found at section 1228(a) of the Act provide that the court cannot confirm a plan if delinquent returns have not been filed with the taxing agency and filed with the court. This has not been done and so the court cannot confirm any plan proposed by the debtor.

7. 18-24853-A-13 RAFAEL/MARSHA ESPINOSA — ORDER TO SHOW CAUSE 11-5-18 [38]

- ☐ Telephone Appearance
- ☐ Trustee Agrees with Ruling

Tentative Ruling: The case will be dismissed.

The debtor was given permission to pay the filing fee in installments pursuant to Fed. R. Bankr. P. 1006(b). The installment in the amount of $76 due on October 30 was not paid. This is cause for dismissal. See 11 U.S.C. § 1307(c)(2).

8. 18-26061-A-13 AUREA/CARLOS GOMEZ — OBJECTION TO CONFIRMATION OF PLAN AND MOTION TO DISMISS CASE 11-7-18 [24]
JPJ-1

- ☐ Telephone Appearance
- ☐ Trustee Agrees with Ruling

Tentative Ruling: Because this hearing on an objection to the confirmation of the proposed chapter 13 plan and a motion to dismiss the case was set pursuant to the procedure required by Local Bankruptcy Rule 3015-1(c)(4), the debtor was not required to file a written response. If no opposition is offered at the hearing, the court will take up the merits of the objection. Below is the court's tentative ruling, rendered on the assumption that there will be no opposition. Obviously, if there is opposition, the court may reconsider this tentative ruling.

The objection will be sustained and the motion to dismiss the case conditionally denied.

First, the plan is not feasible as required by 11 U.S.C. § 1325(a)(6) because the monthly plan payment of $75 is less than the $2,990 in dividends and expenses the plan requires the trustee to pay each month.

Second, the plan is not feasible as required by 11 U.S.C. § 1325(a)(6). Schedules I and J show that the debtor will have monthly net income of approximately $-28; the plan requires a monthly payment of $75.

Third, the debtor has failed to commence making plan payments and has not paid approximately $75 to the trustee as required by the proposed plan. This has

resulted in delay that is prejudicial to creditors and suggests that the plan is not feasible. This is cause to deny confirmation of the plan and for dismissal of the case. See 11 U.S.C. §§ 1307(c)(1) & (c)(4), 1325(a)(6).

Because the plan proposed by the debtor is not confirmable, the debtor will be given a further opportunity to confirm a plan. But, if the 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 the debtor has not confirmed a plan within 60 days, the case will be dismissed on the trustee's ex parte application.

9. 18-26068-A-13 JOHN LAFFITTE — OBJECTION TO CONFIRMATION OF PLAN AND MOTION TO DISMISS CASE
JPJ-1 — 11-7-18 [20]

- ☐ Telephone Appearance
- ☐ Trustee Agrees with Ruling

Tentative Ruling: Because this hearing on an objection to the confirmation of the proposed chapter 13 plan and a motion to dismiss the case was set pursuant to the procedure required by Local Bankruptcy Rule 3015-1(c)(4), the debtor was not required to file a written response. If no opposition is offered at the hearing, the court will take up the merits of the objection. Below is the court's tentative ruling, rendered on the assumption that there will be no opposition. Obviously, if there is opposition, the court may reconsider this tentative ruling.

The objection will be sustained and the case will be dismissed.

First, the debtor failed to appear at the meeting of creditors. Appearance is mandatory. See 11 U.S.C. § 343. To attempt to confirm a plan while failing to appear and be questioned by the trustee and any creditors who appear, the debtor is also failing to cooperate with the trustee. See 11 U.S.C. § 521(a)(3). Under these circumstances, attempting to confirm a plan is the epitome of bad faith. See 11 U.S.C. § 1325(a)(3). The failure to appear also is cause for the dismissal of the case. See 11 U.S.C. § 1307(c)(6).

Second, in violation of 11 U.S.C. § 521(a)(1)(B)(iv) and Local Bankruptcy Rule 1007-1(c) the debtor has failed to provide the trustee with employer payment advices for the 60-day period preceding the filing of the petition. The withholding of this financial information from the trustee is a breach of the duties imposed upon the debtor by 11 U.S.C. § 521(a)(3) & (a)(4) and the attempt to confirm a plan while withholding this relevant financial information is bad faith. See 11 U.S.C. § 1325(a)(3).

Third, 11 U.S.C. § 521(e)(2)(B) & (C) requires the court to dismiss a petition if an individual chapter 7 or 13 debtor fails to provide to the case trustee a copy of the debtor's federal income tax return for the most recent tax year ending before the filing of the petition. This return must be produced seven days prior to the date first set for the meeting of creditors. The failure to provide the return to the trustee justifies dismissal and denial of confirmation. In addition to the requirement of section 521(e)(2) that the petition be dismissed, an uncodified provision of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 found at section 1228(a) of BAPCPA provides that in chapter 11 and 13 cases the court shall not confirm a plan of an individual debtor unless requested tax documents have been turned

over. This has not been done.

Fourth, the debtor owes a domestic support obligation. Local Bankruptcy Rule 3015-1(b)(6) provides:

"The debtor shall provide to the trustee, not later than the fourteen (14) days after the filing of the petition, Form EDC 3-088, *Domestic Support Obligation Checklist,* or other written notice of the name and address of each person to whom the debtor owes a domestic support obligation together with the name and address of the relevant state child support enforcement agency (see 42 U.S.C. §§ 464 & 466), Form EDC 3-086, *Class 1 Checklist*, for each Class 1 claim, and Form EDC 3-087, *Authorization to Release Information to Trustee Regarding Secured Claims Being Paid By The Trustee*."

The debtor failed to deliver to the trustee the Domestic Support Obligation Checklist. This checklist is designed to assist the trustee in giving the notices required by 11 U.S.C. § 1302(d).

The trustee must provide a written notice both to the holder of a claim for a domestic support obligation and to the state child support enforcement agency. See 11 U.S.C. §§ 1302(d)(1)(A) & (B). The state child support enforcement agency is the agency established under sections 464 and 466 of the Social Security Act. See 42 U.S.C. §§ 664 & 666. Section 1302(d)(1)(C) requires a third, post-discharge notice to both the claim holder and the state child support enforcement agency.

The trustee's notice to the claimant must: (a) advise the holder that he or she is owed a domestic support obligation; (b) advise the holder of the right to use the services of the state child support enforcement agency for assistance in collecting such claim; and (c) include the address and telephone number of the state child support enforcement agency.

The trustee's notice to the State child support enforcement agency required by section 1302(d)(1)(B) must: (a) advise the agency of such claim; and (b) advise the agency of the name, address and telephone number of the holder of such claim.

By failing to provide the checklist to the trustee, the debtor has disregarded the rule that it be provided, has breached the duty to cooperate with the trustee imposed by 11 U.S.C. § 521(a)(3) & (a)(4). This is cause for dismissal. See 11 U.S.C. § 1307(c)(1).

Fifth, Local Bankruptcy Rule 3015-1(b)(6) provides: "*Documents Required by Trustee*. The debtor shall provide to the trustee, not later than the fourteen (14) days after the filing of the petition, Form EDC 3-088, *Domestic Support Obligation Checklist,* or other written notice of the name and address of each person to whom the debtor owes a domestic support obligation together with the name and address of the relevant state child support enforcement agency (see 42 U.S.C. §§ 464 & 466), Form EDC 3-086, *Class 1 Checklist*, for each Class 1 claim, and Form EDC 3-087, *Authorization to Release Information to Trustee Regarding Secured Claims Being Paid By The Trustee*." Because the plan includes a class 1 claim, the debtor was required to provide the trustee with a Class 1 checklist. The debtor failed to do so.

Sixth, the plan is not feasible as required by 11 U.S.C. § 1325(a)(6) because the monthly plan payment of $1,150 is less than the $2,328 in dividends and

expenses the plan requires the trustee to pay each month.

Seventh, the plan does not comply with 11 U.S.C. § 1325(a)(4) because unsecured creditors would receive $131,610 in a chapter 7 liquidation as of the effective date of the plan. This plan will pay nothing to unsecured creditors.

10. 18-20571-A-13 MARK ENOS — MOTION FOR SANCTIONS
PLC-8 — 10-21-18 [134]

- ☐ Telephone Appearance
- ☐ Trustee Agrees with Ruling

Tentative Ruling: The motion will be granted in part.

This case was filed on February 1, 2018.

As of March 2, there has been no automatic stay in this case because the debtor filed a prior case that was dismissed within the year prior to the filing of this case. See 11 U.S.C. § 362(c)(3). The debtor made no attempt to extend the automatic stay beyond the 30th day after filing of the case. It is now too late to request an extension.

Despite the absence of a stay beginning on March 2, the respondent filed a proof of claim on March 27 demanding payment of $44,435.36. The respondent holds a claim secured by the debtor's auto.

The debtor's original plan was filed on February 1 and confirmed on March 29. It provided for payment in full of the respondent's secured claim.

When the debtor failed to make all payments required by the plan, the trustee moved to convert the case to chapter 7. Because of this default, and because the debtor filed no opposition to the trustee's motion, the case was converted to one under chapter 7 on June 20.

However, the court soon vacated the conversion, finding that the debtor's attorney's illness excused his failure to respond to the trustee's motion and that the default under the confirmed plan had been substantially cured by the debtor. The case was reconverted to chapter 13 on August 9.

The plan was modified on August 23. It continues to provide for payment in full of the respondent's secured claim.

A review of the docket reveals that the respondent filed a motion for relief from the automatic stay on July 26 while the case was pending under chapter 13. It sought relief so that it might repossess the auto in order to satisfy its claim. The court dismissed the motion as moot inasmuch as the motion was heard more than 30 days after the case was filed. At that point, and as noted above, the automatic stay had expired pursuant to section 362(c)(3). Therefore, rather than grant the motion, the court confirmed the absence of the stay pursuant to 11 U.S.C. § 362(j). The order on the respondent's motion was filed August 28.

A review of the docket reveals that the respondent has filed no other motions concerning its claim or the plan. It did not object to the plan or its provision for payment of its claim. Hence, it appears that it is receiving a monthly payment of $845.99 on account of its claim as required by the confirmed

plan.

Despite filing a proof of claim signaling its participation in the chapter 13 case, despite its receipt of $845.99 each month during the pendency of the chapter 13 case, in October 2018 the respondent sought to repossess the auto. It efforts have not been successful and have been limited to contacting the debtor and his mother to demand access to the auto.

The debtor seeks sanctions for these efforts arguing that they are in violation of the confirmed plan. Inasmuch as the plan provides for payment of its secured claim, the debtor argues that the respondent may not pursue its remedies against its collateral at least in the absence of a breach of the plan.

Did confirmation of the plan require the respondent to accept plan payments and not foreclose on its collateral? Subject to the trustee confirmation that the debtor is current under the terms of the plan, the court concludes that the respondent cannot seize its collateral and must continue to accept plan payments.

11 U.S.C. § 1327(a) provides that "the provisions of a confirmed plan bind the debtor and each creditor. . . ." Hence, just as the debtor is obligated to perform the plan, the respondent is obligated to accept that performance. Just as a secured creditor cannot accept timely installment payments pursuant to a contract and foreclose on its security outside of a bankruptcy, inside of a bankruptcy it cannot accept timely plan payments and foreclose on its security.

Although the issue has not arisen with any regularity in bankruptcy cases, a few courts have addressed it.

In Cline v. Deutsche Bank, etc., et al., (In re Cline), 386 B.R. 344 (Bankr. N.D. Ala. 2008), the debtors were 42 months in arrears on a home mortgage and one of the debtors had filed seven bankruptcy cases to stop the lender from foreclosing. Despite this history, the debtors moved pursuant to section 362(c)(3) to extend the automatic stay. The lender opposed the motion.

The bankruptcy court found the debtors had failed to prove they would be able to afford the regular mortgage payments plus the arrearage owing to the home lender. However, the court concluded that the case had otherwise been filed in good faith as to all creditors except the home lender, and that the debtors could be successful in chapter 13 if the home mortgage was not amount the debts they reorganized. Therefore, the court extended the automatic stay to all creditors except the home lender.

The court's order further provided that the automatic stay would remain in effect as to the home lender for approximately 60 days in order to give the debtors and the lender an opportunity to work out a consensual loan modification. Once the 60 days expired, however, the order provided that the lender "will thereafter be entitled to exercise all of its in rem remedies with respect to the foreclosure of its mortgage against the Debtors' residence and any ejectment action following foreclosure."

There was no consensual modification and the debtors proposed and confirmed a plan that provided for payment of the home lender's claim. The lender nonetheless commenced foreclosure after the 60-day extension expired. The debtors responded by seeking sanctions arguing that the lender was bound by the confirmed plan.

The court in Cline declined to sanction the lender. In so ruling, it came to two conclusions that are relevant here. First, if the court enters a pre-confirmation order denying an extension of the automatic stay that also expressly authorizes a creditor to foreclose, this trumps a contradictory provision in a later confirmed plan. Second, if the automatic stay is not in effect as to a particular creditor when a plan is confirmed but that creditor's claim is provided for in the plan and it accepts payments tendered under the plan, the creditor is estopped from denying the binding and superceding effect of the plan's confirmation. Cline at 354.

In this case, the court only confirmed the absence of the stay. It did not expressly authorize any action by any creditor, including the respondent. And, the respondent filed a proof of claim, the debtor confirmed a plan providing for payment of the respondent's claim, and the respondent is receiving that payment. It cannot also foreclose on its collateral.

More recently, in In re Hileman, 451 B.R. 522 (Bankr. C.D. Cal. 2011), a chapter 13 debtor did not extend the automatic stay pursuant to section 362(c)(3) but nonetheless confirmed a plan that provided for payment of the secured claim of a home lender. The bankruptcy court found:

"The confirmed plan does not explicitly address the expiration of the automatic stay pre-confirmation, but does provide that secured claimants will "be paid according to this plan after confirmation unless the secured creditor . . . files a proof of claim in a different amount than that provided for in the plan." [Footnote omitted.] The plan then states that "[t]he Debtor will cure all prepetition arrearages for the primary residence through the Plan Payments as set forth below." [The home lender] is then listed as receiving payment of its full prepetition arrearages through monthly plan payments over 60 months. The debtor also checked the box in the plan stating that she will pay post-confirmation monthly mortgage payments directly to [The home lender]. The confirmation order confirmed the plan with no change to these provisions, and was silent as to the existence of any automatic stay."

The debtor in Hileman tendered all payments due under the plan but the lender refused them and it initiated a foreclosure of the debtor's home. The debtor countered by seeking injunctive relief on the ground that confirmation of a plan that provided for payment of the claim precluded a foreclosure. The bankruptcy court agreed with the debtor and held:

"[T]he creditor must still hold the foreclosure sale in abeyance and accept the payments provided for in the plan while it monitors whether the confirmed plan is carried out. 'Once a plan is confirmed, the plan binds the debtor and its creditors regardless of whether the stay has been vacated prior to confirmation, so long as the debtor remains current under the plan.' In re Lemma, 394 B.R. 315, 324 (Bankr. E.D. N.Y. 2008). As the Lemma court also notes, most courts post-BAPCPA have held that pre-confirmation termination of the stay by § 362(c)(3) does not divest the debtor of the ability to bind creditors under a confirmed plan. Id. at 323-34 (citing Kurtzahn v. The Sheriff of Benton County, Minn. (In re Kurtzahn), 342 B.R. 581 (Bankr. D. Minn. 2006); In re Fleming, 349 B.R. 444 (Bankr. D.S.C. 2006)). Thus, 'the creditor must preserve its rights after the stay is vacated by objecting to the plan or by completing the liquidation of the collateral pre-confirmation, or else be bound to accept the treatment afforded under the confirmed plan.' In re Lemma, 394 B.R. at 324."

The lender in Hileman asserted that it would be difficult for it to determine

its rights in the event the debtor defaulted on payments of its claim under the plan. The bankruptcy court concluded that in the event of a default, the lender should move to dismiss the case because dismissal would vacate the terms of the confirmed plan.

The court notes that the confirmed plan in this case includes section 6.04 which provides: "**Remedies upon default**. If Debtor defaults under this plan, or if the plan will not be completed within six months of its stated term, not to exceed 60 months, Trustee or any other party in interest may request appropriate relief by filing a motion and setting it for hearing pursuant to Local Bankruptcy Rule 9014-1. This relief may consist of, without limitation, dismissal of the case, conversion of the case to chapter 7, or relief from the automatic stay to pursue rights against collateral."

In the absence of evidence that the plan was in default when the respondent attempted to repossess the auto, the court concludes that the confirmation of the plan, the debtor's performance of that plan, and the payment of the respondent's claim pursuant, precluded repossession of the auto.

The attempted repossession of the auto was contrary to the order confirming the plan and the plan which provided for payment of the respondent's claim. It was prevented from repossessing the vehicle at least as long as the debtor performed the plan.

When a person disobeys a court order, he may be in civil contempt of court. Crystal Palace Gambling Hall, Inc. v. Mark Twain Industries, Inc. (In re Crystal Palace Gambling Hall, Inc.), 817 F.2d 1361, 1365 (9th Cir. 1987); Dyer v. Knupfer (In re Dyer), 322 F.3d 1178, 1190-91 (9th Cir. 2003). The party moving for contempt has the burden of showing by clear and convincing evidence that a specific and definite court order has been violated. Dyer at 1190-91. A person disobeys an order when he fails to take "all the reasonable steps within [his] power to insure compliance with the [court's] order." Crystal at 1365 (citing Shuffler v. Heritage Bank, 720 F.2d 1141, 1146-47 (9th Cir. 1983)).

Bankruptcy courts have statutory power to sanction contumacious conduct and to impose civil contempt sanctions. Dyer at 1189-90; see also In re Karl, 313 B.R. 827, 830 (Bankr. W.D. Mo. 2004) (citing 11 U.S.C. § 105(a) and Mountain America Credit Union v. Skinner (In re Skinner), 917 F.2d 444, 447 (10th Cir. 1990)). This power is derived from 11 U.S.C. § 105(a), which provides that:

"The court may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title. No provision of this title providing for the raising of an issue by a party in interest shall be construed to preclude the court from, sua sponte, taking any action or making any determination necessary or appropriate to enforce or implement court orders or rules, or to prevent an abuse of process."

Dyer at 1189-90.

Further, this court also has inherent authority to impose sanctions. Chambers v. NASCO, Inc., 501 U.S. 32, 43 (1991). The authority covers a broad range of conduct that goes beyond the violation of an order. Price v. Lehtinen (In re Lehtinen), 564 F.3d 1052, 1058 (9th Cir. 2009). While it may be used to impose civil contempt sanctions, this inherent authority may be applied without resorting to contempt proceedings, but only so long as the sanctions are intended to coerce compliance or compensate. Knupfer v. Lindblade (In re

Dyer), 322 F.3d 1178, 1192, 1196 (9th Cir. 2003) (noting that the inherent sanction authority, and civil penalties in general, must either be compensatory in nature or designed to coerce compliance); see also Miller v. Cardinale (In re Deville), 280 B.R. 483, 495 (B.A.P. 9th Cir. 2002) (citing and discussing Chambers at 42-51 and Caldwell v. Unified Capital Corp. (In re Rainbow Magazine, Inc.), 77 F.3d 278 (9th Cir. 1996)).

The court is persuaded that no sanctions are appropriate here. First, other than the fees associated with this motion, there is no convincing evidence of any damages. Second, the motion was unnecessary. As recounted in Ms. Wang's declaration, counsel for the debtor did not contact counsel for the creditor until the evening of Friday October 19, after counsel for the creditor had left for the day and the weekend. Setting a Saturday 9 AM deadline to respond to the debtor's attorney was unrealistic. Despite this, debtor's counsel filed this motion on Sunday. So, when the respondent's counsel returned to the office on Monday, October 22 she received debtor's counsel's October 19 voicemail and emails and his October 21 motion. By Tuesday, October 23, Ms. Wang confirmed in an email that the respondent was "suspending any efforts to recover its collateral." Given that there was no actual repossession of the auto, the respondent complied with the debtor's demand in a reasonably prompt fashion and no sanctions are appropriate.

11. 18-24875-A-13 REGINA WIDICK — ORDER TO SHOW CAUSE 11-5-18 [35]

- ☐ Telephone Appearance
- ☐ Trustee Agrees with Ruling

Tentative Ruling: The case will remain pending but the court will modify the terms of its order permitting the debtor to pay the filing fee in installments.

The court granted the debtor permission to pay the filing fee in installments. The debtor failed to pay the $77 installment when due on October 31. While the delinquent installment was paid on November 5, the fact remains the court was required to issue an order to show cause to compel the payment. Therefore, as a sanction for the late payment, the court will modify its prior order allowing installment payments to provide that if a future installment is not received by its due date, the case will be dismissed without further notice or hearing.

12. 18-26277-A-13 KRISTINE TREAS — ORDER TO SHOW CAUSE 11-8-18 [17]

- ☐ Telephone Appearance
- ☐ Trustee Agrees with Ruling

Tentative Ruling: The case will remain pending but the court will modify the terms of its order permitting the debtor to pay the filing fee in installments.

The court granted the debtor permission to pay the filing fee in installments. The debtor failed to pay the $79 installment when due on November 5. While the delinquent installment was paid on November 13, the fact remains the court was required to issue an order to show cause to compel the payment. Therefore, as a sanction for the late payment, the court will modify its prior order allowing installment payments to provide that if a future installment is not received by its due date, the case will be dismissed without further notice or hearing.

13. 18-26980-A-13 RENATO/MARY ROSE PORLARIS MOTION TO
NLB-1 EXTEND AUTOMATIC STAY
11-7-18 [8]

- ☐ Telephone Appearance
- ☐ Trustee Agrees with Ruling

Tentative Ruling: Because less than 28 days' notice of the hearing was given by the debtor, this motion is deemed brought pursuant to Local Bankruptcy Rule 9014-1(f)(2). Consequently, the creditors, the trustee, the U.S. Trustee, and any other parties in interest were not required to file a written response or opposition to the motion. 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. Below is the court's tentative ruling, rendered on the assumption that there will be no opposition to the motion. Obviously, if there is opposition, the court may reconsider this tentative ruling.

The motion will be denied.

The table below summarizes the debtor's recent history in this court.

Case No.	Chp	Filed	Status
18-26980	13	11/05/18	Pending
16-25023	13	07/30/18	Dismissed 02/28/18 failure to modify plan
16-20109	13	01/08/16	Dismissed 06/08/16 failure to confirm plan

This is the second chapter 13 case filed by the debtor. A prior case was dismissed within one year of the most recent petition.

11 U.S.C. § 362(c)(3)(A) provides that if a single or joint case is filed by or against a debtor who is an individual in a case under chapter 7, 11, or 13, and if a single or joint case of the debtor was pending within the preceding one-year period but was dismissed, the automatic stay with respect to a debt, property securing such debt, or any lease terminates on the 30th day after the filing of the new case.

Section 362(c)(3)(B) allows a debtor to file a motion requesting the continuation of the stay. A review of the docket reveals that the debtor has filed this motion to extend the automatic stay before the 30th day after the filing of the petition. The motion will be adjudicated before the 30-day period expires.

In order to extend the automatic stay, the party seeking the relief must demonstrate that the filing of the new case was in good faith as to the creditors to be stayed. For example, in In re Whitaker, 341 B.R. 336, 345 (Bankr. S.D. Ga. 2006), the court held: "[T]he chief means of rebutting the presumption of bad faith requires the movant to establish 'a substantial change in the financial or personal affairs of the debtor . . . or any other reason to conclude' that the instant case will be successful. If the instant case is one under chapter 7, a discharge must now be permissible. If it is a case under chapters 11 or 13, there must be some substantial change."

Here, it appears that the debtor's three cases have revolved around an attempt

to save their home which is encumbered by a mortgage. When the first case was filed, the arrears on the mortgage were $15,671.37. When the second case was filed, the arrears were $29,211.61. When this case was filed, the arrears were in excess of $40,000. Hence, despite being in chapter 13 for approximately 24 of the last 36 months, the debtor has been unable to gain any ground in curing the mortgage. The arrears are now approximately $25,000 more than when the first case was filed. There is no explanation for this in the motion. Absent an explanation, and proof that whatever the problem is has been rectified, the court cannot conclude this case will be anymore successful than the earlier two cases.

ADD-ON MATTERS

14. 18-27348-A-13 APRIL TURNBULL — MOTION TO IMPOSE AUTOMATIC STAY O.S.T. 11-21-18 [10]
PGM-1

- ☐ Telephone Appearance
- ☐ Trustee Agrees with Ruling

Tentative Ruling: The motion will be denied.

The debtor filed two prior chapter 13 cases, Case Nos. 18-22510 and 18-25412, both of which were dismissed in the prior year. Hence, pursuant to 11 U.S.C. § 362(c)(4), there is no automatic stay in this case unless the court imposes the stay in connection with this motion.

In order to extend or to impose the automatic stay under 11 U.S.C. § 362(c)(3) or (4), the party seeking the relief must demonstrate that the filing of the new case was in good faith as to the creditors to be stayed. For example, in In re Whitaker, 341 B.R. 336, 345 (Bankr. S.D. Ga. 2006), the court held: "[T]he chief means of rebutting the presumption of bad faith requires the movant to establish 'a substantial change in the financial or personal affairs of the debtor . . . or any other reason to conclude' that the instant case will be successful. If the instant case is one under chapter 7, a discharge must now be permissible. If it is a case under chapters 11 or 13, there must be some substantial change."

The first case was dismissed because the debtor failed to receive a credit counseling briefing before filing the case, failed to appear at the meeting of creditors, failed to commence plan payments, failed to give the trustee a Class 1 Checklist, and failed to timely file a motion to confirm a plan.

Approximately 60 days after the first case was dismissed, the second case was filed. It was dismissed on November 15 because the debtor failed to appear at the meeting of creditors, failed to commence plan payments, failed to give the trustee a Class 1 Checklist, verification of income, and the debtor's last filed income tax return.

The debtor has failed to explain her failure to diligently prosecute her first case and timely file documents, make payments and appear at the meeting of creditors. The motion says only that "the Debtors [sic] may have been less than adequately advised as the Debtors' [sic] rights and responsibilities to the Court and the Trustee in the prosecution of the case." Inasmuch as this statement is equivocal and the debtor was unrepresented in her prior cases, this explains nothing.

Absent an explanation, the court cannot conclude that this case in any more likely to be successful than the prior case.

15. 18-26852-A-13 JIMMY/JULIE ANN SANTOS — MOTION TO EXTEND AUTOMATIC STAY O.S.T. 11-20-18 [18]
PGM-1

- ☐ Telephone Appearance
- ☐ Trustee Agrees with Ruling

Tentative Ruling: The motion will be denied.

This is the second chapter 13 case filed by the debtor. A prior case was dismissed within one year of the filing of the current case. It was dismissed on September 10, 2018 because, the debtor failed to file a proposed plan and all schedules and statements. The debtor was represented in the prior case by the same attorney appearing in this case.

11 U.S.C. § 362(c)(3)(A) provides that if a single or joint case is filed by or against a debtor who is an individual in a case under chapter 7, 11, or 13, and if a single or joint case of the debtor was pending within the preceding one-year period but was dismissed, the automatic stay with respect to a debt, property securing such debt, or any lease terminates on the 30th day after the filing of the new case.

Section 362(c)(3)(B) allows a debtor to file a motion requesting the continuation of the stay. A review of the docket reveals that the debtor has filed this motion to extend the automatic stay before the 30th day after the filing of the petition. The motion will be adjudicated before the 30-day period expires.

In order to extend the automatic stay, the party seeking the relief must demonstrate that the filing of the new case was in good faith as to the creditors to be stayed. For example, in In re Whitaker, 341 B.R. 336, 345 (Bankr. S.D. Ga. 2006), the court held: "[T]he chief means of rebutting the presumption of bad faith requires the movant to establish 'a substantial change in the financial or personal affairs of the debtor . . . or any other reason to conclude' that the instant case will be successful. If the instant case is one under chapter 7, a discharge must now be permissible. If it is a case under chapters 11 or 13, there must be some substantial change."

The debtor has failed to explain the failure to diligently prosecute her first case and timely file documents. The motion says only that "Not being attorneys, we are unable to determine if we were properly advised as to our rights and responsibilities to the Court and the Trustee in the prosecution in the prosecution of the prior case. This may have contributed to our unknowing and unintentional failure to fulfill our duties in our Bankruptcy." Inasmuch as this statement is equivocal and the debtor was represented by the same attorney who appeared in the prior case, this explains nothing.

Absent an explanation, the court cannot conclude that this case in any more likely to be successful than the prior case.

FINAL RULINGS BEGIN HERE

16. 18-21100-A-13 DOUGLAS KENNEDY
JPJ-1
VS. THE RENAISSANCE

OBJECTION TO
CLAIM
10-5-18 [25]

Final Ruling: This objection to the proof of claim of The Renaissance been set for hearing on at least 44 days' notice to the claimant as required by Local Bankruptcy Rule 3007-1(c)(1)(ii). The failure of the claimant to file written opposition at least 14 calendar days prior to the hearing is considered as consent to the sustaining of the objection. 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 objecting party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the claimant's default is entered and the objection will be resolved without oral argument.

The objection will be sustained and the claim disallowed.

The last date to file a timely proof of claim was May 8, 2018. The proof of claim was filed on May 29, 2018. Pursuant to 11 U.S.C. § 502(b)(9) and Fed. R. Bankr. P. 3002(c), the claim is disallowed because it is untimely. See In re Osborne, 76 F.3d 306 (9th Cir. 1996); In re Edelman, 237 B.R. 146, 153 (B.A.P. 9th Cir. 1999); Ledlin v. United States (In re Tomlan), 907 F.2d 114 (9th Cir. 1989); Zidell, Inc. V. Forsch (In re Coastal Alaska), 920 F.2d 1428, 1432-33 (9th Cir. 1990).

17. 18-25450-A-13 JERRY DOWNING
PLC-1

MOTION TO
CONFIRM PLAN
10-5-18 [21]

Final Ruling: This motion to confirm a plan has been set for hearing on the notice required by Local Bankruptcy Rules 3015-1(c)(3) & (d)(1) and 9014-1(f)(1), and Fed. R. Bankr. R. 2002(b). The failure of the trustee, the U.S. Trustee, creditors, and any other party in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(ii) is considered as consent to the granting of the motion. 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 debtor, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the respondents' defaults are entered and the matter will be resolved without oral argument.

The motion will be granted. The plan complies with 11 U.S.C. §§ 1322(a) & (b), 1323(c), 1325(a), and 1329.

18. 18-24151-A-13 KIM/MINDY EVANS
JPJ-2

MOTION TO
CONVERT OR TO DISMISS CASE
10-18-18 [36]

Final Ruling: The motion will be dismissed because it is moot. The case was dismissed on November 14, 2018.

19. 18-20571-A-13 MARK ENOS
JPJ-3
VS. ADVANCE AMERICA, CASH ADVANCE CENTERS OF CA, L.L.C.

OBJECTION TO CLAIM
10-5-18 [126]

Final Ruling: This objection to the proof of claim of Advance America, et., has been set for hearing on at least 44 days' notice to the claimant as required by Local Bankruptcy Rule 3007-1(c)(1)(ii). The failure of the claimant to file written opposition at least 14 calendar days prior to the hearing is considered as consent to the sustaining of the objection. 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 objecting party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the claimant's default is entered and the objection will be resolved without oral argument.

The objection will be sustained and the claim disallowed.

The last date to file a timely proof of claim was April 12, 2018. The proof of claim was filed on May 31, 2018. Pursuant to 11 U.S.C. § 502(b)(9) and Fed. R. Bankr. P. 3002(c), the claim is disallowed because it is untimely. See In re Osborne, 76 F.3d 306 (9th Cir. 1996); In re Edelman, 237 B.R. 146, 153 (B.A.P. 9th Cir. 1999); Ledlin v. United States (In re Tomlan), 907 F.2d 114 (9th Cir. 1989); Zidell, Inc. V. Forsch (In re Coastal Alaska), 920 F.2d 1428, 1432-33 (9th Cir. 1990).

20. 18-25193-A-13 AARON BOREN AND GENEE FELTS-BOREN
MRG-1

MOTION TO CONFIRM PLAN
10-12-18 [26]

Final Ruling: The motion will be dismissed without prejudice.

Local Bankruptcy Rule 2002-1(c) provides that notices in adversary proceedings and contested matters that are served on the IRS shall be mailed to three entities at three different addresses: (1) IRS, P.O. Box 7346, Philadelphia, PA 19101-7346; (2) United States Attorney, for the IRS, 501 I Street, Suite 10-100, Sacramento, CA 95814; and (3) United States Department of Justice, Civil Trial Section, Western Region, Box 683, Franklin Station, Washington, D.C. 20044.

Service in this case is deficient because the IRS was not served at the second and third addresses listed above.

21. 18-24194-A-13 JUSTIN WARD
GEL-1

MOTION TO CONFIRM PLAN
10-22-18 [24]

Final Ruling: The motion will be dismissed without prejudice. While a separate proof of service accompanies the motion, the service list it references is not attached to it. Consequently, there is no proof that the motion and proposed plan was served on anyone.