**UNITED STATES BANKRUPTCY COURT**
**Eastern District of California**

Honorable Christopher D. Jaime
Robert T. Matsui U.S. Courthouse
501 I Street, Sixth Floor
Sacramento, California

## PRE-HEARING DISPOSITIONS

**DAY: TUESDAY**
**DATE: January 15, 2019**
**CALENDAR: 1:00 P.M. CHAPTER 13**

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

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

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

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

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

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

**UNITED STATES BANKRUPTCY COURT**
Eastern District of California

Honorable Christopher D. Jaime
Bankruptcy Judge
Sacramento, California

**January 15, 2019 at 1:00 p.m.**

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| 1. | 18-27211-B-13<br>JPJ-1 | ROBERT/KELLY ROCHA<br>Lucas B. Garcia | OBJECTION TO CONFIRMATION OF PLAN BY JAN P. JOHNSON AND/OR MOTION TO DISMISS CASE<br>12-27-18 [13] |

**No Ruling**

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| 2. | 18-27214-B-13<br>JPJ-1 | KEZ HALL<br>Mary Ellen Terranella | OBJECTION TO CONFIRMATION OF PLAN BY JAN P. JOHNSON AND/OR MOTION TO DISMISS CASE<br>12-27-18 [12] |

**Final Ruling**

Jan Johnson, the Chapter 13 trustee ("Trustee"), having filed a notice of withdrawal of his objection and motion, the objection and motion are dismissed without prejudice pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(i) and Federal Rules of Bankruptcy Procedure 9014 and 7041. The matter is removed from the calendar.

There being no other objection to confirmation, the plan filed November 15, 2018, will be confirmed.

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

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| 3. | 18-27116-B-13<br>MSK-1 | RICHARD GRIMES<br>Peter G. Macaluso | OBJECTION TO CONFIRMATION OF PLAN BY LAKEVIEW LOAN SERVICING, LLC<br>12-27-18 [20] |

**Tentative Ruling**

The objection was properly filed at least 14 days prior to the hearing on the motion to confirm a plan. *See* LBR 3015-1(c)(4) & (d)(1) *and* 9014-1(f)(2). Parties in interest may, at least 7 days prior to the date of the hearing, serve and file with the court a written reply to any written opposition. LBR 9014-1(f)(2)(C). No written reply has been filed to the objection.

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

First, creditor Lakeview Loan Servicing, LLC ("Creditor") holds a deed of trust secured by the residence of debtor Richard Grimes ("Debtor"). The Creditor has filed a timely proof of claim in which it asserts $40,102.31 in pre-petition arrearages. POC 6, p. 2. The plan does not propose to cure these arrearages in full. Dkt. 13, p. 3. Because the plan does not provide for the surrender of the collateral for this claim, the plan must provide for payment in full of the arrearage as well as maintenance of the ongoing note installments. *See* 11 U.S.C. §§ 1322(b)(2), (b)(5) & 1325(a)(5)(B). Because it fails to provide for the full payment of arrearages, the plan cannot be confirmed.

Second, Creditor has reviewed Debtor's filed schedules and argues that Debtor's net monthly income of $3,450.87 is not sufficient to satisfy the plan payments once taking into account Creditor's full pre-petition arrears. Creditor calculates that Debtor would need to add $110.18 per month to the currently proposed plan payments of $3,450.00 per month. Thus, Debtor cannot propose a plan that is feasible with his projected disposable monthly income, as required by 11 U.S.C. § 1325(a)(6).

Additionally, the court notes that the Debtor did not utilize the mandatory form plan required pursuant to Local Bankruptcy Order 3015-1(a) and General Order 18-03, Official Local Form EDC 3-080, the standard form Chapter 13 Plan effective November 9, 2018.

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

**COUNSEL FOR THE CREDITOR SHALL LODGE AN APPROPRIATE ORDER WITHIN SEVEN (7) DAYS.**

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| 4. | 18-27019-B-13<br>JPJ-1 | PERLA ABACAN<br>Jeanne Serrano | OBJECTION TO CONFIRMATION OF PLAN BY JAN P. JOHNSON AND/OR MOTION TO DISMISS CASE<br>12-27-18 [17] |

**No Ruling**

5. 17-28122-B-13 RIGBY LEIGHTON
MRL-1 Mikalah R. Liviakis

MOTION FOR SUBSTITUTION AS THE REPRESENTATIVE AND/OR MOTION FOR WAIVER OF THE CERTIFICATE REQUIREMENTS FOR ENTRY OF DISCHARGE IN A CHAPTER 13 CASE
11-22-18 [20]

**Tentative Ruling**

The motion has been set for hearing on the 28-days notice required by 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). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. *See Law Offices of David A. Boone v. Derham-Burk (In re Eliapo)*, 468 F.3d 592, 602 (9th Cir. 2006). Therefore, the defaults of the non-responding parties and other parties in interest are entered. The matter will be resolved without oral argument.

The court's decision is to deny the motion without prejudice.

**Debtors' Motion**

Debtor Rigby Leighton ("Debtor") filed a petition for Chapter 13 relief on December 14, 2017. Dkt. 1. A plan was confirmed on January 29, 2018. Dkt. 13. On November 22, 2018, Deborah Jones filed a Notice of Death of Debtor, who passed on October 13, 2018. Dkt. 23, Exh. A. Ms. Jones also filed a motion to waive the requirements of 11 U.S.C. § 1328 and for continued administration of the case. Dkt. 20.

**Discussion**

An overview of the relevant authority is warranted in this case.

11 U.S.C. § 1328(g)(1) requires a debtor seeking an order of discharge to file a certificate showing completion of a personal financial management course. However, this does not apply "with respect to a debtor who is a person described in section 109(h)(4)[.]"

11 U.S.C. § 109(h)(4) provides as follows:

> The requirements of paragraph (1) shall not apply with respect to a debtor whom the court determines, after notice and hearing, is unable to complete those requirements because of incapacity, disability, or active military duty in a military combat zone. For the purposes of this paragraph, incapacity means that the debtor is impaired by reason of mental illness or mental deficiency so that he is incapable of realizing and making rational decisions with respect to his financial responsibilities; and 'disability' means that the debtor is so physically impaired as to be unable, after reasonable effort, to participate in an in person, telephone, or Internet briefing required under paragraph (1).

Federal Rule of Bankruptcy Procedure 1016 states, in relevant part:

> If a reorganization, family farmer's debt adjustment, or individual's debt adjustment case is pending under chapter 11, chapter 12, or chapter 13, the case may be dismissed; or if further administration is possible and in the best interest of the parties, the case may proceed and be concluded in the same manner, so far as possible, as though the death or incompetency had not occurred.

*See also Hawkins v. Eads*, 135 B.R. 380, fn. 3 (in regards to an adversary proceeding,

"[a]lthough Rule 1016 is silent on the point, effective implementation of the rule necessitates a conclusion that all parties in interest have a *duty* to inform the court of the fact of death. It would be appropriate for a party to borrow from Rule 25 and file a suggestion of death on the record and ask that the court notice a hearing on the question of whether to dismiss or to proceed with the case.").

Local Bankruptcy Rule 1016-1(a) requires counsel for the debtor, or the party to be appointed as the representative or successor of the deceased debtor, to file a Notice of Death within 60 days of the death of the debtor. Subpart (a) references Federal Rule of Civil Procedure 25 and Federal Rule of Bankruptcy Procedure 7025. In reference to whether dismissal is mandatory, the Ninth Circuit has noted:

> Rule 25(a)(1) uses the phrase "must be dismissed," but does not specify whether the dismissal "must" be with prejudice. Defendants insist that "must be dismissed" always means with prejudice, so the district court abused its discretion in permitting Zanowick to dodge the Rule 25 bullet through voluntary dismissal. Unfortunately for defendants, the "history of Rule 25(a) and Rule 6(b) makes it clear that the 90 day time period was not intended to act as a bar to otherwise meritorious actions, and extensions of the period may be liberally granted." *Cont'l Bank, N.A. v. Meyer*, 10 F.3d 1293, 1297 (7th Cir. 1993) (citation omitted); *see also United States v. Miller Bros. Constr. Co.*, 505 F.2d 1031, 1035 (10th Cir. 1974) (stating that under Rule 25, a "discretionary extension should be liberally granted absent a showing of bad faith on the part of the movant for substitution or undue prejudice to other parties to the action"); 7C Charles Alan Wright et al., Federal Practice and Procedure § 1955 (3d ed. 2017) ("Dismissal is not mandatory, despite the use of the word 'must' in the amended rule.").

*Zanowick v. Baxter Healthcare Corp.*, 850 F.3d 1090, 1094 (9th Cir. 2017) (internal citations omitted).

Local Bankruptcy Rule 1016-1(b) allows the moving party to file a single motion, pursuant to Federal Rule of Civil Procedure 18(a) and Federal Rules of Bankruptcy Procedure 7018 and 9014(c), asking for the following relief:

> 1) Substitution as the representative for or successor to the deceased or legally incompetent debtor in the bankruptcy case [FED. R. CIV. P. 25(a), (b); FED. R. BANKR. P. 1004.1 & 7025];
>
> 2) Continued administration of a case under chapter 11, 12, or 13 [FED. R. BANKR. P. 1016];
>
> 3) Waiver of post-petition education requirement for entry of discharge [11 U.S.C. §§ 727(a)(11), 1328(g)]; and
>
> 4) Waiver of the certification requirements for entry of discharge in a Chapter 13 case, to the extent that the representative for or successor to the deceased or incompetent debtor can demonstrate an inability to provide such certifications [11 U.S.C. § 1328].

In sum, the deceased debtor's representative or successor must file a motion to substitute in as a party to the bankruptcy case. The representative or successor may also request a waiver of the post-petition education, and a waiver of the certification requirement for entry of discharge "to the extent that the representative for or successor to the deceased or incompetent debtor can demonstrate an inability to provide such certifications." LBR 1016-1(b)(4).

Based on the evidence submitted, the court cannot determine the relationship of Ms. Jones to Debtor. Ms. Jones only professes to being "the best friend of the debtor," and someone who is "familiar and knowledgably [sic] about the financial affairs of the Debtor." Dkt. 22, ¶¶ 1, 5. Further, the declaration of Ms. Wendy Leighton, Debtor's daughter, does not bolster this argument by affirming their friendship. Neither

declaration offers evidence or authority demonstrating that Ms. Jones is the proper representative for or successor to Debtor. *See Hawkins v. Eads*, 135 B.R. 380, 384 (Bankr. E.D. Cal. 1991) ("The [Federal Rule of Bankruptcy Procedure 7025] motion may be made by any party or by the successors or representatives of the deceased party"). Further, there is no evidence or authority to demonstrate that further administration is possible and in the best interest of the parties, as required by Federal Rule of Bankruptcy Procedure 1016.

In short, the evidence submitted in support of the motion is woefully deficient. The court is not persuaded that Ms. Jones is the proper party to be substituted as the successor of the debtor or that further administration is in the best interest of the parties.

**THE COURT WILL PREPARE A MINUTE ORDER.**

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| 6. | 17-21423-B-13<br>MAC-1 | LAYDEAN WEARY<br>Marc A. Carpenter | MOTION TO MODIFY PLAN<br>12-4-18 [21] |

**No Ruling**

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| 7. | 18-25924-B-13<br>RWF-1 | DANIEL SPOLARICH<br>Robert W. Fong | MOTION TO CONFIRM PLAN<br>11-30-18 [23] |

**No Ruling**

8. 18-20026-B-13 PLC-2 BRIAN SHAW Peter L. Cianchetta — CONTINUED MOTION TO MODIFY PLAN 11-1-18 [48]

**Final Ruling**

The motion was originally 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 hearing was continued to January 15, 2018, to allow debtor Brian Shaw ("Debtor") to serve the Internal Revenue Service on all addresses required under Local Bankruptcy Rule 2002-1(c). Dkt. 54. Debtor served the IRS on the final required address on December 7, 2018. Dkt. 56. The failure of the respondent and other parties in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(B) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. *See Law Offices of David A. Boone v. Derham-Burk (In re Eliapo)*, 468 F.3d 592, 602 (9th Cir. 2006). Therefore, the defaults of the respondent and other parties in interest are entered. Upon review of the record there are no disputed material factual issues and the matter will be resolved without oral argument.

The court'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.

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

9. 18-27327-B-13 MEGAN ARNETT-LUCKEY
RTD-1 Chad M. Johnson

MOTION FOR RELIEF FROM AUTOMATIC STAY AND/OR MOTION FOR ADEQUATE PROTECTION
12-18-18 [14]

SCHOOLS FINANCIAL CREDIT UNION VS.

**Final Ruling**

The motion has been set for hearing on the 28-days notice required by 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). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. *See Law Offices of David A. Boone v. Derham-Burk (In re Eliapo)*, 468 F.3d 592, 602 (9th Cir. 2006). Therefore, the defaults of the non-responding parties and other parties in interest are entered. The matter will be resolved without oral argument.

The court's decision is to grant the motion for relief from stay and deny the motion for adequate protection as moot.

Schools Financial Credit Union ("Movant") seeks relief from the automatic stay with respect to an asset identified as a 2012 Buick LaCrosse VIN 1G4GB5GR0CF338215 ("Vehicle"). The moving party has provided the Declaration of Robin Boyce to introduce into evidence the documents upon which it bases the claim and the obligation owed by debtor Megan Arnett-Luckey ("Debtor").

The Boyce Declaration provides testimony that Debtor has not made 1 post-petition payments, with a total of $274.09 in post-petition payments past due. The Declaration also provides evidence that there are 15 pre-petition payments in default, with a pre-petition arrearage of $4,085.62. Further, Movant notes that a smog check is due on the Vehicle, registration fees have not been paid , and Debtor has not provided Movant with proof of insurance. Dkt. 16, ¶¶ 6, 20, 22.

From the evidence provided to the court, and only for purposes of this motion, the debt secured by this asset is determined to be $20,424.21, as stated in Proof of Claim 3 filed by Movant, while the value of the Vehicle is determined to be $7,599.00, as stated in Schedule A/B filed by Debtor. Dkt. 1, p. 12.

**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 Chapter 13 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 Schools Financial Credit Union, 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.

Based on the court's granting the motion for relief, Movant's request for adequate protection payments is denied as moot. No other or additional relief is granted by the court.

**COUNSEL FOR THE MOVANT SHALL LODGE AN APPROPRIATE ORDER WITHIN SEVEN (7) DAYS.**

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| 10. | 18-27028-B-13<br>JPJ-1 | ROSITA MOLINA<br>Peter G. Macaluso | OBJECTION TO CONFIRMATION OF PLAN BY JAN P. JOHNSON AND/OR MOTION TO DISMISS CASE<br>12-27-18 [20] |

**No Ruling**

11. 18-27131-B-13 STEPHEN/SUSAN JOHNSON
MET-1 Mary Ellen Terranella

MOTION TO VALUE COLLATERAL OF WELLS FARGO DEALER SERVICES
12-1-18 [13]

**Final Ruling**

The motion has been set for hearing on the 28-days notice required by 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). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. *See Law Offices of David A. Boone v. Derham-Burk (In re Eliapo)*, 468 F.3d 592, 602 (9th Cir. 2006). Therefore, the defaults of the non-responding parties and other parties in interest are entered. The matter will be resolved without oral argument.

The court's decision is to value the secured claim of Wells Fargo Dealer Services at $17,750.00.

Debtors Stephen and Susan Johnson ("Debtors") filed a motion to value the secured claim of Wells Fargo Dealer Services ("Creditor"), which is accompanied by Debtors' declaration. Debtors are the owners of a 2015 Chevrolet Traverse ("Vehicle"). Debtors seek to value the Vehicle at a replacement value of $17,750.00 as of the petition filing date. Given the absence of contrary evidence, Debtors' opinion of value is conclusive. *See* FED. R. EVID. 701; *see also Enewally v. Wash. Mut. Bank (In re Enewally)*, 368 F.3d 1165, 1173 (9th Cir. 2004).

**No Proof of Claim Filed**

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

**Discussion**

The lien on the Vehicle's title secures a purchase-money loan incurred December 12, 2015, which is more than 910 days prior to filing of the petition, to secure a debt owed to Creditor with a balance of approximately $28,000.00. Therefore, the Creditor's claim secured by a lien on the asset's title is under-collateralized. The Creditor's secured claim is determined to be in the amount of $17,750.00. *See* 11 U.S.C. § 506(a). The valuation motion pursuant to Federal Rule of Bankruptcy Procedure 3012 and 11 U.S.C. § 506(a) is granted.

**COUNSEL FOR THE DEBTORS SHALL LODGE AN APPROPRIATE ORDER WITHIN SEVEN (7) DAYS.**

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| 12. | 18-25838-B-13<br>JPJ-1 | JESUS/CARMEN MARAVILLA<br>Mikalah R. Liviakis | OBJECTION TO CLAIM OF CAVALRY SPV II, LLC, CLAIM NUMBER 1<br>11-15-18 [23] |

**Final Ruling**

The objection has been set for hearing on at least 44-days notice to the claimant as required by Local Bankruptcy Rule 3007-1(b)(1). The failure of the claimant to file written opposition at least 14 calendar days prior to the hearing is considered as consent to the sustaining of the objection. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the objecting party, an actual hearing is unnecessary. *See Boone v. Burk (In re Eliapo)*, 468 F.3d 592 (9th Cir. 2006). Therefore, the claimant's default is entered and the objection will be resolved without oral argument.

The court's decision is to sustain the objection to Claim No. 1 of Cavalry SPV II, LLC, and the claim is disallowed in its entirety.

Jan Johnson, the Chapter 13 trustee ("Objector"), requests that the court disallow the claim of Cavalry SPV II, LLC ("Creditor"), Claim No. 1. The claim is asserted to be unsecured in the amount of $1,430.60. Objector asserts that the claim should be disallowed because the statute of limitations has run pursuant to California Code of Civil Procedure § 337(1).

According to the proof of claim, the underlying debt is a contract claim, most likely based on a written contract. California law provides a four-year statute of limitations to file actions for breach of written contracts. *See* CAL. CIV. PRO. CODE § 337. This statute begins to run from the date of the contract's breach. According to the proof of claim, the last payment was received on or about December 18, 2008, which is more than four years prior to the filing of this case. POC 1, p. 4. Hence, when the case was filed on September 14, 2018, this debt was time barred under applicable nonbankruptcy law and must be disallowed. *See* 11 U.S.C. § 502(b)(1).

Based on the evidence before the court, the Creditor's claim is disallowed in its entirety.

**THE CHAPTER 13 TRUSTEE SHALL LODGE AN APPROPRIATE ORDER WITHIN SEVEN (7) DAYS.**

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| 13. | 18-27038-B-13<br>JPJ-1 | JUAN/MARICELA CARRANZA<br>Mikalah R. Liviakis | OBJECTION TO CONFIRMATION OF PLAN BY JAN P. JOHNSON AND/OR MOTION TO DISMISS CASE<br>12-27-18 [22] |

**No Ruling**

14. 18-20239-B-13 CAROLYN SCHMIDT MOTION TO MODIFY PLAN
JPJ-2 Mikalah R. Liviakis 11-28-18 [41]

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

The court'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. Debtor Carolyn Schmidt 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.

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

15. 18-26641-B-13 VASILIOS/SOFIA TSIGARIS — MOTION FOR RELIEF FROM AUTOMATIC STAY
JHW-1 Marc A. Caraska — 12-12-18 [21]

CAB WEST, LLC VS.

**Final Ruling**

The court's decision is to deny the motion as moot, as the case was ordered dismissed on January 6, 2019 for Debtors' failure to timely pay installments of the filing fee. Dkts. 35, 36.

**THE COURT WILL PREPARE A MINUTE ORDER.**

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| 16. | 18-27141-B-13<br>JPJ-1 | RAUL/MARTHA SOTO<br>Peter G. Macaluso | OBJECTION TO CONFIRMATION OF PLAN BY JAN P. JOHNSON AND/OR MOTION TO DISMISS CASE<br>12-27-18 [15] |

**No Ruling**

17. 18-25342-B-13 REECE/RODINA VENTURA — MOTION TO CONFIRM PLAN
PGM-1 Peter G. Macaluso — 12-10-18 [50]

**Tentative Ruling**

The court has before it a *Motion to Confirm Debtor's [sic] First Amended Plan Filed on December 10, 2018* filed by debtors Reece and Rodina Ventura ("Debtors"). Dkt. 50. The Chapter 13 Trustee ("Trustee") opposes the motion. Dkt. 65. Creditors Adela Bon Gaunia and Benjamin Zamora Villanueva also oppose the motion. Dkt. 70.

For the reasons explained below, the Debtors' motion to confirm will be denied, the plan will not be confirmed, and because the Debtors are ineligible for Chapter 13 relief this case will be dismissed on the Trustee's ex parte application if it is not converted to a Chapter 7 case, or a motion to convert it to a Chapter 11 case is not filed, by January 29, 2019. *Guastella v. Hampton (In re Guastella)*, 341 B.R. 908, 917 (B.A.P. 9th Cir. 2006) ("The bankruptcy court has the inherent power to sua sponte dismiss a case if the debtor is not eligible for relief.").

The court has reviewed the motion, oppositions, replies, and all related documents and exhibits. The court has also reviewed and takes judicial notice of the docket in this Chapter 13 case, the schedules in particular. Findings of fact and conclusions of law are set forth below. *See* FED. R. CIV. P. 52(a); FED. R. BANKR. P. 7052, 9014(c).

**Background**

Despite an overwhelming number of defects with the Debtors' plan, the court need only focus on two which are dispositive of this case. The Trustee asserts that the Debtors filed Schedule E/F in bad faith and that the Debtors are not eligible for Chapter 13 relief. The court agrees.

Schedule E/F lists an unsecured claim of $1.00 each for creditors Gaunia and Villanueva. *See* Dkt. 10, pgs. 2-3. Neither claim is scheduled as contingent, unliquidated, or disputed.[1] *Id.* In fact, none of the other unsecured claims on Schedule E/F which total $319,663.26 ($319,665.26 - $2.00) are scheduled as contingent, unliquidated, or disputed. *Id.*, pgs. 1-12.

Creditors Gaunia and Villanueva have each filed a proof of claim. Creditor Gaunia filed a proof of claim that asserts an unsecured claim in the amount of $149,718.00. *See* Claim No. 5-1. Creditor Villanueva also filed a proof of claim that asserts an unsecured claim in the amount of $154,075.34. *See* Claim No. 6-1.

**Discussion**

Chapter 13 eligibility focuses on the amount of debt held by a debtor at the commencement of the bankruptcy case. The relevant part of § 109(e) states that "[o]nly an individual with regular income that owes, on the date of the filing of the petition, noncontingent, liquidated, unsecured debts of less than $394,725(*) . . . may be a debtor under chapter 13 of [Title 11]." 11 U.S.C. § 109(e). Chapter 13 eligibility is normally determined as of the petition date by a review of the originally filed schedules. *Scovis v. Henrichsen (In re Scovis)*, 249 F.3d 975, 982 (9th Cir. 2001). However, if a bad-faith objection is raised by a party in interest, the bankruptcy court should look past the schedules so long as the debt computation for eligibility is determined as of the petition date. *Guastella*, 341 B.R. at 918. Eligibility debt limits are strictly construed. *Soderlund v. Cohen (In re Soderlund)*, 236 B.R. 271, 274 (B.A.P. 9th Cir. 1999).

Although the court is not ruling on the issue of bad faith, the Trustee's opposition to the Debtors' motion to confirm includes a bad faith objection. That bad faith objection is based on the Debtors' schedules and it refers to the Gaunia and Villanueva

[1] The court is aware that the Debtors assert they do not owe creditors Gaunia and Villanueva anything. Dkt. 80 at 1:22-23.

debts listed in the schedules. Therefore, in making the § 109(e) eligibility determination the court will look beyond the Debtors' schedules. *See In re Cox*, 2016 WL 5854214, * 1 (Bankr. E.D. Wash. 2016) (looking beyond schedules to determine eligibility based on bad faith objection to confirmation). And in doing so, the court concludes that the Debtors are ineligible for Chapter 13 relief.

Excluding the $1.00 Gaunia claim and the $1.00 Villanueva claim, Schedules E/F lists unsecured debt totaling $319,663.26. None of that unsecured debt is scheduled as contingent or unliquidated which means for purposes of this motion it is all noncontingent and liquidated. As noted above, the court is aware that the Debtors dispute the Gaunia and Villanueva debts. However, disputed debts are not excluded from the eligibility analysis. *Sylvester v. Dow Jones & Co., Inc. (In re Sylvester)*, 19 B.R. 671, 673 (B.A.P. 9th Cir. 1982); *see also Nicholes v. Johnny Appleseed of Wash. (In re Nicholes)*, 184 B.R. 82, 90-91 (B.A.P. 9th Cir. 1995). Moreover, the Gaunia and Villanueva proofs of claim are presumptively valid as to their amount unless and until there is a sustained objection. *See* FED. R. BANKR. P. 3001(f). But an objection to the proofs of claim is a postpetition event and in determining eligibility the court does not look to postpetition events. *Slack v. Wilshire Ins. Co. (In re Slack)*, 187 F.3d 1070, 1073 (9th Cir. 1999)

The Gaunia and Villanueva proofs of claim assert unsecured debt as of the petition date totaling $303,793.34. Adding that to the other $319,663.26 of unsecured debt included on Schedule E/F, the Debtors' noncontingent, liquidated unsecured debt totals $623,456.60. That amount clearly exceeds the § 109(e) statutory eligibility limit which means the Debtors are ineligible for Chapter 13 relief.

Therefore, for the foregoing reasons, the Debtors' motion to confirm is denied, the plan is not confirmed, and because the Debtors are ineligible for Chapter 13 relief this case will be dismissed on the Trustee's ex parte application if it is not converted to a Chapter 7 case, or a motion to convert it to a Chapter 11 case is not filed, by January 29, 2019. All other objections to confirmation are overruled as moot.

**THE COURT WILL PREPARE A MINUTE ORDER.**

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|---|---|---|---|
| 18. | 18-27143-B-13<br>JPJ-1 | TYRONE/REBECCA DAMON<br>Peter G. Macaluso | OBJECTION TO CONFIRMATION OF PLAN BY JAN P. JOHNSON AND/OR MOTION TO DISMISS CASE<br>12-27-18 [20] |

**Tentative Ruling**

The objection and motion were properly filed at least 14 days prior to the hearing on the motion to confirm a plan. *See* Local Bankruptcy Rules 3015-1(c)(4) & (d)(1) and 9014-1(f)(2). Parties in interest may, at least 7 days prior to the date of the hearing, serve and file with the court a written reply to any written opposition. Local Bankruptcy Rule 9014-1(f)(1)(C).

The court's decision is to overrule the objection as moot and deny the motion to dismiss as moot.

Subsequent to the filing of the objection and motion by Jan Johnson, the Chapter 13 trustee, debtors Tyrone and Rebecca Damon filed an amended plan on January 2, 2019. Dkt. 27. The confirmation hearing for the amended plan is scheduled for February 12, 2019. Dkt. 25. The earlier plan filed November 13, 2018, is not confirmed.

**THE COURT WILL PREPARE A MINUTE ORDER.**

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| 19. | 18-22744-B-13<br>SS-2 | JENNIFER SALAZAR<br>Scott D. Shumaker | MOTION TO MODIFY PLAN<br>12-7-18 [55] |

**No Ruling**

20. 18-26349-B-13 MIREYA ORTIZ
MMP-1 Michele M. Poteracke
**Thru #22**

MOTION TO VALUE COLLATERAL OF 2005 RESIDENTIAL TRUST 3-2
12-10-18 [29]

**Tentative Ruling**

The motion has been set for hearing on the 28-days notice required by 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 will address the merits of the motion at the hearing.

The court's decision is deny without prejudice the motion to value collateral of 2005 Residential Trust 3-2.

Debtor Mireya Ortiz ("Debtor") filed a motion to value the secured claim of creditor 2005 Residential Trust 3-2 ("Creditor"), which is accompanied by the Debtor's declaration. Debtor is the owner of the subject real property commonly known as 702 Capistrano Drive, Suisun, California 94585 ("Property"). Debtor seeks to value the Property at a fair market value of $365,000.00 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).

The valuation of property that secures a claim is the first step, not the end result, of this motion brought pursuant to 11 U.S.C. § 506(a). The ultimate relief is the valuation of a specific creditor's secured claim.

11 U.S.C. § 506(a) instructs the court and parties in the methodology for determining the value of a secured claim.

> (a)(1) An **allowed claim of a creditor** secured by a lien on property in which the estate has an interest, or that is subject to setoff under section 553 of this title, **is a secured claim to the extent of the value of such creditor's interest in the estate's interest in such property**, or to the extent of the amount subject to setoff, as the case may be, and is an unsecured claim to the extent that the value of such creditor's interest or the amount so subject to set off is less than the amount of such allowed claim. Such value shall be determined in light of the purpose of the valuation and of the proposed disposition or use of such property, and in conjunction with any hearing on such disposition or use or on a plan affecting such creditor's interest.

11 U.S.C. § 506(a) (emphasis added). For the court to determine the creditor's secured claim (rights and interest in collateral), the creditor must be a party who has been served and is before the court. U.S. Constitution Article III, Sec. 2; case or controversy requirement for the parties seeking relief from a federal court.

**Proof of Claim Filed**

The court has reviewed the Claims Registry for this bankruptcy case. It appears that Claim No. 2 filed by 2005 Residential Trust 3-2 is the claim which may be the subject

of the present motion.[2]

**Creditor's Opposition**

Creditor filed an opposition on December 26, 2018. Based on the motion filed by Debtor, and Debtor's representations that the first deed of trust secured a claim of approximately $375,178.00, Creditor requests a continuance for 30 days for Creditor time to obtain a verified appraisal of the Property. Dkt. 46, p. 2.

**Discussion**

Contrary to the declaration filed by Debtor, the first deed of trust secures a claim with a balance of approximately $344,506.22 according to the proof of claim filed. POC 4. Creditor's second deed of trust secures a claim with a balance of approximately $166,841.67. POC 2. Therefore, Creditor's claim secured by a junior deed of trust is not wholly unsecured. *See* 11 U.S.C. § 1322(b)(2). Although a strip off of the entire loan is permitted pursuant to *Zimmer v. PSB Lending Corp. (In re Zimmer)*, 313 F.3d 1220 (9th Cir. 2002) and *Lam v. Investors Thrift (In re Lam)*, 211 B.R. 36 (B.A.P. 9th Cir. 1997), a partial strip down of the loan is not permitted pursuant to *Nobelman v. American Savings Bank*, 508 U.S. 324 (1993).

**COUNSEL FOR THE CREDITOR SHALL LODGE AN APPROPRIATE ORDER WITHIN SEVEN (7) DAYS.**

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|---|---|---|---|
| 21. | 18-26349-B-13<br>MMP-2 | MIREYA ORTIZ<br>Michele M. Poteracke | MOTION TO VALUE COLLATERAL OF KARENS BAIL BONDS<br>12-10-18 [33] |

**Final Ruling**

The motion has been set for hearing on the 28-days notice required by 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). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. *See Law Offices of David A. Boone v. Derham-Burk (In re Eliapo)*, 468 F.3d 592, 602 (9th Cir. 2006). Therefore, the defaults of the non-responding parties and other parties in interest are entered. The matter will be resolved without oral argument.

The court's decision is to value the secured claim of Karens Bail Bonds at $0.00.

Debtor Mireya Ortiz ("Debtor") filed a motion to value the secured claim of creditor Karens Bail Bonds ("Creditor"), which is accompanied by the Debtor's declaration. Debtor is the owner of the subject real property commonly known as 702 Capistrano Drive, Suisun, California 94585 ("Property"). Debtor seeks to value the Property at a fair market value of $365,000.00 as of the petition filing date. Given the absence of contrary evidence, the Debtor's opinion of value is conclusive. *See* FED. R. EVID. 701; *see also Enewally v. Wash. Mut. Bank (In re Enewally)*, 368 F.3d 1165, 1173 (9th Cir. 2004).

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[2]It appears that two proofs of claim were filed by FCI Lender Services, Inc. However, the first proof of claim has the creditor listed as Mireya Ortiz, the debtor, while the second proof of claim is on behalf of 2005 Residential Trust 3-2. These two proofs may reflect the same claim. *Compare* POC 1 *and* 2.

The valuation of property that secures a claim is the first step, not the end result, of this motion brought pursuant to 11 U.S.C. § 506(a). The ultimate relief is the valuation of a specific creditor's secured claim.

11 U.S.C. § 506(a) instructs the court and parties in the methodology for determining the value of a secured claim.

> (a)(1) An **allowed claim of a creditor** secured by a lien on property in which the estate has an interest, or that is subject to setoff under section 553 of this title, **is a secured claim to the extent of the value of such creditor's interest in the estate's interest in such property**, or to the extent of the amount subject to setoff, as the case may be, and is an unsecured claim to the extent that the value of such creditor's interest or the amount so subject to set off is less than the amount of such allowed claim. Such value shall be determined in light of the purpose of the valuation and of the proposed disposition or use of such property, and in conjunction with any hearing on such disposition or use or on a plan affecting such creditor's interest.

11 U.S.C. § 506(a) (emphasis added). For the court to determine the creditor's secured claim (rights and interest in collateral), the creditor must be a party who has been served and is before the court. U.S. Constitution Article III, Sec. 2; case or controversy requirement for the parties seeking relief from a federal court.

**No Proof of Claim Filed**

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

**Discussion**

The first deed of trust secures a claim with a balance of approximately $344,506.22. POC 4. A second deed of trust secures a claim with a balance of approximately $166,841.67.[3] POC 2. Creditor's third deed of trust secures a claim with a balance of approximately $1,600.00. Dkt. 35, ¶¶ 3, 4. Therefore, Creditor's claim secured by a junior deed of trust is completely under-collateralized. 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.

**COUNSEL FOR THE DEBTOR SHALL LODGE AN APPROPRIATE ORDER WITHIN SEVEN (7) DAYS.**

22. 18-26349-B-13 MMP-3 — MIREYA ORTIZ, Michele M. Poteracke — MOTION TO CONFIRM PLAN 12-10-18 [37]

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[3]It appears that two proofs of claim were filed by FCI Lender Services, Inc. However, the first proof of claim has the creditor listed as Mireya Ortiz, the debtor, while the second proof of claim is on behalf of 2005 Residential Trust 3-2. These two proofs may reflect the same claim. *Compare* POC 1 *and* 2.

**No Ruling**

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|---|---|---|---|
| 23. | 18-26950-B-13<br>JPJ-1 | MUHAMMAD CHOUDHRY<br>George T. Burke | OBJECTION TO CONFIRMATION OF PLAN BY JAN P. JOHNSON AND/OR MOTION TO DISMISS CASE<br>12-27-18 [19] |

**No Ruling**

24. 18-26052-B-13 SHERWIN BRAMLETT
PGM-1 Peter G. Macaluso
DEBTOR DISMISSED: 12/21/2018

MOTION TO CONFIRM PLAN
12-9-18 [27]

**Final Ruling**

The court's decision is to deny the motion as moot, as the case was dismissed on December 21, 2018. Dkts. 38, 39.

**THE COURT WILL PREPARE A MINUTE ORDER.**

25. 18-26452-B-7 DAVID CASTILLO
JPJ-3 Justin K. Kuney

OBJECTION TO DEBTOR'S CLAIM OF EXEMPTIONS
12-4-18 [25]

CASE CONVERTED: 12/12/2018

**Final Ruling**

The court's decision is to overrule the objection as moot, as a notice of conversion was filed on December 12, 2018. Dkt. 34.

**THE COURT WILL PREPARE A MINUTE ORDER.**

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|---|---|---|---|
| 26. | 18-23653-B-13<br>TAG-3 | ALICIA ROJO<br>Aubrey L. Jacobsen | MOTION TO CONFIRM PLAN<br>11-30-18 [42] |

**No Ruling**

27. 18-24656-B-13 BACHAR ALBOKAI
LBG-101 Lucas B. Garcia
AMENDED MOTION TO CONFIRM PLAN
12-10-18 [50]
**See Also #50**

**No Ruling**

28. 18-21658-B-13 JGD-4 CECILIA BETKER
John G. Downing

MOTION TO SET ASIDE DISMISSAL OF CASE
12-11-18 [69]

DEBTOR DISMISSED: 09/20/2018

**Tentative Ruling**

The court has before it a *Motion to Set Aside Dismissal* filed by debtor Cecilia L. Betker ("Debtor"). Dkt. 69. The Chapter 13 Trustee ("Trustee") opposes the motion. Dkt. 84. For the reasons explained below, the motion will be denied without prejudice and the order dismissing this Chapter 13 case will not be vacated. However, nothing prevents the Debtor from filing a subsequent Chapter 13 case.

**Introduction**

Debtor moves under Federal Rule of Civil Procedure ("Civil Rule") 60(b) - applicable by Federal Rule of Bankruptcy Procedure ("Bankruptcy Rule") 9024 - to vacate the order dismissing this Chapter 13 case. More precisely, the Debtor moves for relief under Civil Rules 60(b)(1) and (b)(3). To the extent the Debtor also moves for relief on the basis of "surprise" and "bad faith," she arguably also requests relief under Civil Rule 60(b)(6).

The court has reviewed the motion (together with its points and authorities, declaration, and exhibits) and the opposition. The court has also reviewed and takes judicial notice of the entire docket in this Chapter 13 case. Findings of fact and conclusions of law are set forth below. *See* FED. R. CIV. P. 52(a); FED. R. BANKR. P. 7052, 9014(c).

**Background**

The Debtor filed the petition that commenced this case on March 22, 2018, dkt. 1, and with the petition a proposed plan. Dkt. 5. A confirmation hearing was held on May 14, 2018, at which time confirmation of the plan was denied and the Debtor given 75 days to confirm a plan. Dkt. 25. The order denying confirmation and setting the 75-day deadline was entered on May 22, 2018. Dkt. 27.

In the meantime, the Debtor filed a first amended plan and motion to confirm it on May 10, 2018. Dkts. 20-24. A hearing on the motion to confirm the first amended plan was set on July 2, 2018. Dkt. 21. The July 2, 2018, confirmation hearing was continued to August 20, 2018, dkt. 43, and on August 20, 2018, further continued to September 17, 2018. Dkt. 49. Confirmation of the first amended plan was denied on September 17, 2018. Dkt. 56.

The following day, September 18, 2018, the Trustee filed an ex parte application to dismiss based on the Debtor's failure to confirm a plan within 75 days of the May 22, 2018, order. Dkt. 55. The ex parte motion was granted and an order dismissing this Chapter 13 case was entered on September 20, 2018. Dkt. 60. According to the Debtor, she allowed her case to be dismissed after her mortgage lender filed an amended proof of claim which stated that she owed no prepetition arrears and she received an accounting from the mortgage lender's attorney that reflected the same. Dkt. 72, ¶¶ 3-8.

**Discussion**

The Debtor Has Not Established That Relief Under Civil Rule 60(b)(1) is Warranted.

Civil Rule 60(b)(1) permits the court to relieve a party from an 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's motion does not address any of the *Pioneer-Briones* factors relevant to a Civil Rule 60(b)(1) analysis: (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). If the court states the equitable test and then concludes that the debtor failed to present any evidence, that is sufficient grounds to deny relief under Rule 60(b)(1). *Bateman v. U.S. Postal Service*, 231 F.3d 1220, 1224 (9th Cir. 2000). Nevertheless, an independent review of the factors weighs against granting relief.

The first factor of prejudice to other parties weighs against granting relief. When this case was dismissed the automatic stay terminated as to all creditors and for all purposes. Creditors who were notified of the dismissal have been free to exercise their rights under applicable nonbankrutpcy law following dismissal nearly four months ago, and apparently some have. Even assuming that vacating the dismissal order would revive the automatic stay, doing so would result in undue confusion and prejudice with regard to actions already taken in reliance on dismissal and termination of the automatic stay.[4]

The second factor, the length of the delay and the potential impact of the delay on the Chapter 13 proceedings, is somewhat related to the first factor and it too weighs heavily against Civil Rule 60(b)(1) relief. This case was dismissed on September 20, 2018. The Debtor did not move to vacate the dismissal until December 11, 2018, nearly three months after dismissal. Moreover, confirmation of a plan is projected on a relatively short timeframe under the Chapter 13 statutory scheme. *See* 11 U.S.C. § 1324(b). If the court were to vacate the dismissal order and reinstate this case, the very earliest that a plan could be confirmed is early March 2019. By that time the case would have been pending for a year without a confirmed plan. Keeping a Chapter 13 case open for such an extended period without a confirmed plan is unreasonable delay prejudicial to creditors. *See* 11 U.S.C. § 1307(c)(1).

The Debtor has also not offered a plausible explanation for the dismissal of this case, or the delay in seeking relief from the dismissal order. This case was dismissed because the Debtors did not confirm a plan by the court-ordered deadline. *See* 11 U.S.C. § 1307(c)(3). The Debtor did not confirm a plan by the court-ordered deadline because she - through her attorney - made a decision to allow it to be dismissed based on a unilateral reliance on the mortgage lender's amended proof of claim and related accounting. In other words, the Debtor did not have to allow the case to be dismissed. She could have instead asked the Trustee to stipulate to extend the confirmation deadline - in the court's experience such extensions are routinely and liberally granted - and thereafter proposed an confirmable plan consistent with the mortgage lender's amended proof of claim and the related accounting. That the Debtor apparently now regrets her decision to not continue to prosecute her case is not a reason indicative of excusable neglect. *See Latshaw v. Trainer Wortham & Co., Inc.*, 452 F.3d 1097, 1101-1102 (9th Cir. 2006) ("A party will not be released from a poor litigation decision made because of inaccurate information or advice, even if provided by an attorney."); *Casey v. Albertson's Inc.*, 362 F.3d 1254, 1260 (9th Cir. 2004) ("As a general rule, parties are bound by the actions of their lawyers, and alleged attorney malpractice does not usually provide a basis to set aside a judgment pursuant to Rule 60(b)(1)."). The Debtor has also not explained why she waited nearly three months before moving to vacate to the dismissal order.

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[4]The Ninth Circuit has held that, once terminated, the automatic stay can only be reimposed through an adversary proceeding. *Canter v. Canter (In re Canter)*, 299 F.3d 1150, 1155 n.1 (9th Cir. 2002); *see also Ramirez v. Whelen (In re Ramirez)*, 188 B.R. 413, 416 (B.A.P. 9th Cir. 1995) (Klein, J., concurring). There is some out-of-circuit authority that suggests the automatic stay may be revived when the order that caused it to terminate is vacated. *See State Bank of Southern Utah v. Gledhill (In re Gledhill)*, 76 F.3d 1070, 1079-80 (10th Cir. 1996). Here, however, the Debtor has not filed an adversary proceeding and she has not shown how (or why) *Gledhill* is applicable.

As to the fourth factor, there is no evidence of bad faith associated with the Debtor's conduct. This factor is neutral.

Considering the totality of the circumstances, the *Pioneer-Briones* factors overwhelmingly weigh against relief from the dismissal order under Civil Rule 60(b)(1).

The Debtor Has Not Established That Relief under Civil Rule 60(b)(3) is Warranted.

Civil Rule 60(b)(3) permits the court to relieve a party of a final judgment or order for "fraud (whether previously called intrinsic or extrinsic), misrepresentation, or misconduct by an opposing party[.]" FED. R. BANKR. P. 60(b)(3); FED. R. BANKR. P. 9024.

Relief under Civil Rule 60(b)(3) requires proof by clear and convincing evidence: (1) that the court's ruling was obtained by fraud, misrepresentation or other misconduct, and (2) that the misconduct prevented the movant from fully and fairly presenting his or her case. *Casey*, 362 F.3d at 1260. Additionally, the alleged fraud, misrepresentation, or other misconduct that resulted in the judgment or order from which relief is sought must materially relate to the submitted issue. *Stokes v. Drummond (In re Stokes)*, 2017 WL 4768100, *5 (B.A.P. 9th Cir. 2017) (citations omitted). That standard is not met here.

The submitted issue here is the dismissal of the Debtor's Chapter 13 case. The Debtor, however, has provided no evidence, much less clear and convincing evidence, that her mortgage lender filed an amended proof of claim and in it stated she owed no prepetition arrears or provided her with an accounting consistent with the amended proof of claim in order to get her to dismiss her case. The Debtor made that decision on her own. Indeed, by her own admission, the Debtor's decision to not continue to prosecute her bankruptcy case was made unilaterally after reviewing the mortgage lender's proof of claim and accounting. Relief under Civil Rule 60(b)(3) is therefore not warranted.

The Debtor Has Not Established That Relief Under Civil Rule 60(b)(1) is Warranted.

Relief under Civil Rule 60(b)(6) for "any other reason that justifies relief" is also not warranted. *See* FED. R. CIV. P. 60(b)(6); FED. R. BANKR. P. 9024.

Relief under Civil Rule 60(b)(6) is limited to errors or actions beyond the party's control. *Latshaw*, 452 F.3d at 1103; *Cmty. Dental Serv. v. Tani*, 282 F.3d 1164, 1168 (9th Cir. 1996). This standard is not met. The decision by the Debtor to not request an extension of the confirmation deadline to propose a plan that provided for treatment of her mortgage lender's secured claim consistent with its amended proof of claim and accounting and to instead allow her case to be dismissed are matters that were entirely within the control of the Debtor and her attorney. Relief under Rule 60(b)(6) is therefore not warranted.

**Conclusion**

For all the foregoing reasons, the Debtor's motion to vacate dismissal and reinstate this Chapter 13 case is denied without prejudice. The dismissal order is not vacated and this case is not reinstated. Denial of the motion is without prejudice to the filing of a subsequent bankruptcy petition.

**THE COURT WILL PREPARE A MINUTE ORDER.**

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| 29. | 17-23960-B-13<br>JPJ-3 | SHENNEL BEASLEY<br>Matthew J. DeCaminada | MOTION TO CONVERT CASE TO CHAPTER 7 AND/OR MOTION TO DISMISS CASE<br>12-5-18 [81] |

**Final Ruling**

The motion has been set for hearing on the 28-days notice required by 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). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. *See Law Offices of David A. Boone v. Derham-Burk (In re Eliapo)*, 468 F.3d 592, 602 (9th Cir. 2006). Therefore, the defaults of the non-responding parties and other parties in interest are entered. The matter will be resolved without oral argument.

The court's decision is to convert this Chapter 13 case to a Chapter 7, and deny the motion to dismiss as moot.

This motion has been filed by Jan Johnson, the Chapter 13 trustee ("Movant"). Movant asserts that the case should be converted or dismissed because debtor Shennel Beasley ("Debtor") is $7,775.00 delinquent in plan payments, which represents approximately 2.3 plan payments. Failure to make plan payments is unreasonable delay which is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

After reviewing Debtor's filed Schedules A/B and C, Trustee estimates $69,220.70 in non-exempt equity. Thus, Trustee argues that conversion is in the best interests of creditors and the estate.

**THE CHAPTER 13 TRUSTEE SHALL LODGE AN APPROPRIATE ORDER WITHIN SEVEN (7) DAYS.**

30. 18-27062-B-13 ASHLEY SOLBERG
JPJ-1 Matthew J. Gilbert

OBJECTION TO CONFIRMATION OF PLAN BY JAN P. JOHNSON AND/OR MOTION TO DISMISS CASE
12-27-18 [17]

**Final Ruling**

Continued to January 29, 2019, at 1:00 p.m. to be heard with the continued Motion to Value. Dkt. 20.

**THE COURT WILL PREPARE A MINUTE ORDER.**

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| 31. | 18-26564-B-13<br>JPJ-3 | DESMAL MATTHEWS<br>Pro Se | OBJECTION TO DEBTOR'S CLAIM OF EXEMPTIONS<br>12-13-18 [29] |

**Final Ruling**

The Chapter 13 Trustee having filed a notice of withdrawal of its objection, the objection is dismissed without prejudice pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(i) and Federal Rules of Bankruptcy Procedure 9014 and 7041. The matter is removed from the calendar.

**THE COURT WILL PREPARE A MINUTE ORDER.**

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|---|---|---|---|
| 32. | 18-27165-B-13<br>JPJ-1 | EDWARD HOILMAN AND LISA MCCURRY-HOILMAN<br>Chad M. Johnson | OBJECTION TO CONFIRMATION OF PLAN BY JAN P. JOHNSON AND/OR MOTION TO DISMISS CASE<br>12-27-18 [19] |

**No Ruling**

33. 18-27172-B-13 EDWARD MEDINA
DVW-1 Harry D. Roth
**Thru #34**

OBJECTION TO CONFIRMATION OF PLAN BY U.S. BANK, N.A.
12-10-18 [12]

**Tentative Ruling**

Because less than 28-days notice of the hearing was given by the amended notice, filed and served December 21, 2018 (dkts. 16, 17), the objection is deemed brought pursuant to Local Bankruptcy Rule 9014-1(f)(2). Consequently, parties in interest were not required to file a written response or opposition. If any of these potential respondents appear at the hearing and offers opposition to the motion, the court will set a briefing schedule and a final hearing unless there is no need to develop the record further. If no opposition is offered at the hearing, the court will take up the merits of the motion.

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

U.S. Bank, National Association as Legal Title Trustee for Truman 2016 SC6 Title Trust ("Creditor"), objects to confirmation of the plan proposed by debtor Edward Medina ("Debtor") on the following grounds.

First, Creditor holds a deed of trust secured by the Debtor's residence. Creditor has filed a timely proof of claim in which it asserts $105,476.44 in pre-petition arrearages. POC 1, p. 2. The plan does not propose to cure these arrearages in full. Dkt. 2, p. 3. Because the plan does not provide for the surrender of the collateral for this claim, the plan must provide for payment in full of the arrearage as well as maintenance of the ongoing note installments. *See* 11 U.S.C. §§ 1322(b)(2), (b)(5) & 1325(a)(5)(B). Based on this failure to provide for the full payment of arrearages, the plan cannot be confirmed.

Second, Creditor argues that Debtor cannot propose a plan that is feasible. Creditor calculates that Debtor needs to increase the plan payments by $203.00, to $1,758.00 per month, to cure its pre-petition arrearages. Because Debtor's schedules only show $1,550.00 of disposable income, and Debtor is relying on $1,025.00 of gratuitous contributions to make those payments, Debtor cannot propose a plan that is feasible while curing the arrears to Creditor. Further, Creditor asserts, with no evidence provided, that Debtor has not made the first 5 post-petition mortgage payments.[1] Dkt. 12, p. 4.

Further, Creditor argues that the contributions in Debtor's schedules cannot be relied on to determine feasibility. Citing to authority in other circuits, Creditor argues that Debtor's reliance on contributions from family, without evidence that these contributions are consistent, is not sufficient to show the plan is feasible. *In re Felberman*, 196 B.R. 678 (Bankr. S.D.N.Y. 1995), *In re Lyons*, 193 B.R. 637 (Bankr. D. Mass. 1996) (if gifts are not legally enforceable, they cannot be considered the source of payment for proposed Chapter 13 Plan); *In re Crowder*, 179 B.R. 571 (Bankr. E.D. Ark. 1995) (without a showing of specific amounts or assistance which is committed for the duration of the plan, payments are not sufficient stable or regular to support the plan; *In re Norwood*, 178 B.R. 683 (Bankr. E.D. Pa. 1995). The court notes that there is also Ninth Circuit authority that agrees with this argument. *In re Deutsch*, 529 B.R. 308, 312 (Bankr. C.D. Cal. 2015) (listing factors to determine feasibility based on contributions of a non-debtor); *In re Schwalb*, 347 B.R. 726, 759 (Bankr. D. Nev. 2006) (confirming a plan after debtor's father testified that he would pay "whatever it took to confirm the plan and make all plan payments.")

Without further evidence or legal authority to support a showing that the plan is

[1] Local Bankruptcy Rule 9014-1(d) requires that, "[e]xcept as otherwise provided in these rules, every application, motion, contested matter or other request for an order, shall be comprised of a motion, or other request for relief, notice, evidence, and a certification of service." Creditor failed to include a declaration or admissible exhibits with its request for relief.

feasible, which may be presented at the hearing, Debtor has not carried his burden under 11 U.S.C. § 1325(a)(6).

**COUNSEL FOR THE CREDITOR SHALL LODGE AN APPROPRIATE ORDER WITHIN SEVEN (7) DAYS.**

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| 34. | 18-27172-B-13<br>JPJ-1 | EDWARD MEDINA<br>Harry D. Roth | OBJECTION TO CONFIRMATION OF PLAN BY JAN P. JOHNSON AND/OR MOTION TO DISMISS CASE<br>12-27-18 [19] |

**No Ruling**

35. 16-24074-B-13 ROSA GUZMAN
BLG-7 Chad M. Johnson

MOTION TO MODIFY PLAN
11-28-18 [130]

**No Ruling**

| | | | |
|---|---|---|---|
| 36. | 18-27077-B-13<br>JPJ-1 | ANDREW/DIANE GARCIA<br>Harry D. Roth | OBJECTION TO CONFIRMATION OF PLAN BY JAN P. JOHNSON AND/OR MOTION TO DISMISS CASE<br>12-27-18 [13] |

**No Ruling**

37. 18-26980-B-13 RENATO/MARY ROSE PORLARIS MOTION TO CONFIRM PLAN
NLB-2 Nekesha L. Batty 12-10-18 [39]

**Final Ruling**

The motion has been set for hearing on the 35-days notice required by Local Bankruptcy Rule 3015-1(d)(1), 9014-1(f)(1), and Federal Rule of Bankruptcy Procedure 2002(b). The failure of the respondent and other parties in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(B) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. *See Law Offices of David A. Boone v. Derham-Burk (In re Eliapo)*, 468 F.3d 592, 602 (9th Cir. 2006). Therefore, the defaults of the respondent and other parties in interest are entered. Upon review of the record there are no disputed material factual issues and the matter will be resolved without oral argument. The court will issue its ruling from the parties' pleadings.

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

11 U.S.C. § 1323 permits a debtor to amend a plan any time before confirmation. Debtors Renato and Mary Polaris have provided evidence in support of confirmation. No opposition to the motion has been filed by the Chapter 13 Trustee or creditors. The amended plan complies with 11 U.S.C. §§ 1322 and 1325(a) and is confirmed.

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

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| 38. | 18-22487-B-13<br>JPJ-1 | JENNIFER NICOLAS<br>Mohammad M. Mokarram | MOTION TO CONVERT CASE TO CHAPTER 7 AND/OR MOTION TO DISMISS CASE<br>12-7-18 [21] |

**Final Ruling**

The court's decision is to deny the motion to convert as moot and the motion to dismiss as moot based on the order dismissing this case on January 3, 2019, at the request of the debtor. Dkts. 27, 29, 30.

**THE COURT WILL PREPARE A MINUTE ORDER.**

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| 39. | 18-26188-B-13<br>JPJ-1<br>**Thru #40** | ANTHONY/MIRIAM DANGERFIELD<br>Mohammad M. Mokarram | CONTINUED OBJECTION TO CONFIRMATION OF PLAN BY JAN P. JOHNSON AND/OR MOTION TO DISMISS CASE<br>11-20-18 [31] |

**Final Ruling**

The court's decision is to continue this matter to be heard in conjunction with the continued motion to value, DCN MMM-1, on February 19, 2019. Dkt. 46.

**THE COURT WILL PREPARE A MINUTE ORDER.**

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| 40. | 18-26188-B-13<br>RMP-1 | ANTHONY/MIRIAM DANGERFIELD<br>Mohammad M. Mokarram | OBJECTION TO CONFIRMATION OF PLAN BY REAL TIME RESOLUTIONS, INC.<br>11-5-18 [20] |

**Final Ruling**

The court's decision is to continue this matter to be heard in conjunction with the continued motion to value, DCN MMM-1, on February 19, 2019. Dkt. 46.

**THE COURT WILL PREPARE A MINUTE ORDER.**

41. 15-23192-B-13 AMELITO CRUZ AND ROSE MULLEN
WMR-1 William M. Rubendall

AMENDED MOTION TO MODIFY PLAN
12-7-18 [44]

DEBTOR DISMISSED:
12/21/2018
JOINT DEBTOR DISMISSED:
12/21/2018

**Final Ruling**

The court's decision is to deny the motion as moot based on the order dismissing this case on December 21, 2018, and the notice of withdrawal filed by debtors on January 7, 2019. Dkts. 53, 54, 59.

**THE COURT WILL PREPARE A MINUTE ORDER.**

42. 18-26693-B-13 JPJ-2 — ANTHONY SIPPIO, Lucas B. Garcia — OBJECTION TO DEBTOR'S CLAIM OF EXEMPTIONS, 12-13-18 [25]

**Final Ruling**

The objection has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1) and Federal Rule of Bankruptcy Procedure 4003(b). The failure of the Debtor 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 as consent to the granting of the motion. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. *See Boone v. Burk (In re Eliapo)*, 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the non-responding parties and other parties in interest are entered. The matter will be resolved without oral argument.

The court's decision is to sustain the objection and the exemptions are disallowed in their entirety.

Jan Johnson, the Chapter 13 trustee ("Trustee"), objects to debtor Anthony Sippio's ("Debtor's") use of the California exemptions without the filing of the spousal waiver required by California Code of Civil Procedure § 703.140(a)(2). California Code of Civil Procedure §703.140(a)(2), provides:

> If the petition is filed individually, and not jointly, for a husband or a wife, the exemptions provided by this chapter other than the provisions of subdivision (b) are applicable, except that, if both the husband and the wife effectively waive in writing the right to claim, during the period the case commenced by filing the petition is pending, the exemptions provided by the applicable exemption provisions of this chapter, other than subdivision (b), in any case commenced by filing a petition for either of them under Title 11 of the United States Code, then they may elect to instead utilize the applicable exemptions set forth in subdivision (b).

(Emphasis added). The court's review of the docket reveals that the spousal wavier has not been filed. The Trustee's objection is sustained and the claimed exemptions are disallowed.

**THE CHAPTER 13 TRUSTEE SHALL LODGE AN APPROPRIATE ORDER WITHIN SEVEN (7) DAYS.**

43. 18-21994-B-13 ALVIN CATLIN — MOTION TO CONFIRM PLAN
LBG-201 Lucas B. Garcia — 12-10-18 [77]

**No Ruling**

44. 18-25595-B-13 STEVEN/SHARON COLLINS ORDER TO SHOW CAUSE
JPJ-2 Peter G. Macaluso 12-20-18 [68]
DEBTOR DISMISSED:
12/28/2018
JOINT DEBTOR DISMISSED:
12/28/2018

**Final Ruling**

The court will issue an order from Chambers sustaining its order to show cause. Removed from calendar. No appearance is necessary.

**THE COURT WILL PREPARE A MINUTE ORDER.**

45. 18-26995-B-13 JPJ-1 URBAN/WENDY KIRK
Gary Ray Fraley

OBJECTION TO CONFIRMATION OF PLAN BY JAN P. JOHNSON
12-27-18 [21]

**Tentative Ruling**

The objection was properly filed at least 14 days prior to the hearing on the motion to confirm a plan. *See* LBR 3015-1(c)(4) & (d)(1) *and* 9014-1(f)(2). Parties in interest may, at least 7 days prior to the date of the hearing, serve and file with the court a written reply to any written opposition. LBR 9014-1(f)(2)(C). No written reply has been filed to the objection.

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

Jan Johnson, the Chapter 13 trustee ("Trustee"), objects to the plan proposed by debtors Urban and Wendy Kirk ("Debtors") because, in the plan, Debtors propose a "53\\38%" dividend to general unsecured creditors. Trustee argues that Debtors have not carried their burden of showing the plan is feasible under 11 U.S.C. § 1325(a)(6).

The plan filed November 19, 2018, does not comply with 11 U.S.C. §§ 1322 and 1325(a). The objection is sustained and the plan is not confirmed.

**THE CHAPTER 13 TRUSTEE SHALL LODGE AN APPROPRIATE ORDER WITHIN SEVEN (7) DAYS.**

46. 17-25999-B-13 RAJENDER SARIN — MOTION TO CONFIRM PLAN
LBG-101 Lucas B. Garcia — 12-3-18 [133]

**No Ruling**

47. 18-26800-B-13 JPJ-1 — MICHAEL/EMMA POST — Steven A. Alpert — CONTINUED OBJECTION TO CONFIRMATION OF PLAN BY JAN P. JOHNSON — 12-14-18 [24]

**Tentative Ruling**

The objection was properly filed at least 14 days prior to the hearing on the motion to confirm a plan. *See* LBR 3015-1(c)(4) & (d)(1) *and* 9014-1(f)(2). Parties in interest may, at least 7 days prior to the date of the hearing, serve and file with the court a written reply to any written opposition. LBR 9014-1(f)(2)(C). No written reply has been filed to the objection.

The court's decision is to overrule the objection, and order the plan confirmed.

**Trustee's Objection**

Jan Johnson, the Chapter 13 trustee ("Trustee"), asserted that debtors Michael and Emma Post ("Debtors") did not appear at the meeting of creditors set for December 13, 2018, as required pursuant to 11 U.S.C. § 343. Trustee also notes that Michael Hays, the appearance counsel at the first meeting, informed Trustee that Mr. Post passed away recently. The meeting was continued to January 10, 2019, at 1:30 p.m. for Mrs. Post to appear.

**January 8, 2019 Hearing**

At the hearing, the court continued this matter to January 15, 2019, to allow co-debtor Emma Post to appear at the continued 341 hearing.

**Discussion**

A review of the court's docket shows Trustee filed a report on January 11, 2019, that shows co-debtor Mrs. Post appeared at the continued meeting of creditors and concluded this matter. Thus, absent any objections arising from the meeting, this objection has been resolved.

There being no further objection, the plan filed October 29, 2018, is ordered confirmed.

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

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| 48. | 18-27137-B-13<br>JPJ-1 | SHANNON GENZEL<br>Scott D. Hughes | CONTINUED OBJECTION TO CONFIRMATION OF PLAN BY JAN P. JOHNSON AND/OR MOTION TO DISMISS CASE<br>12-18-18 [20] |

**No Ruling**

| | | | |
|---|---|---|---|
| 49. | 18-26755-B-13<br>JPJ-1 | LISA ATZ<br>Stephen M. Reynolds | CONTINUED OBJECTION TO CONFIRMATION OF PLAN BY JAN P. JOHNSON<br>12-12-18 [12] |

**No Ruling**

50. 18-24656-B-13 JPJ-2
**See Also #27**

BACHAR ALBOKAI
Lucas B. Garcia

CONTINUED MOTION TO CONVERT CASE FROM CHAPTER 13 TO CHAPTER 7 AND/OR MOTION TO DISMISS CASE 12-7-18 [39]

**No Ruling**