

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: January 13, 2026**

**CALENDAR: 1:00 P.M. CHAPTER 13**

Each matter on this calendar will have one of three possible designations: No Ruling, Tentative Ruling, or Final Ruling. These instructions apply to those designations.

**No Ruling:** All parties will need to appear at the hearing unless otherwise ordered.

**Tentative Ruling:** If a matter has been designated as a tentative ruling it will be called. The court may continue the hearing on the matter, set a briefing schedule, or enter other orders appropriate for efficient and proper resolution of the matter. The original moving or objecting party shall give notice of the continued hearing date and the deadlines. The minutes of the hearing will be the court's findings and conclusions.

**Final Ruling:** Unless otherwise ordered, there will be no hearing on these matters and no appearance is necessary. The final disposition of the matter is set forth in the ruling and it will appear in the minutes. The final ruling may or may not finally adjudicate the matter. If it is finally adjudicated, the minutes constitute the court's findings and conclusions.

**Orders:** Unless the court specifies in the tentative or final ruling that it will issue an order, the prevailing party shall lodge an order within seven (7) days of the final hearing on the matter.

**UNITED STATES BANKRUPTCY COURT**

Eastern District of California

Honorable Christopher D. Jaime  
**Chief Bankruptcy Judge**  
Sacramento, California

**January 13, 2026 at 1:00 p.m.**

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1. 25-24603-B-13 DANA KYMLA MOTION TO VALUE COLLATERAL OF  
RLG-2 Robert L. Goldstein CA DEPARTMENT OF TAX AND FEE  
ADMINISTRATION (DTFA)  
12-11-25 [35]

**Final Ruling**

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

The court's decision is to value the secured claim of California Department of Tax and Fee Administration (DTFA) at \$0.00.

Debtor moves to value the secured claim of California Department of Tax and Fee Administration (DTFA) ("Creditor") pursuant to 11 U.S.C. § 506(a). Debtor has a  $\frac{1}{2}$  interest in real property located at 456 Walcott Street Manteca, California 95336 ("Property"). The other  $\frac{1}{2}$  interest owner is Debtor's mother Rochelle Carver. Debtor seeks to value the Property at a fair market value of \$617,000 (with Debtor's  $\frac{1}{2}$  interest in the value of the Property being the sum of \$308,500) as of the petition filing date. As the owner, Debtor's opinion of value is some 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. It appears that Claim No. 7-1 filed by California Dept. of Tax and Fee Administration is the claim which may be the subject of the present motion.

**Discussion**

The first deed of trust held by creditor Guild Mortgage Co. ("Guild Mortgage") secures a claim with a balance of approximately \$95,064.74. The balance of the Guild Mortgage secured claim (\$95,064.74) and Debtor's claim of homestead exemption (\$260,758.29) on the Property totals the sum of \$356,823.03, which is in excess of Creditor's interest in the Property, leaving no value in the collateral to support any claim of lien by Creditor. Creditor's secured claim is determined to be in the amount of \$0.00, and therefore no payments shall be made on the secured claim under the terms of any confirmed Plan. See 11 U.S.C. § 506(a); *Zimmer v. PSB Lending Corp. (In re Zimmer)*, 313 F.3d 1220 (9th Cir. 2002); *Lam v. Investors Thrift (In re Lam)*, 211 B.R. 36 (B.A.P. 9th Cir. 1997).

The valuation motion pursuant to Federal Rule of Bankruptcy Procedure 3012 and 11 U.S.C. § 506(a) is granted.

**January 13, 2026 at 1:00 p.m.**  
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The motion is ORDERED GRANTED 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 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. An appropriate order confirming the Chapter 13 plan shall be prepared consistent with the current practice of the Chapter 13 Trustee assigned to the case and the proposed order shall be submitted to the court.

The court will issue an order.

**Tentative Ruling**

The motion has been set for hearing on less than 28-days notice. Local Bankruptcy Rule 9014-1(f)(2). Parties in interest were not required to file a written response or opposition.

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

Debtor seeks to have the automatic stay extended beyond 30 days pursuant to 11 U.S.C. § 362(c)(3). This is the Debtor's second bankruptcy petition pending in the past 12 months. The Debtor's prior bankruptcy case was dismissed on November 20, 2025, for failure to comply with the court's order to file, set, and serve an amended plan. Case no. 25-90348, dkt. 36. Therefore, pursuant to 11 U.S.C. § 362(c)(3)(A), the provisions of the automatic stay end in their entirety 30 days after filing of the petition. See e.g., *Reswick v. Reswick (In re Reswick)*, 446 B.R. 362 (9th Cir. BAP 2011) (stay terminates in its entirety); *accord Smith v. State of Maine Bureau of Revenue Services (In re Smith)*, 910 F.3d 576 (1st Cir. 2018). This motion was set for hearing within 30 days of the filing of the instant case. 11 U.S.C. § 362(c)(3)(B).

**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 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). This court does not utilize the *Sarafoglu* factors as urged by the Debtor. See *In Re Sarafoglu*, 345 B.R. 19 (Bankr. D. Mass. 2006).

Debtor states that the extension of the automatic stay is necessary to protect his assets and that the instant case was filed to stop a pending foreclosure and vehicle repossession. Debtor contends that his circumstances have changed since his previous case, namely that he has returned to a 40-hour work week, is caught up on regular monthly expenses, and is in better health thus not requiring workers for his business. Debtor further states that he has created a realistic budget and can move forward with a feasible plan.

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.

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

The court will issue an order.

ACAR LEASING LTD VS.

**Final Ruling**

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

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

ACAR Leasing LTD d/b/a GM Financial Leasing ("Movant") seeks relief from the automatic stay with respect to an asset identified as a 2024 GMC Canyon (the "Vehicle"). The moving party has provided the Declaration of Philip Ford Sr. to introduce into evidence the documents upon which it bases the claim and the obligation owed by the Debtor.

The Ford Declaration states that there is 1 pre-petition payment in default totaling \$600.00. Additionally, there are 2 post-petition payments in default totaling \$1,200.00.

From the evidence provided to the court, and only for purposes of this motion, the debt secured by this asset is determined to be \$35,087.71, as stated in the Ford Declaration, while the value of the Vehicle is determined to be \$36,267.00, as stated in Schedule G filed by Debtor.

The Vehicle is not provided for in the plan, and on June 19, 2025, the Vehicle was turned to the dealers, secured by Movant, and is currently pending sale at auction.

**Discussion**

The court maintains the right to grant relief from stay for cause when a debtor has not been diligent in carrying out his or her duties in the bankruptcy case, has not made required payments, or is using bankruptcy as a means to delay payment or foreclosure. *In re Harlan*, 783 F.2d 839 (B.A.P. 9th Cir. 1986); *In re Ellis*, 60 B.R. 432 (B.A.P. 9th Cir. 1985). The court determines that cause exists for terminating the automatic stay since the Debtor and the estate have not made post-petition payments. 11 U.S.C. § 362(d)(1); *In re Ellis*, 60 B.R. 432 (B.A.P. 9th Cir. 1985).

Additionally, 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 the Vehicle for either the Debtor or the Estate. 11 U.S.C. § 362(d)(2). And 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 creditor, 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 asset.

There also being no objections from any party, the 14-day stay of enforcement under Rule 4001(a)(3) is waived.

No other or additional relief is granted by the court.

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

The court will issue an order.

5. 25-25920-B-13 JAIME/RHONDA MCPHEE  
DEF-2 David Foyil

MOTION TO CONFIRM PLAN  
11-21-25 [23]

CONTINUED TO 1/27/26 AT 1:00 P.M. TO BE HEARD AFTER THE CONTINUED MEETING OF CREDITORS  
SET FOR 1/14/26.

**Final Ruling**

No appearance at the January 13, 2026, hearing is required. The court will issue an order.

The motion is ORDERED CONTINUED to January 27, 2026 at 1:00 p.m. for reasons stated in the minutes.

**Final Ruling**

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

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

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

The motion is ORDERED GRANTED for reasons stated in the minutes. An appropriate order confirming the Chapter 13 plan shall be prepared consistent with the current practice of the Chapter 13 Trustee assigned to the case and the proposed order shall be submitted to the court.

The court will issue an order.

7. 25-24538-B-13 LEEANN KRIER  
LGT-3 Peter G. Macaluso

OBJECTION TO DEBTOR'S CLAIM OF  
EXEMPTIONS  
11-25-25 [46]

DEBTOR DISMISSED: 12/18/25

**Final Ruling**

The case having been dismissed, the objection to Debtor's claim of exemptions is dismissed as moot.

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

The court will issue an order.

TRANSFORM CREDIT, INC. VS.

**Final Ruling**

Before the court is a *Motion for Relief from Co-Debtor Stay* filed by creditor Transform Credit, Inc. ("Creditor"). Creditor moves for relief from the co-debtor stay of 11 U.S.C. § 1301 as it applies to non-debtor Deborah Phillips ("Co-Debtor"). Co-Debtor guaranteed a promissory note signed by debtor Justin Phillips ("Debtor") on June 5, 2025.

The court has reviewed the motion and its related documents. The court has also reviewed and takes judicial notice of the docket. See Fed. R. Evid. 201(c)(1). Oral argument is not necessary and will not assist in the decision-making process. See Local R. Bankr. P. 1001-1(f), 9014-1(h).

Creditor is a general unsecured creditor. Dkt. 21 at 2:10. Creditor moves for relief from the co-debtor stay of § 1301(a) under § 1301(c)(2). *Id.* at 3:9-11. Section 1301(c)(2) allows a creditor to pursue a debtor's co-debtor if "the plan filed by the debtor proposes not to pay [the creditor's] claim." 11 U.S.C. § 1301(c)(2). Creditor argues relief under § 1301(c)(2) is warranted because "[t]he [Debtor's] proposed Plan does not provide for payment of Creditor's claim in full." Dkt. 21 at 2:9-10.

As an initial matter, Creditor's statement that it is a "general unsecured creditor, and 0% is provided for unsecured claims," *id.* at 2:10-11 is not entirely accurate. Debtor's First Modified Chapter 13 Plan, filed December 19, 2025, provides for a 1% dividend to unsecured creditors. Dkt. 30 at 5, § 3.14.<sup>1</sup>

Nevertheless, § 1301(c)(2) applies when a plan does not provide for payment of a creditor's claim in full, and it allows a creditor to pursue a claim in the amount not provided for in a plan. See *Household Finance Corporation v. Jacobsen (In re Jacobsen)*, 20 B.R. 648, 650 (9th Cir. BAP 1982) ("The parties have agreed the Debtor's plan will not pay the full amount of the Federal Land Bank claim. The Creditor has the right to pursue its claim against the codebtor for the amount not provided by the plan."); see also *In re Circle Five, Inc.*, 75 B.R. 688 & n.11 (Bankr. D. Idaho 1987); *In re Nickles*, 2010 WL 3999838, \*1 (Bankr. S.D. Cal., Oct. 8, 2010).

Because § 1301(c)(2) applies here, so too does § 1301(d) which provides for automatic termination of the co-debtor stay 20 days after a request under § 1301(c)(2) by a party in interest if there is no objection by the debtor or the co-debtor. 11 U.S.C. § 1301(d). Creditor filed its motion on December 17, 2025. The 20-day period expired on January 6, 2026, without objection by the Debtor or Co-Debtor which means the co-debtor stay of § 1301(a) has expired by operation of law. In other words, there no longer is any co-debtor stay in effect for this court to terminate. The court cannot terminate an already terminated automatic stay and, in fact, the bankruptcy court abuses its discretion by doing so. See e.g., *Khabushani v. Anderson (In re Khabushani)*, 2021 WL 2562113 at \*2 (9th Cir. BAP June 22, 2021). The motion is therefore moot and will be denied as such.

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

The court will issue an order.

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<sup>1</sup>Creditor's statement is accurate in the context of the initial plan filed on September 11, 2025. See dkt. 3 at 5, § 3.14. However, confirmation of the initial plan was denied on November 26, 2025. See dkt. 17-20.

**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 by the Chapter 13 Trustee and creditor U.S. Bank Trust Company, National Association.

The court has 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). This matter will therefore be decided on the papers.

The court's decision is to not confirm the second amended plan filed October 24, 2025.

First, Debtor's proposed plan does not meet the requirements of 11 U.S.C. § 1325(a)(4) in that it appears creditors would receive more in a Chapter 7 liquidation. Under the liquidation calculation, no less than \$116,402.49 or 100% needs to be paid to unsecured creditors. The amended plan proposes to pay \$0.00 or 0%. Nonexempt assets consist of Debtor's real property.

Second, Debtor will not be able to make all payments under the plan and comply with the plan. 11 U.S.C. § 1325(a)(6). Section 2.01 of the plan lists a monthly plan payment of \$1,500.00 for a duration of 60 months. Debtor's case was filed on July 22, 2025, and November 2025 was month 4. Pursuant to the terms of the amended plan, Debtor is delinquent \$4,500.00 through and including November 2025. Debtor has only paid a total of \$1,500.00 as of December 18, 2025, with an additional plan payment due December 25, 2025.

Third, feasibility of the plan cannot be determined because two secured mortgage claims are listed together, rather than separately, in Class 1. Additionally, the amended plan fails to provide a collateral description to the Class 1 claims.

Fourth, the amended plan fails to provide for the ongoing Class 1 mortgage payments through the plan. Section 3.07 provides that Class 1 claims include all delinquent secured claims that mature after the completion of the plan, including those secured by Debtor's principal residence. Section 3.07 further requires all arrears be paid in full by the Trustee and all post-petition monthly payments to be maintained by the Trustee as well. The amended plan provides for "U.S. Bank Trust Company N.A., c/o PHH Mortgage" as a Class 1 Claim but fails to provide for the ongoing mortgage payment through the Chapter 13 Plan. The amended plan states debtor "will pay directly" the post-petition mortgage payments. This is contrary to the express requirements of the plan.

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 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.

The court's decision is to grant the motion to dismiss case.

Debtor is delinquent \$5,921.00 as of January 12, 2026. This is cause to dismiss case as Debtor has failed to make all payments due under the plan. 11 U.S.C. § 1307(c)(1) and (c)(4).

Cause exists to dismiss this case. The motion is granted and the case is dismissed.

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

The court has 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). This matter will therefore be decided on the papers.

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

The Chapter 13 Trustee objects to confirmation of the plan on grounds that Debtor has not properly accounted for the previous amounts paid into the plan but that this can be addressed in an order confirming plan, and that the plan does not pass the liquidation test in which Debtor would need to pay no less than 16% to unsecured creditors and does not have the disposable income to increase his plan payment.

Debtor filed a response agreeing that his plan must pass the liquidation test and states that he will be able to increase his plan payments in July 2026 because his business will sustain higher payments and he can take on more teaching classes as necessary at UC Davis where he currently teaches. Debtor agrees to provide appropriate language in the order confirming plan that provides for the total payments paid into the plan as well as future monthly plan payments.

The modified 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. An appropriate order confirming the Chapter 13 plan shall be prepared consistent with the current practice of the Chapter 13 Trustee assigned to the case and the proposed order shall be submitted to the court.

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

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

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

The motion is ORDERED GRANTED for reasons stated in the minutes. An appropriate order confirming the Chapter 13 plan shall be prepared consistent with the current practice of the Chapter 13 Trustee assigned to the case and the proposed order shall be submitted to the court.

The court will issue an order.

13. 25-24976-B-13 SERGIO CASTELLANOS AND  
AF-3 MARICELA OSEGUERA  
Nancy W. Weng

MOTION TO RECONSIDER  
12-16-25 [44]

**Final Ruling**

The motion has been set for hearing on the 28-days notice required by Local Bankruptcy Rule 9014-1(f) (1). The court has reviewed the motion. The court has also reviewed and takes judicial notice of the docket in this Chapter 13 case. The court has determined that oral argument will not assist in the decision-making process or resolution of the amended motion. See Local Bankr. R. 9014-1(h); *Coss v. Caliber Homes, Inc./Fidelity*, 2019 WL 1460251, \*1 (D. Ariz. 2019) (oral argument not mandatory before ruling on motion to reconsider). The court therefore issues these findings of fact and conclusions as a Final Ruling. See Fed. R. Civ. P. 52(a); Fed. R. Bankr. P. 7052.

The court's decision is to grant the motion to reconsider.

Debtors' attorney seeks reconsideration of a court order requiring counsel to seek approval of fees through a fee application pursuant to Local Bankr. R. 2016-1(c) since the originally filed plan failed to make a selection as to compensation under the standard no-look fee. See dkt. 41.

Counsel cites legal authority Civil Rule 60(b)(1) permitting the court to relieve a party from a final judgment or order for "mistake, inadvertence, surprise, or excusable neglect[.]" Fed. R. Civ. P. 60(b)(1); Fed. R. Bankr. P. 9024. The Debtor may rely on excusable neglect which is governed by the *Pioneer-Briones* factors, i.e., (1) the danger of prejudice to any non-moving party if the dismissal is vacated; (2) the length of delay and the potential impact of that delay on judicial proceeding; (3) the reason for the delay, including whether the delay was within the reasonable control of the movant; and (4) whether the debtor's conduct was in good faith. *Pioneer Inv. Servs. v. Brunswick Assocs. Ltd. P'ship*, 507 U.S. 380, 395 (1993); *Briones v. Riviera Hotel & Casino*, 116 F.3d 379, 381 (9th Cir. 1997). Debtors' counsel fails to analyze the *Pioneer-Briones* factors. Nevertheless, based on the court's independent evaluation of the factors, the court concludes that relief for excusable neglect is warranted.

As to the first factor, there is no danger of prejudice to any non-moving party if the dismissal is vacated since the motion merely seeks to change the selection of compensation to Debtors' counsel. As to the second factor, there is no delay that would impact judicial proceedings and, in fact, permitting Debtors' counsel to seek compensation under the standard no-look fee would advance judicial efficiency. As to the third factor, Debtors' counsel has stated that the failure to check the no-look fee box was purely a ministerial error and not a strategic or substantive choice. As to the fourth factor, the Debtors have acted in good faith and the error was an excusable action by Debtors' counsel.

The motion to reconsider is granted.

The motion is ORDERED GRANTED 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 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). This matter will therefore be decided on the papers.

The court's decision is to not confirm the first amended plan.

First, the plan provides for Class 1 ongoing mortgage payments to be paid to Freedom Mortgage in the amount of \$3,439.33. Additionally, the plan provides for plan payments of \$5,300.00 in month 1 and 2, \$0.00 in month 3, and \$5,484.00 in months 4 through 60. The plan does not suspend payments to creditors or provide for post-petition arrears to Freedom Mortgage. An amended plan is required to provide for the cure of delinquent post-petition monthly mortgage payments to Freedom Mortgage and Class 2 creditors Wells Fargo and OE Federal Credit Union.

Second, Schedule J reflects monthly income of \$7,201.35 (line 23a) while amended Schedule I reflects monthly income of \$8,887.23. Schedules must be amended for accuracy and consistency.

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

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

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

The motion is ORDERED GRANTED for reasons stated in the minutes. An appropriate order confirming the Chapter 13 plan shall be prepared consistent with the current practice of the Chapter 13 Trustee assigned to the case and the proposed order shall be submitted to the court.

The court will issue an order.

16. 25-25386-B-13 HUGO/LOYDA GUTIERREZ  
CRG-1 Carl R. Gustafson

MOTION TO CONFIRM PLAN  
11-20-25 [[19](#)]

WITHDRAWN BY M.P.

**Final Ruling**

Debtors having filed a notice of withdrawal of their motion, the motion is dismissed without prejudice pursuant to Federal Rule of Civil Procedure 41(a)(2) and Federal Rules of Bankruptcy Procedure 9014 and 7041. The matter is removed from the calendar.

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

17. 24-24504-B-13 ENRIQUE GARCIA  
PGM-1 Peter G. Macaluso

CONTINUED OBJECTION TO CLAIM OF  
U.S. BANK TRUST NATIONAL  
ASSOCIATION, CLAIM NUMBER 3  
AND/OR MOTION FOR COMPENSATION  
FOR PETER G. MACALUSO, DEBTORS  
ATTORNEY(S)  
10-28-25 [36]

MATTER SET FOR EVIDENTIARY HEARING ON 4/15/26 AT 10:00 A.M.

**Final Ruling**

No appearance at the January 13, 2026, hearing is required. 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 by the Chapter 13 Trustee and Wells Fargo Bank, N.A. A reply was filed by Debtor.

The court has 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). This matter will therefore be decided on the papers.

The court's decision is to not confirm the third amended plan.

The Debtor will not be able to make all payments under the plan and comply with the plan. 11 U.S.C. § 1325(a)(6). Pursuant to the third modified plan, Debtor is delinquent \$2,200.00. A total of \$20,760.00 has come due through and including November 2025, and the Debtor has only paid a total of \$18,560.0 as of December 3, 2025. An additional plan payment of \$790.00 was due on December 25, 2025.

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.

19. 25-25662-B-13 RODOLFO BENAVIDES  
FW-1 Pro Se  
Thru #21 CONTINUED OBJECTION TO  
CONFIRMATION OF PLAN BY ROCKET  
MORTGAGE, LLC  
12-4-25 [29]

**Final Ruling**

This matter was continued from January 6, 2026, to allow any party in interest to file a response by 5:00 p.m. Friday, January 9, 2026. Nothing was filed. Therefore, the court's conditional ruling at dkt. 40, sustaining the objection, shall become the court's final decision. The continued hearing on January 13, 2026, at 1:00 p.m. is vacated.

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

The court will issue an order.

20. 25-25662-B-13 RODOLFO BENAVIDES  
JCW-1 Pro Se CONTINUED OBJECTION TO  
CONFIRMATION OF PLAN BY  
CONNEXUS CREDIT UNION  
12-4-25 [22]

**Final Ruling**

This matter was continued from January 6, 2026, to allow any party in interest to file a response by 5:00 p.m. Friday, January 9, 2026. Nothing was filed. Therefore, the court's conditional ruling at dkt. 42, sustaining the objection, shall become the court's final decision. The continued hearing on January 13, 2026, at 1:00 p.m. is vacated.

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

The court will issue an order.

21. 25-25662-B-13 RODOLFO BENAVIDES  
LGT-1 Pro Se CONTINUED OBJECTION TO  
CONFIRMATION OF PLAN BY LILIAN  
G. TSANG  
12-4-25 [23]

**Final Ruling**

This matter was continued from January 6, 2026, to allow any party in interest to file a response by 5:00 p.m. Friday, January 9, 2026. Nothing was filed. Therefore, the court's conditional ruling at dkt. 44, sustaining the objection, shall become the court's final decision. The continued hearing on January 13, 2026, at 1:00 p.m. is vacated.

The objection is ORDERED SUSTAINED 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 and responses were filed.

The court has 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). This matter will therefore be decided on the papers.

The court's decision is to not confirm the first amended plan.

First, payment to any and all creditors cannot be delayed without providing all creditors with notice. The Chapter 13 Trustee cannot resolve this matter in an order confirming plan. Debtor must file a modified plan and provide for delayed payments through the Nonstandard provisions.

Second, the Trustee cannot provide for the value of collateral through language in an order confirming without either a stipulation signed by the creditor or having the creditor sign off to the order confirming. The creditor must be provided with notice.

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 and a response were filed.

The court has 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). This matter will therefore be decided on the papers.

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

The Chapter 13 Trustee objects to confirmation on grounds that a 2017 Honda Civic financed with American Honda Finance Corporation should be listed in Class 2, and not Class 4, because Claim No. 4 filed by the creditor lists a delinquency of \$689.98.

Debtors filed a response stating that Debtor Ariston Gaoat is merely a co-signor and that son Mark Gaoat is the primary who drives and makes all payments directly to the lender. This resolves the issue raised by the Trustee.

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

The motion is ORDERED GRANTED for reasons stated in the minutes. An appropriate order confirming the Chapter 13 plan shall be prepared consistent with the current practice of the Chapter 13 Trustee assigned to the case and the proposed order shall be submitted to the court.

IT IS FURTHER ORDERED that the confirmation order shall reiterate that upon payment default by the son on the Class 4 car claim there is no automatic/co-debtor stay applicable to the Vehicle or any non-debtor, and creditor may exercise all nonbankruptcy rights and remedies as to the Vehicle and non-debtor.

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 and a response were filed.

The court has 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). This matter will therefore be decided on the papers.

The court's decision is to not confirm the second amended plan.

First, with respect to each allowed secured claim provided for by the plan, the plan fails to provide for the value, as of the effective date of the plan, of property to be distributed under the plan on account of each allowed amount of such claim. 11 U.S.C. § 1325(d)(5)(B)(ii).

Second, feasibility depends on Debtor filing an objection to claim of the Franchise Tax Board and/or processing the applicable returns with the Franchise Tax Board.

Third, feasibility depends on Debtor filing the attachment to Schedule I providing for Debtor's business income and expenses, as well as updated profit and loss statements for February through October 2025.

Fourth, the plan does not provide for all of Debtor's projected disposable income to be applied to unsecured creditors under the plan. 11 U.S.C. § 1325(b)(1)(B).

Fifth, feasibility is contingent upon the sale of real property. *In re Bertrand*, 2010 WL 1740906, \*4 (Bankr. D. Ariz., April 29, 2010) ("The Debtors have offered the court no fact by which the court could conclude that refinancing or sale, by either the Debtors or the current non-debtor occupants, is probable. Thus, the plan's provisions are speculative. Bankruptcy courts cannot confirm speculative plans."); *In re Stanley*, 296 B.R. 402, 409 (Bankr. E.D. Va. 2002) (denying confirmation where plan would be funded by a speculative sale of land).

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

The court will issue an order.

25. 25-26443-B-13 TIMOTHY/MARY JO HALLORAN  
TLA-1 Thomas L. Amberg

CONTINUED MOTION TO VALUE  
COLLATERAL OF HYUNDAI MOTOR  
FINANCE  
12-23-25 [14]

**Final Ruling**

This matter was continued from January 6, 2026, to allow any party in interest to file an opposition or response by 5:00 p.m. Friday, January 9, 2026. Nothing was filed. Therefore, the court's conditional ruling at dkt. 22, granting the motion, shall become the court's final decision. The continued hearing on January 13, 2026, at 1:00 p.m. is vacated.

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

The court will issue an order.

26. 25-24702-B-13 GUILLERMO CERVANTES  
LGT-1 Robert W. Fong

CONTINUED OBJECTION TO  
CONFIRMATION OF PLAN BY LILIAN  
G. TSANG  
10-8-25 [[13](#)]

**Final Ruling**

This matter was continued from January 6, 2026, to allow any party in interest to file a response by 5:00 p.m. Friday, January 9, 2026. Debtor filed a timely response stating that he has paid all of the sales taxes to the California Department of Tax and Fee Administration for his used car business, has made substantial progress in resolving a significant portion of the discrepancy, and is confident that he will resolve the claim and eliminate the CDTFA claim entirely. Debtor requests a four week continuance to resolve the CDTFA claim.

Therefore, the court's conditional ruling at dkt. 31 and the continued hearing on January 13, 2026, at 1:00 p.m. are vacated. The objection to confirmation is continued to February 10, 2026, at 1:00 p.m.

The objection is ORDERED CONTINUED to February 10, 2026 at 1:00 p.m. for reasons stated in the minutes.

The court will issue an order.