



UNITED STATES BANKRUPTCY COURT
Eastern District of California

Honorable Christopher M. Klein
Bankruptcy Judge
Sacramento, California

January 13, 2026 at 11:00 a.m.

Unless otherwise ordered, all matters before the Honorable Christopher M. Klein shall be simultaneously: (1) **In Person**, at Sacramento Courtroom #35, (2) via **ZoomGov Video**, (3) via **ZoomGov Telephone**, and (4) via **CourtCall**.

You may choose any of these options unless otherwise ordered or stated below.

All parties who wish to appear at a hearing remotely must sign up by 4:00 p.m. **one business day** prior to the hearing. Information regarding how to sign up can be found on the **Remote Appearances** page of our website at <https://www.caeb.uscourts.gov/Calendar/CourtAppearances>. Each party who has signed up will receive a Zoom link or phone number, meeting I.D., and password via e-mail.

If the deadline to sign up has passed, parties who wish to appear remotely must contact the Courtroom Deputy for the Department holding the hearing.

Please also note the following:

- Parties in interest may connect to the video or audio feed free of charge and should select which method they will use to appear when signing up.
- Members of the public and the press appearing by ZoomGov may only listen in to the hearing using the zoom telephone number. Video appearances are not permitted.
- Members of the public and the press may not listen in to trials or evidentiary hearings, though they may appear in person in most instances.

To appear remotely for law and motion or status conference proceedings, you must comply with the following guidelines and procedures:

1. Review the [Pre-Hearing Dispositions](#) prior to appearing at the hearing.
2. Parties appearing via CourtCall are encouraged to review the [CourtCall Appearance Information](#).

If you are appearing by ZoomGov phone or video, please join at least 10 minutes prior to the start of the calendar and wait with your microphone muted until the matter is called.

Unauthorized Recording is Prohibited: Any recording of a court proceeding held by video or teleconference, including "screen shots" or other audio or visual copying of a hearing is prohibited. Violation may result in sanctions, including removal of court-issued media credentials, denial of entry to future hearings, or any other sanctions deemed necessary by the court. For more information on photographing, recording, or broadcasting Judicial Proceedings, please refer to Local Rule 173(a) of the United States District Court for the Eastern District of California.

UNITED STATES BANKRUPTCY COURT
Eastern District of California

Honorable Christopher M. Klein
Bankruptcy Judge
Sacramento, California

January 13, 2026 at 11:00 a.m.

1. 08-39023-C-13 TIMOTHY/MELISSA HALPAIN
25-2026 Peter Macaluso
HALPAIN V. HELEN BARBARA FUTER
LIVING TRUST ET AL
CONTINUED STATUS CONFERENCE RE:
CAE-1AMENDED COMPLAINT
7-8-25 [[14](#)]

2. 08-39023-C-13 TIMOTHY/MELISSA HALPAIN
25-2026 PGM-1
HALPAIN V. HELEN BARBARA FUTER
LIVING TRUST ET AL
CONTINUED MOTION FOR ENTRY OF
DEFAULT JUDGMENT AND/OR MOTION
FOR COMPENSATION FOR PETER G.
MACALUSO, PLAINTIFFS
ATTORNEY(S)
10-31-25 [[31](#)]

Tentative Ruling:

The Motion has been set on Local Rule 9014-1(f)(1) procedure which requires 28 days' notice. The Proof of Service shows that 47 days' notice was provided. Dkt. 35.

The Motion for Entry of Default Judgment is denied.

At the prior hearing counsel agreed to continue the hearing to allow the notarized release of lien to be recorded, at which point the adversary proceeding would be voluntarily dismissed.

Timothy and Melissa Halpain ("Plaintiffs") filed the instant Motion for Default Judgment on October 31, 2025. Dkt. 31. Plaintiff seeks an entry of default judgment for relief against Fidelity National Title Co., Pacific Equity and Capital, Standard Trust Deed Service Co., Pacific Equity and Capital, Inc., Pacific Equity and Capital, Inc. Fund, LLC, PEAC, Helen Barbara Furter Living Trust, Helen Barbara Furter, and Vincent Tomera ("Defendants") in the instant Adversary Proceeding No. 25-02026.

The instant Adversary Proceeding was commenced on February 25, 2025. Dckt. 1.

Defendant-Debtor failed to file a timely answer or response or request for an extension of time. Default has not been entered against Defendants pursuant to Federal Rule of Bankruptcy Procedure 7055 by the Clerk of the United States Bankruptcy Court.

SUMMARY OF COMPLAINT

Plaintiff filed a complaint for relief against Defendants. The Complaint alleges that Defendants have not released the second deed of trust after the debtors received their discharge on November 12, 2024.

Plaintiff requests that the court determine that the second deed of trust is void, unenforceable, and of no force and effect, and judgement for attorney's fees of \$7,860.00 and \$260.00 in costs.

APPLICABLE LAW

Federal Rule of Civil Procedure 55 and Federal Rule of Bankruptcy Procedure 7055 govern default judgments. *Cashco Fin. Servs. v. McGee (In re McGee)*, 359 B.R. 764, 770 (B.A.P. 9th Cir. 2006). Obtaining a default judgment is a two-step process which requires: (1) entry of the defendant's default, and (2) entry of a default judgment. *Id.*

Even when a party has defaulted and all requirements for a default judgment are satisfied, a claimant is not entitled to a default judgment as a matter of right. 10 MOORE'S FEDERAL PRACTICE-CIVIL ¶ 55.31 (Daniel R. Coquillette & Gregory P. Joseph eds. 3d ed.). Entry of a default judgment is within the discretion of the court. *Eitel v. McCool*, 782 F.2d 1470, 1471 (9th Cir. 1986). Default judgments are not favored, because the judicial process prefers determining cases on their merits whenever reasonably possible. *Id.* at 1472. Factors that the court may consider in exercising its discretion include:

- (1) the possibility of prejudice to the plaintiff,
- (2) the merits of plaintiff's substantive claim,
- (3) the sufficiency of the complaint,
- (4) the sum of money at stake in the action,
- (5) the possibility of a dispute concerning material facts,
- (6) whether the default was due to excusable neglect, and
- (7) the strong policy underlying the Federal Rules of Civil Procedure favoring decisions on the merits.

Id. at 1471-72 (citing 6 MOORE'S FEDERAL PRACTICE-CIVIL ¶ 55-05[s], at 55-24 to 55-26 (Daniel R. Coquillette & Gregory P. Joseph eds. 3d ed.)); *Kubick v. FDIC (In re Kubick)*, 171 B.R. 658, 661-62 (B.A.P. 9th Cir. 1994).

In fact, before entering a default judgment the court has an independent duty to determine the sufficiency of Plaintiff's claim. *Id.* at 662. Entry of a default establishes well-pleaded allegations as admitted, but factual allegations that are unsupported by exhibits are not well pled and cannot support a claim. *In re McGee*, 359 B.R. at 774. Thus, a court may refuse to enter default judgment if Plaintiff-Debtor did not offer evidence in support of the allegations. See *id.* at 775.

DISCUSSION

A review of the docket does not show that Plaintiff's have sought or obtained the default of the Defendants pursuant to Civil Rule 55(a) and Local Rule 7055-1.

The court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Motion for Entry of Default Judgment filed by the Timothy and Melissa Halpain ("Plaintiffs") having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Motion for Entry of Default Judgment is denied.

Final Ruling: No appearance at the January 13, 2026 hearing is required.

The Motion has been set on Local Rule 9014-1(f)(1) procedure which requires 28 days' notice. The Proof of Service shows that 40 days' notice was provided. Dkt. 52.

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).

The Motion to Vacate is denied.

Debtor Linda Catron filed this Motion seeking to vacate this court's Order Dismissing Chapter 13 with Terms (Dkt. 41) that barred Debtor for two years from filing any case under Title 11, United States Code, without first obtaining permission from the Court.

The order barring refiling another case was entered after Debtor previously filed eight cases that were determined to be not filed in good faith and for the purpose of causing unnecessary delay.

On December 5, 2025, Debtor filed a Notice of Appeal (Dkt. 53), in which Debtor appealed the Order that she now seeks to be set aside. The appeal is currently pending at the Bankruptcy Appellate Panel, BAP No. 25-1235.

DISCUSSION

In pertinent part. Federal Rule of Bankruptcy Procedure 8008 states the following:

(a) If a party files a timely motion in the bankruptcy court for relief that the court lacks authority to grant because an appeal has been docketed and is pending, the bankruptcy court may:

- (1) defer considering the motion;
- (2) deny the motion;
- (3) state that it would grant the motion if the court where the appeal is pending remands for that purpose; or
- (4) state that the motion raises a substantial issue.

(b) If the bankruptcy court states that it would grant the motion or that the motion raises a substantial issue, the movant must promptly notify

the clerk of the court where the appeal is pending.

Debtor filed the appeal which is currently pending at the Bankruptcy Appellate Panel, BAP No. 25-1235. The Court is not persuaded there are any meritorious grounds for relief from the Court's Order. Therefore, pursuant to FRBP 8008(a) the Motion is denied and the Court does not state the Motion raises a substantial issue.

The court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Motion to Vacate filed by Linda Catron having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Motion is denied.

Final Ruling: No appearance at the January 13, 2026 hearing is required.

The Motion has been set on Local Rule 9014-1(f)(1) procedure which requires 28 days' notice. The Proof of Service shows that 40 days' notice was provided. Dkt. 52.

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).

The Motion to Vacate is denied.

Debtor Linda Catron filed this Motion seeking to vacate this court's Order Dismissing Chapter 13 with Terms (Dkt. 41) that barred Debtor for two years from filing any case under Title 11, United States Code, without first obtaining permission from the Court.

The order barring refiling another case was entered after Debtor previously filed eight cases that were determined to be not filed in good faith and for the purpose of causing unnecessary delay.

On December 5, 2025, Debtor filed a Notice of Appeal (Dkt. 53), in which Debtor appealed the Order that she now seeks to be set aside. The appeal is currently pending at the Bankruptcy Appellate Panel, BAP No. 25-1235.

DISCUSSION

In pertinent part. Federal Rule of Bankruptcy Procedure 8008 states the following:

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- (1) defer considering the motion;
- (2) deny the motion;
- (3) state that it would grant the motion if the court where the appeal is pending remands for that purpose; or
- (4) state that the motion raises a substantial issue.

(b) If the bankruptcy court states that it would grant the motion or that the motion raises a substantial issue, the movant must promptly notify

the clerk of the court where the appeal is pending.

Debtor filed the appeal which is currently pending at the Bankruptcy Appellate Panel, BAP No. 25-1235. The Court is not persuaded there are any meritorious grounds for relief from the Court's Order. Therefore, pursuant to FRBP 8008(a) the Motion is denied and the Court does not state the Motion raises a substantial issue.

The court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Motion to Vacate filed by Linda Catron having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Motion is denied.

Final Ruling: No appearance at the January 13, 2026 hearing is required.

The Motion has been set on Local Rule 9014-1(f)(1) procedure which requires 28 days' notice. The Proof of Service shows that 40 days' notice was provided. Dkt. 97.

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).

The Motion to Vacate is denied.

Debtor Linda Catron filed this Motion a second time seeking to set aside this Court's Order of Dismissal and Order Barring Debtor Discharge (Dkt. 41).

On August 1, 2025, Debtor filed a Notice of Appeal (Dkt. 74), in which Debtor appealed the Order that she now seeks to be set aside. The appeal is currently pending at the Bankruptcy Appellate Panel, BAP No. 25-1137.

DISCUSSION

In pertinent part. Federal Rule of Bankruptcy Procedure 8008 states the following:

(a) If a party files a timely motion in the bankruptcy court for relief that the court lacks authority to grant because an appeal has been docketed and is pending, the bankruptcy court may:

- (1) defer considering the motion;
- (2) deny the motion;
- (3) state that it would grant the motion if the court where the appeal is pending remands for that purpose; or
- (4) state that the motion raises a substantial issue.

(b) If the bankruptcy court states that it would grant the motion or that the motion raises a substantial issue, the movant must promptly notify the clerk of the court where the appeal is pending.

Debtor filed the appeal which is currently pending at the Bankruptcy Appellate Panel, BAP No. 25-1137. The Court is not persuaded there are any meritorious grounds for relief from the Court's Order. Therefore, pursuant to FRBP 8008(a) the Motion is denied and the Court does not state the Motion raises a substantial issue.

The court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Motion to Vacate filed by Linda Catron having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Motion is denied.

Final Ruling: No appearance at the January 13, 2026 hearing is required.

The Motion has been set on Local Rule 9014-1(f)(1) procedure which requires 35 days' notice. The Proof of Service shows that 39 days' notice was provided. Dkt. 31.

No opposition has been filed. Therefore, the court enters the defaults of the non-responding parties in interest, finds there are no disputed material factual issues, and determines the matter will be resolved without oral argument. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995); *Law Offices of David A. Boone v. Derham-Burk (In re Eliapo)*, 468 F.3d 592, 602 (9th Cir. 2006).

The Motion to Modify Plan is granted.

The debtor filed this Motion seeking to modify the terms of the confirmed plan pursuant to 11 U.S.C. § 1329.

The Chapter 13 trustee filed a non-opposition on December 30, 2025. Dkt. 34.

Upon review of the record, the court finds the plan complies with 11 U.S.C. §§ 1322, 1325(a), and 1329. The Motion is granted, and the plan is confirmed.

The court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Motion to Modify Plan filed by the debtor, Ramsey Chimienti, having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Motion is granted, the Modified Chapter 13 Plan (Dkt. 29) meets the requirements of 11 U.S.C. §§ 1322, 1325(a), and 1329, and the plan is confirmed. Counsel for Debtor shall prepare an appropriate order confirming the Chapter 13 Plan, transmit the proposed order to the Chapter 13 Trustee for approval as to form, and if so approved, the Chapter 13 Trustee will submit the proposed order to the court.

Final Ruling: No appearance at the January 13, 2026 hearing is required.

The Motion has been set on Local Rule 9014-1(f)(1) procedure which requires 35 days' notice. The Proof of Service shows that 36 days' notice was provided. Dkt. 31.

No opposition has been filed. Therefore, the court enters the defaults of the non-responding parties in interest, finds there are no disputed material factual issues, and determines the matter will be resolved without oral argument. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995); *Law Offices of David A. Boone v. Derham-Burk (In re Eliapo)*, 468 F.3d 592, 602 (9th Cir. 2006).

The Motion to Modify Plan is granted.

The debtors filed this Motion seeking to modify the terms of the confirmed plan pursuant to 11 U.S.C. § 1329.

The Chapter 13 trustee filed a non-opposition on December 22, 2025. Dkt. 32.

Upon review of the record, the court finds the plan complies with 11 U.S.C. §§ 1322, 1325(a), and 1329. The Motion is granted, and the plan is confirmed.

The court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Motion to Modify Plan filed by the debtors, Jamie and Judy Davis, having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Motion is granted, the Modified Chapter 13 Plan (Dkt. 29) meets the requirements of 11 U.S.C. §§ 1322, 1325(a), and 1329, and the plan is confirmed. Counsel for Debtor shall prepare an appropriate order confirming the Chapter 13 Plan, transmit the proposed order to the Chapter 13 Trustee for approval as to form, and if so approved, the Chapter 13 Trustee will submit the proposed order to the court.

Tentative Ruling:

The Motion has been set on Local Rule 9014-1(f)(2) notice which requires 14 days' notice. The Proof of Service shows that 15 days' notice was provided. Dkt. 20.

The Motion to Extend the Automatic Stay is granted.

Ginger D. Brown ("Debtor") seeks to have the provisions of the automatic stay provided by 11 U.S.C. § 362(a) extended beyond thirty days in this case. This is Debtor's second bankruptcy petition pending in the past year. Debtor's prior bankruptcy case was dismissed on December 2, 2025, after Debtor was delinquent on plan payments. Order, Bankr. E.D. Cal. No. 25-23936, Dkt. 68. Therefore, pursuant to 11 U.S.C. § 362(c)(3)(A), the provisions of the automatic stay end as to Debtor thirty days after filing of the petition.

Here, Debtor states that the instant case was filed in good faith and explains that her proposed plan is confirmable and very likely to successfully complete.

Upon motion of a party in interest and after notice and hearing, the court may order the provisions extended beyond thirty days if the filing of the subsequent petition was filed in good faith. 11 U.S.C. § 362(c)(3)(B). As this court has noted in other cases, Congress expressly provides in 11 U.S.C. § 362(c)(3)(A) that the automatic stay **terminates as to Debtor**, and nothing more. In 11 U.S.C. § 362(c)(4), Congress expressly provides that the automatic stay **never goes into effect in the bankruptcy case** when the conditions of that section are met. Congress clearly knows the difference between a debtor, the bankruptcy estate (for which there are separate express provisions under 11 U.S.C. § 362(a) to protect property of the bankruptcy estate) and the bankruptcy case. While terminated as to Debtor, the plain language of 11 U.S.C. § 362(c)(3) is limited to the automatic stay as to only Debtor. The subsequently filed case is presumed to be filed in bad faith if one or more of Debtor's cases was pending within the year preceding filing of the instant case. *Id.* § 362(c)(3)(C)(i)(I). The presumption of bad faith may be rebutted by clear and convincing evidence. *Id.* § 362(c)(3)(C).

In determining if good faith exists, the court considers the totality of the circumstances. *In re Elliott-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, 209-10 (2008). An important indicator of good faith is a realistic prospect of success in the second case, contrary to the failure of the first case. See, e.g., *In re Jackola*, No. 11-01278, 2011 Bankr. LEXIS 2443, at *6 (Bankr. D. Haw. June 22, 2011) (citing *In re Elliott-Cook*, 357 B.R. 811, 815-16 (Bankr. N.D. Cal. 2006)). Courts consider many factors—including those used to determine good faith

under §§ 1307(c) and 1325(a)—but the two basic issues to determine good faith under § 362(c)(3) are:

- A. Why was the previous plan filed?
- B. What has changed so that the present plan is likely to succeed?

In re Elliot-Cook, 357 B.R. at 814-15.

Debtor has sufficiently rebutted 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 court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Motion to Extend the Automatic Stay filed by Ginger D. Brown having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Motion is granted, and the automatic stay is extended pursuant to 11 U.S.C. § 362(c)(3)(B) for all purposes and parties, unless terminated by operation of law or further order of this court.

9. 25-25755-C-13 ANDREW/ELAINE VISITACION
DPC-1 Peter L. Cianchetta

OBJECTION TO CONFIRMATION OF
PLAN BY DAVID P. CUSICK
12-10-25 [[31](#)]

Thru #10

Final Ruling: No appearance at the January 13, 2026 hearing is required.

The Objection has been set on Local Rule 9014-1(f)(2) notice which requires 14 days' notice. The Proof of Service shows that 34 days' notice was provided. Dkt. 34.

Upon review of the Motion and supporting pleadings, and the files in this case, the court has determined that oral argument will not be of assistance in ruling on the Motion.

The Objection to Confirmation of Plan is overruled as moot.

The Chapter 13 trustee filed this Objection to Confirmation on December 10, 2025. Thereafter, the debtor filed an amended plan and corresponding Motion to Confirm, making this Objection moot. Dkt. 42, 45.

Therefore, the Objection is overruled.

The court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Objection to the Chapter 13 Plan filed by the Chapter 13 trustee, David P. Cusick, having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Objection is overruled as moot.

10. 25-25755-C-13 ANDREW/ELAINE VISITACION MOTION TO CONFIRM PLAN
PLC-2 Peter L. Cianchetta 12-9-25 [25]

Final Ruling: No appearance at the January 13, 2026 hearing is required.

The Motion has been set on Local Rule 9014-1(f)(1) procedure which requires 35 days' notice. The Proof of Service shows that 35 days' notice was provided. Dkt. 30.

The Motion to Confirm is denied as moot.

On January 2, 2026, the debtors filed a new proposed plan and a Notice of Withdrawal. Filing a new plan is a de facto withdrawal of the pending plan. Therefore, the Motion to Confirm the Amended Plan is denied as moot, and the plan is not confirmed.

The court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Motion to Confirm filed by the debtors, Andrew and Elaine Visitacion, having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Motion is denied as moot, and the proposed Chapter 13 Plan is not confirmed.

Tentative Ruling:

The Objection has been set on Local Rule 9014-1(f)(2) notice which requires 14 days' notice. The Proof of Service shows that 21 days' notice was provided. Dkt. 41.

The Objection to Confirmation of Plan is sustained.

Creditor PNC Bank, National Association ("Creditor") opposes confirmation of the Chapter 13 plan on the basis that:

1. Plan does not cure prepetition arrears; and
2. Plan is not feasible.

DISCUSSION

The plan at Section 3.02 provides that Creditor's Proof of Claim, *and not the plan*, determines the amount and classification of a claim.

Notwithstanding whether the plan provides for the prepetition arrearage as Creditor argues, the debtor has not carried his burden to show the plan is adequately funded. That is reason to deny confirmation. 11 U.S.C. § 1325(a)(6).

That is reason to deny confirmation. Therefore, the Objection is sustained.

The court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Objection to the Chapter 13 Plan filed by PNC Bank, National Association, having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Objection is sustained.

Tentative Ruling:

The Objection has been set on Local Rule 9014-1(f)(2) notice which requires 14 days' notice. The Proof of Service shows that 21 days' notice was provided. Dkt. 37.

The Objection to Confirmation of Plan is sustained.

The Chapter 13 Trustee, David Cusick ("Trustee"), opposes confirmation of the Chapter 13 plan on the basis that:

1. Plan relies on a motion to sell property that has not been filed;
2. Debtor did not list the monthly child support payment on his Schedule J, nor provided a Domestic Support Obligation checklist to the Trustee.

DISCUSSION

The plan proposes selling real property commonly known as 4861 Iowa Ave., to pay Class 1 Creditor Superior Loan Servicing. Before a motion to sell property has been filed, the plan's feasibility is uncertain.

That is reason to deny confirmation. Therefore, the Objection is sustained.

The court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Objection to the Chapter 13 Plan filed by the Chapter 13 Trustee, David Cusick, having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Objection is sustained.

13. 25-26363-C-13 TYRONE DARDEN
MFC-1 Peter G. Macaluso

JACQUELINE FLEMING, TRUSTEE
OF THE JACQUELINE FLEMING
TRUST VS.

MOTION FOR RELIEF FROM
AUTOMATIC STAY
12-22-25 [27]

Tentative Ruling:

The Motion has been set on Local Rule 9014-1(f) (2) notice which requires 14 days' notice. The Proof of Service shows that 22 days' notice was provided. Dkt. 32.

The Motion for Relief from the Automatic Stay is granted.

Jacqueline Fleming, Trustee of The Jacqueline Fleming Trust ("Movant") filed this Motion seeking relief from the automatic stay as to the debtor's real property commonly known as 4861 Iowa Avenue, Sacramento, CA (the "Property").

Movant argues cause for relief from stay exists pursuant to 11 U.S.C. § 362(d) (1) because the debtor has not delivered proof of insurance for the property, and debtor is delinquent on property taxes on the property. Movant also argues cause exists because the total debt secured by the Property, \$344,617.32, exceeds the value of the Property, which is \$308,200.00.

Movant also argues cause exists pursuant to 11 U.S.C. § 362(d) (4) because the filing of the petition was part of a scheme to delay, hinder, or defraud creditors that involved a transfer of an interest in the Property without consent of the secured creditor or court approval and multiple bankruptcy filings affecting the Property. Movant asserts that debtor and debtor's spouse have filed four prior bankruptcies that all affect the Property.

Additionally, Movant contends that debtor transferred his interest in the property to Mercedee Armstrong on March 6, 2025, and then during the pendency of debtor's prior bankruptcy on October 20, 2025, debtor was deeded a partial interest in the Property by his spouse Valerie Williams Darden.

DISCUSSION

Upon review of the record, the court finds cause for relief from stay exists pursuant to 11 U.S.C. § 362(d) (1) because the debtor is delinquent on property tax payments and has not provided proof of insurance. The court also finds cause exists pursuant to 11 U.S.C. § 362(d) (2) because the total debt secured by the Property, \$344,617.32, exceeds the value of the Property, which is \$308,200.

The request for findings pursuant to 11 U.S.C. § 362(d) (4) is
~~xxxxxxxxxx~~

Language vacating stay

Based on the foregoing, the Motion is granted. The court shall issue an order terminating and vacating the automatic stay to allow Movant, and its agents, representatives and successors, and all other creditors having lien rights against the Property, 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.

Request for Waiver of Fourteen-Day Stay of Enforcement

Federal Rule of Bankruptcy Procedure 4001(a)(3) stays an order granting a motion for relief from the automatic stay for fourteen days after the order is entered, unless the court orders otherwise. Movant requests, for no particular reason, that the court grant relief from the Rule as adopted by the United States Supreme Court. With no grounds for such relief specified, the court will not grant additional relief merely stated in the prayer.

Movant has not pleaded adequate facts and presented sufficient evidence to support the court waiving the fourteen-day stay of enforcement required under Federal Rule of Bankruptcy Procedure 4001(a)(3), and this part of the requested relief is not granted.

No other or additional relief is granted by the court.

The court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Motion for Relief from the Automatic Stay filed by Jacqueline Fleming, Trustee of The Jacqueline Fleming Trust ("Movant") having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the automatic stay provisions of 11 U.S.C. § 362(a) are vacated to allow Movant, its agents, representatives, and successors, and trustee under the trust deed, and any other beneficiary or trustee, and their respective agents and successors under any trust deed that is recorded against the real property commonly known as 4861 Iowa Avenue, Sacramento, California, ("Property") to secure an obligation to exercise any and all rights arising under the promissory note, trust deed, and applicable nonbankruptcy law to conduct a nonjudicial foreclosure sale and for the purchaser at any such sale to obtain possession of the Property.

IT IS FURTHER ORDERED that the above relief pursuant to 11 U.S.C. § 362(d)(4) is ~~xxxxxxxxxx~~

IT IS FURTHER ORDERED that the fourteen-day stay of enforcement provided in Federal Rule of Bankruptcy Procedure

4001(a)(3) is not waived for cause.

No other or additional relief is granted.

14. 25-26363-C-13 TYRONE DARDEN
MFC-2 Peter G. Macaluso

OBJECTION TO CONFIRMATION OF
PLAN BY JACQUELINE FLEMING,
TRUSTEE OF THE JACQUELINE
FLEMING TRUST
12-29-25 [42]

Tentative Ruling:

The Objection has been set on Local Rule 9014-1(f)(2) notice which requires 14 days' notice. The Proof of Service shows that 15 days' notice was provided. Dkt. 46.

The Objection to Confirmation of Plan is sustained.

Creditor Jacqueline Fleming, Trustee of The Jacqueline Fleming Trust ("Creditor") opposes confirmation of the Chapter 13 plan on the basis that:

1. Plan not proposed in good faith; and
2. Plan does not fully provide for Creditor's claim.

DISCUSSION

The plan at Section 3.02 provides that Creditor's Proof of Claim, and not the plan, determines the amount and classification of a claim.

Notwithstanding whether the plan provides for the prepetition arrearage as Creditor argues, the debtor has not carried his burden to show the plan is adequately funded. That is reason to deny confirmation. 11 U.S.C. § 1325(a)(6).

That is reason to deny confirmation. Therefore, the Objection is sustained.

The court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Objection to the Chapter 13 Plan filed by Jacqueline Fleming, Trustee of The Jacqueline Fleming Trust, having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Objection is sustained.

Tentative Ruling:

The Motion has been set on Local Rule 9014-1(f)(2) notice which requires 14 days' notice. The Proof of Service shows that 14 days' notice was provided. Dkt. 19.

The Motion to Extend the Automatic Stay is granted.

Rochelle Wynes ("Debtor") seeks to have the provisions of the automatic stay provided by 11 U.S.C. § 362(a) extended beyond thirty days in this case. This is Debtor's second bankruptcy petition pending in the past year. Debtor's prior bankruptcy case was dismissed on December 19, 2025. Order, Bankr. E.D. Cal. No. 25-24252, Dkt. 25. Therefore, pursuant to 11 U.S.C. § 362(c)(3)(A), the provisions of the automatic stay end as to Debtor thirty days after filing of the petition.

Here, Debtor states that the instant case was filed in good faith and explains that her proposed plan is confirmable and very likely to successfully complete.

Upon motion of a party in interest and after notice and hearing, the court may order the provisions extended beyond thirty days if the filing of the subsequent petition was filed in good faith. 11 U.S.C. § 362(c)(3)(B). As this court has noted in other cases, Congress expressly provides in 11 U.S.C. § 362(c)(3)(A) that the automatic stay **terminates as to Debtor**, and nothing more. In 11 U.S.C. § 362(c)(4), Congress expressly provides that the automatic stay **never goes into effect in the bankruptcy case** when the conditions of that section are met. Congress clearly knows the difference between a debtor, the bankruptcy estate (for which there are separate express provisions under 11 U.S.C. § 362(a) to protect property of the bankruptcy estate) and the bankruptcy case. While terminated as to Debtor, the plain language of 11 U.S.C. § 362(c)(3) is limited to the automatic stay as to only Debtor. The subsequently filed case is presumed to be filed in bad faith if one or more of Debtor's cases was pending within the year preceding filing of the instant case. *Id.* § 362(c)(3)(C)(i)(I). The presumption of bad faith may be rebutted by clear and convincing evidence. *Id.* § 362(c)(3)(C).

In determining if good faith exists, the court considers the totality of the circumstances. *In re Elliott-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, 209-10 (2008). An important indicator of good faith is a realistic prospect of success in the second case, contrary to the failure of the first case. See, e.g., *In re Jackola*, No. 11-01278, 2011 Bankr. LEXIS 2443, at *6 (Bankr. D. Haw. June 22, 2011) (citing *In re Elliott-Cook*, 357 B.R. 811, 815-16 (Bankr. N.D. Cal. 2006)). Courts consider many factors—including those used to determine good faith under §§ 1307(c) and 1325(a)—but the two basic issues to determine good

faith under § 362(c)(3) are:

- A. Why was the previous plan filed?
- B. What has changed so that the present plan is likely to succeed?

In re Elliot-Cook, 357 B.R. at 814-15.

Debtor has sufficiently rebutted the presumption of bad faith under the facts of this case and the prior case for the court to extend the automatic stay. It is also noted that debtor's previous case was filed pro se, but the debtor has now retained experienced bankruptcy counsel with a track record of successful cases.

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 court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Motion to Extend the Automatic Stay filed by Rochelle Wynes having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Motion is granted, and the automatic stay is extended pursuant to 11 U.S.C. § 362(c)(3)(B) for all purposes and parties, unless terminated by operation of law or further order of this court.

Tentative Ruling:

The Objection has been set on Local Rule 9014-1(f)(2) notice which requires 14 days' notice. The Proof of Service shows that 21 days' notice was provided. Dkt. 25.

The Objection to Confirmation of Plan is sustained.

The Chapter 13 Trustee, David Cusick ("Trustee"), opposes confirmation of the Chapter 13 plan on the basis that:

1. The plan does not provide for the claim of the IRS and debtor does not identify an expense for tax withholding on Schedule J.

DISCUSSION

The plan at Section 3.02 provides that Creditor's Proof of Claim, *and not the plan*, determines the amount and classification of a claim.

Notwithstanding whether the plan provides for the IRS's claim and the Trustee argues, the debtor has not carried his burden to show the plan is adequately funded. That is reason to deny confirmation. 11 U.S.C. § 1325(a)(6).

That is reason to deny confirmation. Therefore, the Objection is sustained.

The court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Objection to the Chapter 13 Plan filed by the Chapter 13 Trustee, David Cusick, having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Objection is sustained.

17. 25-23683-C-13 KATHLEEN DAVIS
DPC-1 Peter Macaluso

Thru #19

CONTINUED OBJECTION TO
CONFIRMATION OF PLAN BY DAVID
P. CUSICK
9-10-25 [[14](#)]

Tentative Ruling:

The Objection has been set on Local Rule 9014-1(f)(2) notice which requires 14 days' notice. The Proof of Service shows that 27 days' notice was provided. Dkt. 17.

The Objection to Confirmation of Plan is sustained.

This Objection was continued from the prior hearing to go along with the Motion to Value Collateral.

The Chapter 13 Trustee, David Cusick ("Trustee"), opposes confirmation of the Chapter 13 plan on the basis that:

1. Plan relies on motion to value collateral that has not yet been decided;
2. Debtor may receive an inheritance; and
3. Debtor has failed to provide all business documents.

DEBTOR'S OPPOSITION

The debtor filed an Opposition on September 30, 2025. Dkt. 37. Debtor represents the Motion to Value is currently set to be heard on October 14, 2025. Debtor has amended her schedules and has filed Business and Income Form.

DISCUSSION

The Chapter 13 Trustee argues that Debtor has failed to file a statement of gross business income and expenses attached to Schedule I. Line 8a of Schedule I requires Debtor to "[a]ttach a statement for each property and business showing gross receipts, ordinary and necessary business expenses, and the total monthly net income." Debtor is required to submit that statement and cooperate with the Chapter 13 Trustee. 11 U.S.C. § 521(a)(3). It appears debtor has now provided the required attachment.

The plan proposes valuing the secured claims of Ally Financial, Inc. and M & T Bank. Before the court enters an order valuing those secured claims, the plan's feasibility is uncertain.

That is reason to deny confirmation. Therefore, the Objection is sustained.

The court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Objection to the Chapter 13 Plan filed by the Chapter 13 Trustee, David Cusick, having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Objection is sustained.

Tentative Ruling:

The Objection has been set on Local Rule 9014-1(f)(2) notice which requires 14 days' notice. The Proof of Service shows that 26 days' notice was provided. Dkt. 21.

The Objection to Confirmation of Plan is sustained.

This Objection was continued from the prior hearing to go along with the Motion to Value Collateral.

Creditor Ally Bank ("Creditor") opposes confirmation of the Chapter 13 plan on the basis that:

1. The plan fails to provide for the full replacement value of Creditor's collateral; and
2. Plan fails to pay the applicable interest rate on its claim.

DEBTOR'S OPPOSITION

Debtor filed an Opposition on September 30, 2025. Dkt. 38. Debtor represents the Motion to Value is currently set to be heard on October 14, 2025. Debtor asserts that an interest rate of 8% is appropriate in this case.

DISCUSSION

The plan proposes valuing the secured claim of Creditor. Before the court enters an order valuing that secured claim, the plan's feasibility is uncertain.

Creditor opposes confirmation on the basis that the plan proposes paying its claim at four percent interest. Creditor argues that this interest rate is outside the limits authorized by the Supreme Court in *Till v. SCS Credit Corp.*, 541 U.S. 465 (2004). In *Till*, a plurality of the Court supported the "formula approach" for fixing post-petition interest rates. *Id.* Courts in this district have interpreted *Till* to require the use of the formula approach. See *In re Cachu*, 321 B.R. 716 (Bankr. E.D. Cal. 2005); see also *Bank of Montreal v. Official Comm. of Unsecured Creditors (In re American Homepatient, Inc.)*, 420 F.3d 559, 566 (6th Cir. 2005) (*Till* treated as a decision of the Court). Even before *Till*, the Ninth Circuit had a preference for the formula approach. See *Cachu*, 321 B.R. at 719 (citing *In re Fowler*, 903 F.2d 694 (9th Cir. 1990)).

The court agrees with the court in *Cachu* that the correct valuation of the interest rate is the prime rate in effect at the commencement of this case plus a risk adjustment. Because the creditor has only identified risk

factors common to every bankruptcy case, the court fixes the interest rate as the prime rate in effect at the commencement of the case, 7.50%, plus a 1.25% risk adjustment, for a 8.75% interest rate.

That is reason to deny confirmation. Therefore, the Objection is sustained.

The court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Objection to the Chapter 13 Plan filed by Ally Bank, having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Objection is sustained.

No Tentative Ruling:

The Motion has been set on Local Rule 9014-1(f)(1) procedure which requires 28 days' notice. The Proof of Service shows that 30 days' notice was provided. Dkt. 26.

The Motion to Value is ~~xxxxx~~.

The matter was continued at the prior hearing on December 17, 2025 to allow the parties to discuss the value and see if a settlement can be reached.

The debtor filed this Motion seeking to value the portion of Ally Banks's ("Creditor") claim secured by the debtor's property commonly known as 2021 Dodge Ram 3500 Crew Cab (the "Property").

The debtor has presented evidence that the replacement value of the Property at the time of filing was \$19,000.00. Declaration, Dkt. 24.

TRUSTEE'S RESPONSE

The Chapter 13 Trustee filed a statement of non-opposition on September 29, 2025. Dkt. 32.

OPPOSITION

Ally Bank filed opposition (Dkt. 34) on September 30, 2025 asserting the value of the Property to be \$39,801.00.

REPLY

Debtor filed a reply contending that Ally Bank has not provided competent admissible evidence.

DISCUSSION

The lien on the Vehicle's title secures a purchase-money loan incurred on November 2, 2021, which is more than 910 days prior to filing of the petition. 11 U.S.C. § 1325(a)(9) (hanging paragraph).

Federal Rule of Bankruptcy Procedure 9014(d) provides that testimony of witnesses with respect to disputed material factual issues shall be taken in the same manner as testimony in an adversary proceeding. Because there is a disputed material fact, the Matter must be set for evidentiary hearing.

Upon review of the record, the court finds the value of the Property is ~~xxx~~. Therefore, Creditor's secured claim is determined to be ~~\$xxx~~. 11 U.S.C. § 506(a).

The court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Motion to Value Collateral and Secured Claim filed by the debtor having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Motion pursuant to 11 U.S.C. § 506(a) is ~~xxxxxxxx~~, and the claim of Ally Bank ("Creditor") secured by property commonly known as 2021 Dodge Ram 3500 Crew Cab (the "Property") is determined to be a secured claim in the amount of \$~~xxxx.xx~~, and the balance of the claim is a general unsecured claim to be paid through the confirmed bankruptcy plan.

20. 25-23593-C-13 WILLIAM/MARY BRYANT
DPG-1 Mark Wolff

CONTINUED OBJECTION TO
CONFIRMATION OF PLAN BY DAVID
P. CUSICK
9-3-25 [15]

Tentative Ruling:

The Objection has been set on Local Rule 9014-1(f)(2) notice which requires 14 days' notice. The Proof of Service shows that 34 days' notice was provided. Dkt. 18.

The Objection to Confirmation of Plan is sustained.

At the prior hearing on December 17, 2025 debtor and Trustee represented the issues on confirmation were resolved, but that debtor had fallen behind on plan payments. The matter was continued to allow the debtor additional time to get current on plan payments.

The Chapter 13 Trustee, David Cusick ("Trustee"), opposes confirmation of the Chapter 13 plan on the basis that:

1. Plan impermissibly modify's secured creditor's rights; and
2. Plan fails to provide for the claim of the IRS.

DISCUSSION

The debtor is delinquent in plan payments. Delinquency indicates that the plan is not feasible and is reason to deny confirmation. See 11 U.S.C. § 1325(a)(6).

That is reason to deny confirmation. Therefore, the Objection is sustained.

The court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Objection to the Chapter 13 Plan filed by the Chapter 13 Trustee, David Cusick, having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Objection is sustained.

Tentative Ruling:

The Motion has been set on Local Rule 9014-1(f)(1) procedure which requires 28 days' notice. The Proof of Service shows that 48 days' notice was provided. Dkt. 199.

The Motion to Dismiss is granted, and the case is dismissed.

At the prior hearing on January 5, 2026, debtors represented that this was their final plan payment and would make the plan payment before the hearing.

The Chapter 13 Trustee filed this Motion to Dismiss arguing that cause for dismissal exists because the debtor is \$1,370.00 delinquent in plan payments, which is supported by declaration. Dkt. 198.

Debtor filed an opposition (Dkt. 200) on December 15, 2025, asserting that debtor will be current on or before the hearing.

Failure to maintain plan payments constitutes evidence of unreasonable delay by the debtor that is prejudicial to creditors.

The hearing on December 29, 2025 was continued to allow additional time to determine if the debtors made the plan payment.

Based on the foregoing, cause exists to dismiss this case pursuant to 11 U.S.C. § 1307(c)(1). Furthermore, the court finds that dismissal, and not conversion, is in the best interest of creditors and the Estate. The Motion is granted, and the case is dismissed.

The court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Motion to Dismiss the Chapter 13 case filed by the Chapter 13 Trustee, David P. Cusick, having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Motion to Dismiss is granted, and the case is dismissed, the court having found that dismissal, and not conversion, is in the best interest of creditors and the Estate.