



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

Chief Judge Fredrick E. Clement
Sacramento Federal Courthouse
501 I Street, 7th Floor
Courtroom 28, Department A
Sacramento, California

DAY: TUESDAY
DATE: FEBRUARY 4, 2025
CALENDAR: 9:00 A.M. CHAPTER 13 CASES

Unless otherwise ordered, all matters before Chief Judge Fredrick E. Clement shall be simultaneously: (1) **IN PERSON** at Sacramento Courtroom No. 28, (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 **Court 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 the 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:

- Review the [Pre-Hearing Dispositions](#) prior to appearing at the hearing.
- Review the court's [Zoom Procedures and Guidelines](#) for these, and additional instructions.
- 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.

PRE-HEARING DISPOSITION INSTRUCTIONS

RULINGS

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

"No Ruling" means the likely disposition of the matter will not be disclosed in advance of the hearing. The matter will be called; parties wishing to be heard should rise and be heard.

"Tentative Ruling" means the likely disposition, and the reasons therefor, are set forth herein. The matter will be called. Aggrieved parties or parties for whom written opposition was not required should rise and be heard. Parties favored by the tentative ruling need not appear. However, non-appearing parties are advised that the court may adopt a ruling other than that set forth herein without further hearing or notice.

"Final Ruling" means that the matter will be resolved in the manner, and for the reasons, indicated below. The matter will not be called; parties and/or counsel need not appear and will not be heard on the matter.

CHANGES TO PREVIOUSLY PUBLISHED RULINGS

On occasion, the court will change its intended ruling on some of the matters to be called and will republish its rulings. The parties and counsel are advised to recheck the posted rulings after 3:00 p.m. on the next business day prior to the hearing. Any such changed ruling will be preceded by the following bold face text: **"[Since posting its original rulings, the court has changed its intended ruling on this matter]"**.

ERRORS IN RULINGS

Clerical errors of an insignificant nature, e.g., nomenclature ("2017 Honda Accord," rather than "2016 Honda Accord"), amounts, ("\$880," not "\$808"), may be corrected in (1) tentative rulings by appearance at the hearing; or (2) final rulings by appropriate ex parte application. Fed. R. Civ. P. 60(a) *incorporated by* Fed. R. Bankr. P. 9024. All other errors, including those occasioned by mistake, inadvertence, surprise, or excusable neglect, must be corrected by noticed motion. Fed. R. Bankr. P. 60(b), *incorporated by* Fed. R. Bankr. P. 9023.

1. [24-25205](#)-A-13 **IN RE: MERRILEE ZERROUGUI**
[AP-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY CREDITOR CITIZENS BANK,
N.A.

12-16-2024 [\[22\]](#)

WENDY LOCKE/ATTY. FOR MV.

Final Ruling

Objection: Creditor's Objection to Confirmation of Plan

Notice: LBR 3015-1(c)(4), 9014-1(f)(2); no written opposition
required

Disposition: Continued to March 25, 2025, at 9:00 a.m.

Order: Civil minute order

Creditor, Citizens Bank, N.A., objects to confirmation of the
debtor(s) plan.

Chapter 13 plan confirmation is governed by 11 U.S.C. §§ 1322, 1325
and by Federal Rule of Bankruptcy Procedure 2002(b) and Local
Bankruptcy Rule 3015-1. The debtor has the burden of proving that
the plan complies with all statutory requirements of confirmation.
In re Andrews, 49 F.3d 1404, 1407-08 (9th Cir. 1995); *In re Barnes*,
32 F.3d 405, 407-08 (9th Cir. 1994).

The court will continue the hearing on this objection to allow the
parties to augment the evidentiary record.

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms
substantially to the following form:

IT IS ORDERED that the hearing on this objection will be continued
to March 25, 2025, at 9:00 a.m. The court may rule in this matter
without further hearing.

IT IS FURTHER ORDERED that no later than February 18, 2025, the
debtor(s) shall do one of the following:

(A) File a Statement of No Opposition. If the debtor(s) agree
that the creditor's objection is well taken, the debtor(s) shall
concede the merits and file a statement of non-opposition to the
objection. L.R. 230(c) ("A responding party who has no opposition
to the granting of the motion shall serve and file a statement to
that effect..."); LBR 1001-1(c)-(d) (omitting the applicability of
L.R. 230 unless the court orders otherwise);

(B) Respond in Writing to the Objection. If the debtor(s)
disagrees with the creditor's objection, the debtor(s) shall file
and serve a written response to the objection; the response shall
specifically address each issue raised in the creditor's objection

to confirmation, state whether the issue is disputed or undisputed, and include admissible evidence in support of the debtor's position. If the debtor(s) file a response under paragraph 3(B) of this order, then the creditor shall file and serve a reply, if any, no later than March 4, 2025. The evidentiary record will close after March 4, 2025; or

(C) File a Modified Plan. If the debtor(s) wish to resolve the creditor's objection by filing a modified plan, then the debtor(s) shall: (1) file and serve a modified Chapter 13 plan; and (2) file and serve a motion to confirm the modified plan.

IT IS FURTHER ORDERED that any stipulation between the parties resolving this matter must be approved and signed by the Chapter 13 trustee prior to filing with the court. The trustee's signature on the stipulation warrants that the terms of the proposed stipulation do not impact the plan's compliance with 11 U.S.C. § 1325(a).

2. [24-25205](#)-A-13 **IN RE: MERRILEE ZERROUGUI**
[DPC-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY TRUSTEE DAVID P. CUSICK
1-8-2025 [\[31\]](#)

Final Ruling

Objection: Trustee's Objection to Confirmation of Plan

Notice: LBR 3015-1(c) (4), 9014-1(f) (2); no written opposition required

Disposition: Continued to March 25, 2025, at 9:00 a.m.

Order: Civil minute order

The Chapter 13 trustee objects to confirmation of the debtor(s) plan.

Chapter 13 plan confirmation is governed by 11 U.S.C. §§ 1322, 1325 and by Federal Rule of Bankruptcy Procedure 2002(b) and Local Bankruptcy Rule 3015-1. The debtor has the burden of proving that the plan complies with all statutory requirements of confirmation. *In re Andrews*, 49 F.3d 1404, 1407-08 (9th Cir. 1995); *In re Barnes*, 32 F.3d 405, 407-08 (9th Cir. 1994).

The court will continue the hearing on this objection to allow the parties to augment the evidentiary record.

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

IT IS ORDERED that the hearing on this objection will be continued to March 25, 2025, at 9:00 a.m. The court may rule in this matter without further hearing.

IT IS FURTHER ORDERED that no later than February 18, 2025, the debtor(s) shall do one of the following:

(A) File a Statement of No Opposition. If the debtor(s) agree that the Chapter 13 trustee's objection is well taken, the debtor(s) shall concede the merits and file a statement of non-opposition to the objection. L.R. 230(c) ("A responding party who has no opposition to the granting of the motion shall serve and file a statement to that effect..."); LBR 1001-1(c)-(d) (omitting the applicability of L.R. 230 unless the court orders otherwise);

(B) Respond in Writing to the Objection. If the debtor(s) disagree with the trustee's objection, the debtor(s) shall file and serve a written response to the objection; the response shall specifically address each issue raised in the trustee's objection to confirmation, state whether the issue is disputed or undisputed, and include admissible evidence in support of the debtor's position. If the debtor(s) file a response under paragraph 3(B) of this order, then the trustee shall file and serve a reply, if any, no later than March 4, 2025. The evidentiary record will close after March 4, 2025; or

(C) File a Modified Plan. If the debtor(s) wish to resolve the Chapter 13 trustee's objection by filing a modified plan, then the debtor(s) shall: (1) file and serve a modified Chapter 13 plan; and (2) file and serve a motion to confirm the modified plan.

IT IS FURTHER ORDERED that if the parties resolve the trustee's objection, and there are no additional objections to confirmation pending, then the debtor(s) may submit an order confirming the plan which has been signed by the Chapter 13 trustee. The trustee's signature on the order confirming plan represents to the court that no further objections to confirmation of the proposed plan are pending.

3. [22-20309](#)-A-13 **IN RE: FRANK RANDLE**
[JLK-3](#)

MOTION TO REFINANCE
1-15-2025 [\[55\]](#)

JAMES KEENAN/ATTY. FOR DBT.

Final Ruling

Motion: Incur Debt

Notice: LBR 9014-1(f)(2); no written opposition required

Disposition: Denied without prejudice

Order: Civil minute order

The debtor seeks an order approving the refinance of a debt. For the following reasons the motion will be denied without prejudice. The court notes that a previous motion to refinance (JLK-2) was denied for the following reasons.

SERVICE AND NOTICE

As of November 1, 2022, the court adopted Local Bankruptcy Rules 2002-3, 9036-1 and 7005-1 (requiring attorneys and trustees to use a standardized Certificate of Service, EDC 7-005).

The form certificate of service is intended to allow parties to memorialize service efficiently and accurately, and to aid the court in ensuring sufficient service is achieved in each proceeding.

Matrix

Where the Clerk's Matrix of Creditors is attached to the Certificate of Service form, *such list shall be downloaded not more than 7 days prior to the date of serving the pleadings and other documents and shall reflect the date of downloading.* The serving party may download that matrix either in "pdf label format" or in "raw data format." Where the matrix attached is in "raw data format," signature on the Certificate of Service is the signor's representation that no changes, e.g., additions, deletions, modifications, of the data have been made except: (1) formatting of existing data; or (2) removing creditors from that list by the method described in paragraph (c) of this rule.

LBR 7005-1(d) (emphasis added).

In this case the matrix attached to the certificate of service is not the clerk's official matrix as required, it appears to be altered. See Certificate of Service, Attachment 6A-1, ECF No. 59. Certain creditors appear to have been pasted on to the matrix and the date the matrix was compiled does not appear on the matrix as required. *Id.* Accordingly, service of the motion does not comply with LBR 7005-1. The court will deny the motion without prejudice.

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

The debtor's Motion to Approve Refinance has been presented to the court. Given the procedural deficiencies discussed by the court in its ruling,

IT IS ORDERED that the motion is denied without prejudice.

4. [24-24612](#)-A-13 **IN RE: AHMAD RAZA AND SUMBAL AHMAD**
[KMM-1](#)

CONTINUED OBJECTION TO CONFIRMATION OF PLAN BY TOYOTA MOTOR
CREDIT CORPORATION
11-22-2024 [\[17\]](#)

MARK WOLFF/ATTY. FOR DBT.
KIRSTEN MARTINEZ/ATTY. FOR MV.

Final Ruling

The objection has been resolved by a stipulation which has been approved by the court. Accordingly, this matter will be removed from the calendar. No appearances are necessary.

5. [24-22416](#)-A-13 **IN RE: REYNALDO TABOT**
[EJV-2](#)

MOTION TO CONFIRM PLAN
12-31-2024 [\[43\]](#)

ERIC GRAVEL/ATTY. FOR DBT.
TRUSTEE NON-OPPOSITION

Final Ruling

Motion: Confirm Chapter 13 Plan

Notice: LBR 3015-1(d)(1), 9014-1(f)(1); written opposition filed by the trustee

Disposition: Denied

Order: Civil minute order

The motion requests confirmation of the Chapter 13 plan in this case. See 11 U.S.C. §§ 1322, 1323, 1325; Fed. R. Bankr. P. 2002(b); LBR 3015-1(d)(1)-(2). The Chapter 13 trustee does not oppose the motion.

CONFIRMATION

Chapter 13 plan confirmation is governed by 11 U.S.C. §§ 1322, 1325 and by Federal Rule of Bankruptcy Procedure 2002(b) and Local Bankruptcy Rule 3015-1. The debtor has the burden of proving that the plan complies with all statutory requirements of confirmation. *In re Andrews*, 49 F.3d 1404, 1407-08 (9th Cir. 1995); *In re Barnes*, 32 F.3d 405, 407-08 (9th Cir. 1994).

SCHEDULES I AND J

Rule 1008

On December 16, 2024, the debtor(s) filed supplemental Schedules I and J in support of the motion and plan, ECF No. 37.

The schedules were filed without the required amendment cover sheet, EDC 002-015 and are thus unsigned by the debtor. As such, the schedules are not properly filed under Fed. R. Bankr. P. 1008 which requires that "[a]ll petitions, lists, schedules, statements and amendments thereto shall be verified or contain an unsworn declaration as provided in 28 U.S.C. § 1746." See Fed. R. Bankr. P. 1008.

In the Eastern District Form EDC 002-015 is required for use in filing both amended and supplemental documents. The form provides the following instructions:

Attach each amended document to this form. If there is a box on the form to indicate that the form is amended or supplemental, check the box. Otherwise, write the word "Amended" or "Supplemental" at the top of the form.

EDC 002-015.

LBR 9004-1(c)

(c) Signatures Generally. All pleadings and non-evidentiary documents shall be signed by the individual attorney for the party presenting them, or by the party involved if that party is appearing *in propria persona*. Affidavits and certifications shall be signed by the person offering the evidentiary material contained in the document. The name of the person signing the document shall be typed underneath the signature.

LBR-9004-1(c) (emphasis added).

Without the authentication and verification required by Rule 1008 and LBR 9004-1(c) the schedules are of no evidentiary value and are not properly before the court.

Henceforth, the court requires that all supplemental schedules be filed with the properly executed Form EDC 002-015.

PLAN FEASIBILITY

The proposed plan must be feasible. 11 U.S.C. § 1325(a)(6). Feasibility is a "factual determination" as to the plan's "reasonable likelihood of success." *First Nat'l Bank of Boston v. Fantasia (In re Fantasia)*, 211 B.R. 420, 423 (B.A.P. 1st Cir. 1997). The bankruptcy court needs to "be satisfied that the debtor has the present as well as the future financial capacity to comply with the terms of the plan." *Id.* As one court summarized feasibility, "Thus, a plan is not feasible and is not confirmable if a debtor's income will not support the plan's proposed payments. *In re Barnes*, 275 B.R. 889, 894 (Bankr. E.D. Cal.2002) ("[T]he debtors showed no disposable income with which to fund a plan.... [T]he debtors have been unable to actually pay the amount projected ... to the trustee."); *In re Bernardes*, 267 B.R. 690, 695 (Bankr. D.N.J. 2001) ("While the feasibility requirement is not rigorous ... the plan proponent must, at minimum, demonstrate that the Debtor's income exceeds expenses by an amount sufficient to make the payments proposed by the plan."); *In re Wilkinson*, 99 B.R. 366, 369 (Bankr. N.D. Ohio 1989) ("[D]ebtors will not be able to comply with the plan and make all payments thereunder."). *In re Buccolo*, 397 B.R. 527, 530 (Bankr. D.N.J. 2008), *aff'd*, 2009 WL 2132435 (D.N.J. July 13, 2009).

Schedules I and J

The debtor has not supported the plan by properly filing recently amended Schedules I and J. The most recently filed budget schedules were filed on December 16, 2024. However, the schedules are not signed by the debtors, and no amendment cover sheet was filed authenticating the schedules as required. The court has ruled that the unsigned schedules will not be considered in ruling on this

motion. Accordingly, the motion will be denied. The debtors have failed to prove that the plan meets the feasibility requirement of 11 U.S.C. § 1325(a)(6).

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

The debtor's motion to confirm a chapter 13 plan has been presented to the court. Having considered the motion together with papers filed in support and opposition to it, and having heard the arguments of counsel, if any, and good cause appearing, presented at the hearing,

IT IS ORDERED that the motion is denied. The court denies confirmation of the chapter 13 plan.

6. [24-24417](#)-A-13 **IN RE: RENE/HEATHER DOMINGUEZ**
[KMM-1](#)

CONTINUED OBJECTION TO CONFIRMATION OF PLAN BY WELLS FARGO
BANK, N.A.
11-20-2024 [\[14\]](#)

MOHAMMAD MOKARRAM/ATTY. FOR DBT.
KIRSTEN MARTINEZ/ATTY. FOR MV.
RESPONSIVE PLEADING

Final Ruling

The court has signed an order approving a stipulation which resolved this objection. Accordingly, the objection will be removed from the calendar. No appearances are required.

7. [24-25328](#)-A-13 **IN RE: DENIS GARCIA**
[DPC-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY DAVID P. CUSICK
1-14-2025 [\[17\]](#)

JAMES KEENAN/ATTY. FOR DBT.

Final Ruling

Objection: Trustee's Objection to Confirmation of Plan

Notice: LBR 3015-1(c)(4), 9014-1(f)(2); no written opposition required

Disposition: Continued to March 25, 2025, at 9:00 a.m.

Order: Civil minute order

The Chapter 13 trustee objects to confirmation of the debtor(s) plan.

Chapter 13 plan confirmation is governed by 11 U.S.C. §§ 1322, 1325 and by Federal Rule of Bankruptcy Procedure 2002(b) and Local Bankruptcy Rule 3015-1. The debtor has the burden of proving that the plan complies with all statutory requirements of confirmation. *In re Andrews*, 49 F.3d 1404, 1407-08 (9th Cir. 1995); *In re Barnes*, 32 F.3d 405, 407-08 (9th Cir. 1994).

The court will continue the hearing on this objection to allow the parties to augment the evidentiary record.

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

IT IS ORDERED that the hearing on this objection will be continued to March 25, 2025, at 9:00 a.m. The court may rule in this matter without further hearing.

IT IS FURTHER ORDERED that no later than February 18, 2025, the debtor(s) shall do one of the following:

(A) File a Statement of No Opposition. If the debtor(s) agree that the Chapter 13 trustee's objection is well taken, the debtor(s) shall concede the merits and file a statement of non-opposition to the objection. L.R. 230(c) ("A responding party who has no opposition to the granting of the motion shall serve and file a statement to that effect..."); LBR 1001-1(c)-(d) (omitting the applicability of L.R. 230 unless the court orders otherwise);

(B) Respond in Writing to the Objection. If the debtor(s) disagree with the trustee's objection, the debtor(s) shall file and serve a written response to the objection; the response shall specifically address each issue raised in the trustee's objection to confirmation, state whether the issue is disputed or undisputed, and

include admissible evidence in support of the debtor's position. If the debtor(s) file a response under paragraph 3(B) of this order, then the trustee shall file and serve a reply, if any, no later than March 4, 2025. The evidentiary record will close after March 4, 2025; or

(C) File a Modified Plan. If the debtor(s) wish to resolve the Chapter 13 trustee's objection by filing a modified plan, then the debtor(s) shall: (1) file and serve a modified Chapter 13 plan; and (2) file and serve a motion to confirm the modified plan.

IT IS FURTHER ORDERED that if the parties resolve the trustee's objection, and there are no additional objections to confirmation pending, then the debtor(s) may submit an order confirming the plan which has been signed by the Chapter 13 trustee. The trustee's signature on the order confirming plan represents to the court that no further objections to confirmation of the proposed plan are pending.

8. [24-25328](#)-A-13 **IN RE: DENIS GARCIA**
[SKI-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY CARMAX BUSINESS
SERVICES, LLC
1-13-2025 [\[12\]](#)

JAMES KEENAN/ATTY. FOR DBT.
SHERYL ITH/ATTY. FOR MV.

Final Ruling

Objection: Creditor's Objection to Confirmation of Plan

Notice: LBR 3015-1(c)(4), 9014-1(f)(2); no written opposition required

Disposition: Continued to March 25, 2025, at 9:00 a.m.

Order: Civil minute order

Creditor, Carmax Business Services, LLC, objects to confirmation of the debtor(s) plan.

Chapter 13 plan confirmation is governed by 11 U.S.C. §§ 1322, 1325 and by Federal Rule of Bankruptcy Procedure 2002(b) and Local Bankruptcy Rule 3015-1. The debtor has the burden of proving that the plan complies with all statutory requirements of confirmation. *In re Andrews*, 49 F.3d 1404, 1407-08 (9th Cir. 1995); *In re Barnes*, 32 F.3d 405, 407-08 (9th Cir. 1994).

The court will continue the hearing on this objection to allow the parties to augment the evidentiary record.

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

IT IS ORDERED that the hearing on this objection will be continued to March 25, 2025, at 9:00 a.m. The court may rule in this matter without further hearing.

IT IS FURTHER ORDERED that no later than February 18, 2025, the debtor(s) shall do one of the following:

(A) File a Statement of No Opposition. If the debtor(s) agree that the creditor's objection is well taken, the debtor(s) shall concede the merits and file a statement of non-opposition to the objection. L.R. 230(c) ("A responding party who has no opposition to the granting of the motion shall serve and file a statement to that effect..."); LBR 1001-1(c)-(d) (omitting the applicability of L.R. 230 unless the court orders otherwise);

(B) Respond in Writing to the Objection. If the debtor(s) disagrees with the creditor's objection, the debtor(s) shall file and serve a written response to the objection; the response shall specifically address each issue raised in the creditor's objection to confirmation, state whether the issue is disputed or undisputed, and include admissible evidence in support of the debtor's position. If the debtor(s) file a response under paragraph 3(B) of this order, then the creditor shall file and serve a reply, if any, no later than March 4, 2025. The evidentiary record will close after March 4, 2025; or

(C) File a Modified Plan. If the debtor(s) wish to resolve the creditor's objection by filing a modified plan, then the debtor(s) shall: (1) file and serve a modified Chapter 13 plan; and (2) file and serve a motion to confirm the modified plan.

IT IS FURTHER ORDERED that any stipulation between the parties resolving this matter must be approved and signed by the Chapter 13 trustee prior to filing with the court. The trustee's signature on the stipulation warrants that the terms of the proposed stipulation do not impact the plan's compliance with 11 U.S.C. § 1325(a).

9. [25-20030](#)-A-13 **IN RE: WILLIS MARSH**
[MS-1](#)

MOTION TO EXTEND AUTOMATIC STAY
1-8-2025 [\[8\]](#)

MARK SHMORGON/ATTY. FOR DBT.

Tentative Ruling

Motion: Extend the Automatic Stay

Notice: LBR 9014-1(f)(2); no written opposition required

Disposition: Granted

Order: Civil minute order

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

FACTS

The debtor has previously filed for bankruptcy once in the last 12 months. His previous case, *In re Willis WJ Marsh, III*, No. 22-21477, E.D. Cal. Bankr. (2022) was filed on June 13, 2022, and was dismissed on December 19, 2024. The debtor was injured at work and was involved in dissolution of marriage litigation. Both issues have been resolved and the debtor is receiving worker's compensation.

EXTENSION OF THE STAY

Upon request of a party in interest, the court may extend the automatic stay where the debtor has had one previous bankruptcy case that was pending within the 1-year period prior to the filing of the current bankruptcy case but was dismissed. See 11 U.S.C. § 362(c)(3)(B). Procedurally, the automatic stay may be extended only "after notice and a hearing *completed* before the expiration of the 30-day period" after the filing of the petition in the later case. *Id.* (emphasis added). To extend the stay, the court must find that the filing of the *later case* is in good faith as to the creditors to be stayed, and the extension of the stay may be made subject to conditions or limitations the court may impose. *Id.*

For the reasons stated in the motion and supporting papers, the court finds that the filing of the current case is in good faith as to the creditors to be stayed. The motion will be granted.

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

A motion to extend the automatic stay has been presented to the court in this case. Having considered the motion, oppositions, responses and replies, if any, and having heard oral argument presented at the hearing,

IT IS ORDERED that the motion is granted, and the automatic stay of § 362(a) is extended in this case. The automatic stay shall remain in effect to the extent provided by the Bankruptcy Code.

10. [24-24434](#)-A-13 **IN RE: ROBERT MCBRIDE AND VERTIS**
BROWN-MCBRIDE
[SKI-1](#)

CONTINUED OBJECTION TO CONFIRMATION OF PLAN BY MERCEDES-BENZ
FINANCIAL SERVICES USA LLC
11-5-2024 [\[14\]](#)

JULIUS CHERRY/ATTY. FOR DBT.
SHERYL ITH/ATTY. FOR MV.
WITHDRAWN BY M.P.

Final Ruling

Matter: Objection to Confirmation of Chapter 13 Plan

Notice: Continued from December 17, 2024

Disposition: Overruled as moot

Order: Civil minute order

Chapter 13 debtors may modify the plan before confirmation. 11 U.S.C. § 1323(a). If the debtor files a modification of the plan under § 1323, the modified plan becomes the plan. 11 U.S.C. § 1323(b). Filing a modified plan renders moot any objection to confirmation of the prior plan. The debtor has filed a modified plan after this objection to confirmation was filed. The objection will be overruled as moot.

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

IT IS ORDERED that the objection to confirmation is overruled as moot.

11. [24-24536](#)-A-13 **IN RE: RYAN BEJARANO**
[DPC-1](#)

CONTINUED OBJECTION TO CONFIRMATION OF PLAN BY DAVID P.
CUSICK
11-25-2024 [\[16\]](#)

JULIUS CHERRY/ATTY. FOR DBT.
DEBTOR NON-OPPOSITION

Final Ruling

Objection: Trustee's Objection to Confirmation of Plan
Notice: Continued from December 17, 2024
Disposition: Sustained
Order: Civil minute order

The hearing on the Chapter 13 trustee's objection to confirmation was continued to allow the parties to augment the evidentiary record.

Chapter 13 plan confirmation is governed by 11 U.S.C. §§ 1322, 1325 and by Federal Rule of Bankruptcy Procedure 2002(b) and Local Bankruptcy Rule 3015-1. The debtor has the burden of proving that the plan complies with all statutory requirements of confirmation. *In re Andrews*, 49 F.3d 1404, 1407-08 (9th Cir. 1995); *In re Barnes*, 32 F.3d 405, 407-08 (9th Cir. 1994).

The debtor has filed a statement indicating that he does not oppose the trustee's objection. Response, ECF No. 26. Accordingly, the court will sustain this objection because plan payments are delinquent in the amount of \$2,947.07. As such the plan is not feasible under 11 U.S.C. § 1325(a)(6).

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

The trustee's objection to confirmation has been presented to the court. Having considered the objection, oppositions, responses, and replies, if any, and having heard oral argument presented at the hearing,

IT IS ORDERED that the objection is sustained.

12. [24-24536](#)-A-13 **IN RE: RYAN BEJARANO**
[JCW-1](#)

CONTINUED OBJECTION TO CONFIRMATION OF PLAN BY CAPITAL ONE
AUTO FINANCE
11-25-2024 [\[12\]](#)

JULIUS CHERRY/ATTY. FOR DBT.
JENNIFER WONG/ATTY. FOR MV.
DEBTOR NON-OPPOSITION

Final Ruling

Objection: Trustee's Objection to Confirmation of Plan

Notice: Continued from December 17, 2024

Disposition: Sustained

Order: Civil minute order

The hearing on the Chapter 13 trustee's objection to confirmation was continued to allow the parties to augment the evidentiary record.

Chapter 13 plan confirmation is governed by 11 U.S.C. §§ 1322, 1325 and by Federal Rule of Bankruptcy Procedure 2002(b) and Local Bankruptcy Rule 3015-1. The debtor has the burden of proving that the plan complies with all statutory requirements of confirmation. *In re Andrews*, 49 F.3d 1404, 1407-08 (9th Cir. 1995); *In re Barnes*, 32 F.3d 405, 407-08 (9th Cir. 1994).

The debtor has filed a statement of non-opposition to the objection, ECF No. 28.

The Chapter 13 Plan is 60 months in length and proposes to pay the objecting creditor's secured claim in full but does not specify an interest rate. Creditor infers this to mean the claim will be paid at 0.00% and thereby objects to the Plan on that basis. The court will sustain the objection on that basis.

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

The trustee's objection to confirmation has been presented to the court. Having considered the objection, oppositions, responses, and replies, if any, and having heard oral argument presented at the hearing,

IT IS ORDERED that the objection is sustained.

13. [24-25544](#)-A-13 **IN RE: MARTIN ZERMENO**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES
1-14-2025 [\[38\]](#)

MICHAEL HAYS/ATTY. FOR DBT.

Tentative Ruling

If the filing fee has not been paid in full by the time of the hearing, the case may be dismissed without further notice or hearing.

14. [24-25544](#)-A-13 **IN RE: MARTIN ZERMENO**
[MOH-1](#)

CONTINUED MOTION TO VALUE COLLATERAL OF WILMINGTON TRUST,
NATIONAL ASSOCIATION
12-23-2024 [\[15\]](#)

MICHAEL HAYS/ATTY. FOR DBT.

No Ruling

15. [24-25445](#)-A-13 **IN RE: TIMIKA WINSTON**
[DPC-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY DAVID P. CUSICK
1-15-2025 [\[15\]](#)

JONATHAN VAKNIN/ATTY. FOR DBT.

Final Ruling

Objection: Trustee's Objection to Confirmation of Plan

Notice: LBR 3015-1(c)(4), 9014-1(f)(2); no written opposition required

Disposition: Continued to March 25, 2025, at 9:00 a.m.

Order: Civil minute order

The Chapter 13 trustee objects to confirmation of the debtor(s) plan.

Chapter 13 plan confirmation is governed by 11 U.S.C. §§ 1322, 1325 and by Federal Rule of Bankruptcy Procedure 2002(b) and Local Bankruptcy Rule 3015-1. The debtor has the burden of proving that the plan complies with all statutory requirements of confirmation. *In re Andrews*, 49 F.3d 1404, 1407-08 (9th Cir. 1995); *In re Barnes*, 32 F.3d 405, 407-08 (9th Cir. 1994).

The court will continue the hearing on this objection to allow the parties to augment the evidentiary record.

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

IT IS ORDERED that the hearing on this objection will be continued to March 25, 2025, at 9:00 a.m. The court may rule in this matter without further hearing.

IT IS FURTHER ORDERED that no later than February 18, 2025, the debtor(s) shall do one of the following:

(A) File a Statement of No Opposition. If the debtor(s) agree that the Chapter 13 trustee's objection is well taken, the debtor(s) shall concede the merits and file a statement of non-opposition to the objection. L.R. 230(c) ("A responding party who has no opposition to the granting of the motion shall serve and file a statement to that effect..."); LBR 1001-1(c)-(d) (omitting the applicability of L.R. 230 unless the court orders otherwise);

(B) Respond in Writing to the Objection. If the debtor(s) disagree with the trustee's objection, the debtor(s) shall file and serve a written response to the objection; the response shall specifically address each issue raised in the trustee's objection to confirmation, state whether the issue is disputed or undisputed, and include admissible evidence in support of the debtor's position. If the debtor(s) file a response under paragraph 3(B) of this order, then the trustee shall file and serve a reply, if any, no later than March 4, 2025. The evidentiary record will close after March 4, 2025; or

(C) File a Modified Plan. If the debtor(s) wish to resolve the Chapter 13 trustee's objection by filing a modified plan, then the debtor(s) shall: (1) file and serve a modified Chapter 13 plan; and (2) file and serve a motion to confirm the modified plan.

IT IS FURTHER ORDERED that if the parties resolve the trustee's objection, and there are no additional objections to confirmation pending, then the debtor(s) may submit an order confirming the plan which has been signed by the Chapter 13 trustee. The trustee's signature on the order confirming plan represents to the court that no further objections to confirmation of the proposed plan are pending.

16. [24-25147](#)-A-13 **IN RE: EDWARD/MARLYN GARCIA**
[DPC-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY DAVID P. CUSICK
1-8-2025 [\[20\]](#)

CATHERINE KING/ATTY. FOR DBT.

Final Ruling

Objection: Trustee's Objection to Confirmation of Plan

Notice: LBR 3015-1(c)(4), 9014-1(f)(2); no written opposition required

Disposition: Continued to March 25, 2025, at 9:00 a.m.

Order: Civil minute order

The Chapter 13 trustee objects to confirmation of the debtor(s) plan.

Chapter 13 plan confirmation is governed by 11 U.S.C. §§ 1322, 1325 and by Federal Rule of Bankruptcy Procedure 2002(b) and Local Bankruptcy Rule 3015-1. The debtor has the burden of proving that the plan complies with all statutory requirements of confirmation. *In re Andrews*, 49 F.3d 1404, 1407-08 (9th Cir. 1995); *In re Barnes*, 32 F.3d 405, 407-08 (9th Cir. 1994).

The court will continue the hearing on this objection to allow the parties to augment the evidentiary record.

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

IT IS ORDERED that the hearing on this objection will be continued to March 25, 2025, at 9:00 a.m. The court may rule in this matter without further hearing.

IT IS FURTHER ORDERED that no later than February 18, 2025, the debtor(s) shall do one of the following:

(A) File a Statement of No Opposition. If the debtor(s) agree that the Chapter 13 trustee's objection is well taken, the debtor(s) shall concede the merits and file a statement of non-opposition to the objection. L.R. 230(c) ("A responding party who has no opposition to the granting of the motion shall serve and file a statement to that effect..."); LBR 1001-1(c)-(d) (omitting the applicability of L.R. 230 unless the court orders otherwise);

(B) Respond in Writing to the Objection. If the debtor(s) disagree with the trustee's objection, the debtor(s) shall file and serve a written response to the objection; the response shall specifically address each issue raised in the trustee's objection to confirmation, state whether the issue is disputed or undisputed, and

include admissible evidence in support of the debtor's position. If the debtor(s) file a response under paragraph 3(B) of this order, then the trustee shall file and serve a reply, if any, no later than March 4, 2025. The evidentiary record will close after March 4, 2025; or

(C) File a Modified Plan. If the debtor(s) wish to resolve the Chapter 13 trustee's objection by filing a modified plan, then the debtor(s) shall: (1) file and serve a modified Chapter 13 plan; and (2) file and serve a motion to confirm the modified plan.

IT IS FURTHER ORDERED that if the parties resolve the trustee's objection, and there are no additional objections to confirmation pending, then the debtor(s) may submit an order confirming the plan which has been signed by the Chapter 13 trustee. The trustee's signature on the order confirming plan represents to the court that no further objections to confirmation of the proposed plan are pending.

17. [24-25349](#)-A-13 **IN RE: RODNEY TAVARES**
[DPC-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY DAVID P. CUSICK
1-15-2025 [\[13\]](#)

MARK BRIDEN/ATTY. FOR DBT.

Final Ruling

Objection: Trustee's Objection to Confirmation of Plan

Notice: LBR 3015-1(c)(4), 9014-1(f)(2); no written opposition required

Disposition: Continued to March 25, 2025, at 9:00 a.m.

Order: Civil minute order

The Chapter 13 trustee objects to confirmation of the debtor(s) plan.

Chapter 13 plan confirmation is governed by 11 U.S.C. §§ 1322, 1325 and by Federal Rule of Bankruptcy Procedure 2002(b) and Local Bankruptcy Rule 3015-1. The debtor has the burden of proving that the plan complies with all statutory requirements of confirmation. *In re Andrews*, 49 F.3d 1404, 1407-08 (9th Cir. 1995); *In re Barnes*, 32 F.3d 405, 407-08 (9th Cir. 1994).

The court will continue the hearing on this objection to allow the parties to augment the evidentiary record.

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

IT IS ORDERED that the hearing on this objection will be continued to March 25, 2025, at 9:00 a.m. The court may rule in this matter without further hearing.

IT IS FURTHER ORDERED that no later than February 18, 2025, the debtor(s) shall do one of the following:

(A) File a Statement of No Opposition. If the debtor(s) agree that the Chapter 13 trustee's objection is well taken, the debtor(s) shall concede the merits and file a statement of non-opposition to the objection. L.R. 230(c) ("A responding party who has no opposition to the granting of the motion shall serve and file a statement to that effect..."); LBR 1001-1(c)-(d) (omitting the applicability of L.R. 230 unless the court orders otherwise);

(B) Respond in Writing to the Objection. If the debtor(s) disagree with the trustee's objection, the debtor(s) shall file and serve a written response to the objection; the response shall specifically address each issue raised in the trustee's objection to confirmation, state whether the issue is disputed or undisputed, and include admissible evidence in support of the debtor's position. If the debtor(s) file a response under paragraph 3(B) of this order, then the trustee shall file and serve a reply, if any, no later than March 4, 2025. The evidentiary record will close after March 4, 2025; or

(C) File a Modified Plan. If the debtor(s) wish to resolve the Chapter 13 trustee's objection by filing a modified plan, then the debtor(s) shall: (1) file and serve a modified Chapter 13 plan; and (2) file and serve a motion to confirm the modified plan.

IT IS FURTHER ORDERED that if the parties resolve the trustee's objection, and there are no additional objections to confirmation pending, then the debtor(s) may submit an order confirming the plan which has been signed by the Chapter 13 trustee. The trustee's signature on the order confirming plan represents to the court that no further objections to confirmation of the proposed plan are pending.

18. [24-20754](#)-A-13 **IN RE: SUSAN OLIVER**
[MOH-4](#)

CONTINUED MOTION TO CONFIRM PLAN
11-26-2024 [\[105\]](#)

MICHAEL HAYS/ATTY. FOR DBT.
RESPONSIVE PLEADING

Final Ruling

Motion: Confirm Chapter 13 Plan

Notice: LBR 3015-1(d)(1), 9014-1(f)(1); written opposition filed by the trustee

Disposition: Denied without prejudice

Order: Civil minute order

The motion requests confirmation of the Chapter 13 plan in this case. See 11 U.S.C. §§ 1322, 1323, 1325; Fed. R. Bankr. P. 2002(b); LBR 3015-1(d)(1)-(2). The Chapter 13 trustee opposes the motion, objecting to confirmation. Creditor Global Finance Group, Inc., opposes the motion as well.

Chapter 13 plan confirmation is governed by 11 U.S.C. §§ 1322, 1325 and by Federal Rule of Bankruptcy Procedure 2002(b) and Local Bankruptcy Rule 3015-1. The debtor has the burden of proving that the plan complies with all statutory requirements of confirmation. *In re Andrews*, 49 F.3d 1404, 1407-08 (9th Cir. 1995); *In re Barnes*, 32 F.3d 405, 407-08 (9th Cir. 1994).

TRUSTEE OPPOSITION

Uncertainty Regarding Plan to Be Confirmed

The Chapter 13 trustee opposes the motion as the motion does not specify the plan to be confirmed. While the debtor may seek confirmation of a previously filed plan there are multiple plans which have been filed and the motion does not identify the plan which is the subject of the motion. See Motion to Confirm, ECF No. 105. Neither does the certificate of service identify the plan which was served on the parties. See Certificate of Service, Item 4, ECF No. 111.

The trustee reports that payments are current under the plan filed August 28, 2024, and that the plan is mathematically feasible. The court notes that there was no plan filed on August 28, 2024. A plan was filed on August 8, 2024, but neither the trustee's opposition nor the debtor's response identify a plan filed on August 8, 2024.

Debtor Response

The debtor filed a response to the trustee's opposition. The response clarifies that the plan to be confirmed is the Amended Chapter 13 Plan, filed August 28, 2024, ECF No. 87. Counsel for the debtor states so in the response. A

supporting declaration was filed in which Clancy Callahan, staff employed in Mr. Hays' office, states under penalty of perjury that the plan served with the motion was the Amended Plan filed on August 28, 2024. Declaration of Clancy Callahan, 2:8, ECF No. 121.

The court is unable to determine with certainty the plan which has been served and which is the subject of this motion. The court will deny the motion without prejudice. In any future motion to confirm the plan the debtor shall identify the proposed plan by the date filed, and correct title of the plan.

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

The debtor's motion to confirm a chapter 13 plan has been presented to the court. Having considered the motion together with papers filed in support and opposition to it, and having heard the arguments of counsel, if any, and good cause appearing, presented at the hearing,

IT IS ORDERED that the motion is denied without prejudice.

19. [24-25457](#)-A-13 **IN RE: LAURENCE/TUACA SORRELL**
[JCW-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY CAPITAL ONE AUTO
FINANCE
1-15-2025 [\[15\]](#)

CHAD JOHNSON/ATTY. FOR DBT.
JENNIFER WONG/ATTY. FOR MV.

Final Ruling

Objection: Creditor's Objection to Confirmation of Plan

Notice: LBR 3015-1(c)(4), 9014-1(f)(2); no written opposition required

Disposition: Continued to March 25, 2025, at 9:00 a.m.

Order: Civil minute order

Creditor, Capital One Auto Finance, objects to confirmation of the debtor(s) plan.

Chapter 13 plan confirmation is governed by 11 U.S.C. §§ 1322, 1325 and by Federal Rule of Bankruptcy Procedure 2002(b) and Local Bankruptcy Rule 3015-1. The debtor has the burden of proving that the plan complies with all statutory requirements of confirmation. *In re Andrews*, 49 F.3d 1404, 1407-08 (9th Cir. 1995); *In re Barnes*, 32 F.3d 405, 407-08 (9th Cir. 1994).

The court will continue the hearing on this objection to allow the parties to augment the evidentiary record.

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

IT IS ORDERED that the hearing on this objection will be continued to March 25, 2025, at 9:00 a.m. The court may rule in this matter without further hearing.

IT IS FURTHER ORDERED that no later than February 18, 2025, the debtor(s) shall do one of the following:

(A) File a Statement of No Opposition. If the debtor(s) agree that the creditor's objection is well taken, the debtor(s) shall concede the merits and file a statement of non-opposition to the objection. L.R. 230(c) ("A responding party who has no opposition to the granting of the motion shall serve and file a statement to that effect..."); LBR 1001-1(c)-(d) (omitting the applicability of L.R. 230 unless the court orders otherwise);

(B) Respond in Writing to the Objection. If the debtor(s) disagrees with the creditor's objection, the debtor(s) shall file and serve a written response to the objection; the response shall specifically address each issue raised in the creditor's objection to confirmation, state whether the issue is disputed or undisputed,

and include admissible evidence in support of the debtor's position. If the debtor(s) file a response under paragraph 3(B) of this order, then the creditor shall file and serve a reply, if any, no later than March 4, 2025. The evidentiary record will close after March 4, 2025; or

(C) File a Modified Plan. If the debtor(s) wish to resolve the creditor's objection by filing a modified plan, then the debtor(s) shall: (1) file and serve a modified Chapter 13 plan; and (2) file and serve a motion to confirm the modified plan.

IT IS FURTHER ORDERED that any stipulation between the parties resolving this matter must be approved and signed by the Chapter 13 trustee prior to filing with the court. The trustee's signature on the stipulation warrants that the terms of the proposed stipulation do not impact the plan's compliance with 11 U.S.C. § 1325(a).

20. [24-23958](#)-A-13 **IN RE: FERMIN MARTINEZ JAIME**
[DPC-2](#)

OBJECTION TO DEBTOR'S CLAIM OF EXEMPTIONS
12-27-2024 [\[42\]](#)

PETER MACALUSO/ATTY. FOR DBT.
RESPONSIVE PLEADING

Final Ruling

Objection: Objection to Claim of Exemptions
Notice: LBR 9014-1(f)(1); written opposition required
Disposition: Sustained in part; overruled in part as moot
Order: Civil minute order

The Chapter 13 trustee has objected to the debtor's claim of exemptions contained in Amended Schedules C, ECF No. 39, contending: 1) improper exemption of commercial vehicles, a 2013 Freightliner, under C.C.P. § 704.060; and 2) improper exemption of funds on deposit in the U.S bank account under C.C.P § 704.070.

The debtor has since filed two amendments to Schedule C. The most recently filed Schedule C was filed on January 25, 2025, ECF No. 48. The amended schedule changes the exemptions claimed under C.C.P. § 704.060. The claim of exemption under C.C.P. § 704.070 is unchanged.

OBJECTION TO EXEMPTIONS

Burden of Proof

Section 703.580 of the California Code of Civil Procedure allocates the burden of proof in state-law exemption proceedings. Cal. Civ. Proc. Code § 703.580(b). The bankruptcy appellate panel in this circuit has concluded that "where a state law exemption statute specifically allocates the burden of proof to the debtor, Rule

4003(c) does not change that allocation." *In re Diaz*, 547 B.R. 329, 337 (B.A.P. 9th Cir. 2016). In this exemption proceeding in bankruptcy, therefore, the debtor bears the burden of proof.

C.C.P. § 704.070

A debtor may claim an exemption in paid earnings under California Code of Civil Procedure section 704.070. Cal. Civ. Proc. Code § 704.070(a)(2), (b). The term "paid earnings" means "earnings as defined in Section 706.011 that were paid to the employee during the 30-day period ending on the date of the levy." *Id.* § 704.070(a)(2). The term "earnings" means "compensation made payable by an employer to an employee for personal services performed by such employee, whether denominated as wages, salary, commission, bonus, or otherwise." *Id.* § 706.011(a) (emphasis added).

The exemption for earnings is limited to all or a percentage of earnings paid to an employee within the 30-day period prior to the date of levy, which translates in the bankruptcy context to the 30-day period preceding the date of the petition. See Cal. Civ. Proc. Code §704.070(a)(2); *In re Moffat*, 119 B.R. 201, 204 n.3 (B.A.P. 9th Cir. 1990) ("The debtor's exemption rights under state law are determined as of the date of the petition.").

The evidence from the debtor's schedules does not support the claimed exemption as income from employment. The debtor does not appear to be an employee.

First, Schedule I lists no salary, gross wages, or commissions from employment. It does list net income from operating a business in the amount of \$6,347.50 per month. Schedule I, ECF No. 1. Second, the debtor has affixed the Business Income and Expense attachment to schedules I and J which supports the assumption that the debtor is self-employed. *Id.* Third, the Statement of Financial Affairs, Item No. 5 indicates that the debtor receives K-1s from Martinez & Sons, LLC and Martinez & Sons Trucking. *Id.* Fourth and finally, the debtor has failed to file any admissible evidence in support of his opposition to the trustee's objection. The opposition, which is an unsworn statement by debtor's counsel, states "Debtor's monthly earnings is (sic) \$6,347.50", without any further detail. Opposition, 1:24-25, ECF No. 46.

The court will sustain the trustee's objection and disallow the exemptions as claimed under C.C.P. 704.070 as the debtor has failed to prove that his income is from employment.

AMENDED SCHEDULE C - C.C.P. § 704.060

A new 30-day period for objecting to exemptions begins to run when an amendment to Schedule C is filed. Fed. R. Bankr. P. 4003(b)(1).

On January 25, 2025, the debtor filed an Amended Schedule C, ECF No. 48. The exemptions claimed under C.C.P. § 704.060 have been amended. As such a new 30-day period for objecting to the exemptions claimed begins to run, allowing the trustee and creditors to object to the new claim of exemptions if appropriate.

Accordingly, the court will overrule the objection under C.C.P. 704.060 as moot.

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

The Chapter 13 trustee's Objection to the debtor's claim of exemptions has been presented to the court. Having considered the objection, oppositions, and replies, if any, and having heard oral argument presented at the hearing,

IT IS ORDERED that the objection to exemption of commercial vehicles under C.C.P. § 704.060 is overruled as moot.

IT IS FURTHER ORDERED that the objection to exemption of funds on deposit in the U.S bank account under C.C.P § 704.070 is sustained and the exemption is disallowed.

21. [24-25158](#)-A-13 **IN RE: DIANE GARCIA**

OBJECTION TO CONFIRMATION OF PLAN BY U.S. BANK TRUST
NATIONAL ASSOCIATION
1-9-2025 [\[29\]](#)

HARRY ROTH/ATTY. FOR DBT.
DAVID COATS/ATTY. FOR MV.

Final Ruling

Objection: Creditor's Objection to Confirmation of Plan

Notice: LBR 3015-1(c)(4), 9014-1(f)(2); no written opposition required

Disposition: Continued to March 25, 2025, at 9:00 a.m.

Order: Civil minute order

Creditor, U.S. Bank Trust National Association, objects to confirmation of the debtor(s) plan.

Chapter 13 plan confirmation is governed by 11 U.S.C. §§ 1322, 1325 and by Federal Rule of Bankruptcy Procedure 2002(b) and Local Bankruptcy Rule 3015-1. The debtor has the burden of proving that the plan complies with all statutory requirements of confirmation. *In re Andrews*, 49 F.3d 1404, 1407-08 (9th Cir. 1995); *In re Barnes*, 32 F.3d 405, 407-08 (9th Cir. 1994).

The court will continue the hearing on this objection to allow the parties to augment the evidentiary record.

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

IT IS ORDERED that the hearing on this objection will be continued to March 25, 2025, at 9:00 a.m. The court may rule in this matter without further hearing.

IT IS FURTHER ORDERED that no later than February 18, 2025, the debtor(s) shall do one of the following:

(A) File a Statement of No Opposition. If the debtor(s) agree that the creditor's objection is well taken, the debtor(s) shall concede the merits and file a statement of non-opposition to the objection. L.R. 230(c) ("A responding party who has no opposition to the granting of the motion shall serve and file a statement to that effect..."); LBR 1001-1(c)-(d) (omitting the applicability of L.R. 230 unless the court orders otherwise);

(B) Respond in Writing to the Objection. If the debtor(s) disagrees with the creditor's objection, the debtor(s) shall file and serve a written response to the objection; the response shall specifically address each issue raised in the creditor's objection to confirmation, state whether the issue is disputed or undisputed, and include admissible evidence in support of the debtor's position. If the debtor(s) file a response under paragraph 3(B) of this order, then the creditor shall file and serve a reply, if any, no later than March 4, 2025. The evidentiary record will close after March 4, 2025; or

(C) File a Modified Plan. If the debtor(s) wish to resolve the creditor's objection by filing a modified plan, then the debtor(s) shall: (1) file and serve a modified Chapter 13 plan; and (2) file and serve a motion to confirm the modified plan.

IT IS FURTHER ORDERED that any stipulation between the parties resolving this matter must be approved and signed by the Chapter 13 trustee prior to filing with the court. The trustee's signature on the stipulation warrants that the terms of the proposed stipulation do not impact the plan's compliance with 11 U.S.C. § 1325(a).

22. [24-25158](#)-A-13 **IN RE: DIANE GARCIA**
[DPC-1](#)

MOTION TO DISMISS CASE
1-7-2025 [\[21\]](#)

HARRY ROTH/ATTY. FOR DBT.

Final Ruling

Motion: Dismiss Case

Notice: LBR 9014-1(f)(1); written opposition required

Disposition: Granted

Order: Civil minute order

Opposition Due: January 21, 2025

Opposition Filed: Unopposed

Cause: 11 U.S.C. § 1307(c)(1) - Plan Delinquency; Failure to file tax returns

Best Interests of Creditors/Estate: Dismiss

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

CASE DISMISSAL

Plan Delinquency

The chapter 13 trustee moves to dismiss this chapter 13 case for delinquency in payments under the chapter 13 plan. For the reasons stated in the motion, cause exists under § 1307(c)(1) to dismiss the case. Payments under the plan are delinquent in the amount of \$2,004.65 with 1 payment(s) of \$2,004.65 due prior to the hearing on this motion.

Failure to Provide Tax Returns

Together 11 U.S.C. §§ 1308 and 1325(a)(9) prohibit confirmation of a chapter 13 plan if the debtor has not filed all tax returns due during the 4-year period prior to the filing of the petition.

The court may not confirm a plan unless "the debtor has filed all applicable Federal, State, and local tax returns as required by section 1308." 11 U.S.C. § 1325(a)(9).

(a) Not later than the day before the date on which the meeting of the creditors is first scheduled to be held under section 341(a), if the debtor was required

to file a tax return under applicable nonbankruptcy law, the debtor shall file with appropriate tax authorities all tax returns for all taxable periods ending during the 4-year period ending on the date of the filing of the petition.

11 U.S.C. § 1308(a).

If the debtor has not filed a 2023 tax return, and was required to do so, then the plan may not be confirmed as this contravenes the provisions of 11 U.S.C. §§ 1325(a)(9) and 1308.

The court finds that the debtor's failure to file 2023 tax returns constitutes unreasonable delay which is prejudicial to creditors under 11 U.S.C. § 1307(c)(1).

The court will grant the motion.

11 U.S.C. § 1307(c)

Except as provided in subsection (f) of this section, on request of a party in interest or the United States trustee and after notice and a hearing, the court may convert a case under this chapter to a case under chapter 7 of this title, or may dismiss a case under this chapter, whichever is in the best interests of creditors and the estate, for cause, including—

...

11 U.S.C. § 1307(c).

The court finds that dismissal is in the best interests of the creditors and the estate. This case has not been previously converted from a chapter 7.

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

The trustee's motion to dismiss this chapter 13 case has been presented to the court. Having entered the default of respondent debtor for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the motion,

IT IS ORDERED that the motion is granted because of the: 1) delinquency under the chapter 13 plan; and 2) the debtor's failure to file tax returns in this case. The court hereby dismisses this case.

23. [24-25158](#)-A-13 **IN RE: DIANE GARCIA**
[DPC-2](#)

OBJECTION TO CONFIRMATION OF PLAN BY DAVID CUSICK
1-8-2025 [\[25\]](#)

HARRY ROTH/ATTY. FOR DBT.

Final Ruling

Objection: Trustee's Objection to Confirmation of Plan

Notice: LBR 3015-1(c)(4), 9014-1(f)(2); no written opposition required

Disposition: Continued to March 25, 2025, at 9:00 a.m.

Order: Civil minute order

The Chapter 13 trustee objects to confirmation of the debtor(s) plan.

Chapter 13 plan confirmation is governed by 11 U.S.C. §§ 1322, 1325 and by Federal Rule of Bankruptcy Procedure 2002(b) and Local Bankruptcy Rule 3015-1. The debtor has the burden of proving that the plan complies with all statutory requirements of confirmation. *In re Andrews*, 49 F.3d 1404, 1407-08 (9th Cir. 1995); *In re Barnes*, 32 F.3d 405, 407-08 (9th Cir. 1994).

The court will continue the hearing on this objection to allow the parties to augment the evidentiary record.

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

IT IS ORDERED that the hearing on this objection will be continued to March 25, 2025, at 9:00 a.m. The court may rule in this matter without further hearing.

IT IS FURTHER ORDERED that no later than February 18, 2025, the debtor(s) shall do one of the following:

(A) File a Statement of No Opposition. If the debtor(s) agree that the Chapter 13 trustee's objection is well taken, the debtor(s) shall concede the merits and file a statement of non-opposition to the objection. L.R. 230(c) ("A responding party who has no opposition to the granting of the motion shall serve and file a statement to that effect..."); LBR 1001-1(c)-(d) (omitting the applicability of L.R. 230 unless the court orders otherwise);

(B) Respond in Writing to the Objection. If the debtor(s) disagree with the trustee's objection, the debtor(s) shall file and serve a written response to the objection; the response shall specifically address each issue raised in the trustee's objection to confirmation, state whether the issue is disputed or undisputed, and include admissible evidence in support of the debtor's position. If the debtor(s) file a response under paragraph 3(B) of this order,

then the trustee shall file and serve a reply, if any, no later than March 4, 2025. The evidentiary record will close after March 4, 2025; or

(C) File a Modified Plan. If the debtor(s) wish to resolve the Chapter 13 trustee's objection by filing a modified plan, then the debtor(s) shall: (1) file and serve a modified Chapter 13 plan; and (2) file and serve a motion to confirm the modified plan.

IT IS FURTHER ORDERED that if the parties resolve the trustee's objection, and there are no additional objections to confirmation pending, then the debtor(s) may submit an order confirming the plan which has been signed by the Chapter 13 trustee. The trustee's signature on the order confirming plan represents to the court that no further objections to confirmation of the proposed plan are pending.

24. [24-25260](#)-A-13 **IN RE: MARK NULL**
[DPC-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY DAVID CUSICK
1-7-2025 [\[17\]](#)

TIMOTHY WALSH/ATTY. FOR DBT.

Final Ruling

Objection: Trustee's Objection to Confirmation of Plan

Notice: LBR 3015-1(c)(4), 9014-1(f)(2); no written opposition required

Disposition: Continued to March 25, 2025, at 9:00 a.m.

Order: Civil minute order

The Chapter 13 trustee objects to confirmation of the debtor(s) plan.

Chapter 13 plan confirmation is governed by 11 U.S.C. §§ 1322, 1325 and by Federal Rule of Bankruptcy Procedure 2002(b) and Local Bankruptcy Rule 3015-1. The debtor has the burden of proving that the plan complies with all statutory requirements of confirmation. *In re Andrews*, 49 F.3d 1404, 1407-08 (9th Cir. 1995); *In re Barnes*, 32 F.3d 405, 407-08 (9th Cir. 1994).

The court will continue the hearing on this objection to allow the parties to augment the evidentiary record.

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

IT IS ORDERED that the hearing on this objection will be continued to March 25, 2025, at 9:00 a.m. The court may rule in this matter without further hearing.

IT IS FURTHER ORDERED that no later than February 18, 2025, the debtor(s) shall do one of the following:

(A) File a Statement of No Opposition. If the debtor(s) agree that the Chapter 13 trustee's objection is well taken, the debtor(s) shall concede the merits and file a statement of non-opposition to the objection. L.R. 230(c) ("A responding party who has no opposition to the granting of the motion shall serve and file a statement to that effect..."); LBR 1001-1(c)-(d) (omitting the applicability of L.R. 230 unless the court orders otherwise);

(B) Respond in Writing to the Objection. If the debtor(s) disagree with the trustee's objection, the debtor(s) shall file and serve a written response to the objection; the response shall specifically address each issue raised in the trustee's objection to confirmation, state whether the issue is disputed or undisputed, and include admissible evidence in support of the debtor's position. If the debtor(s) file a response under paragraph 3(B) of this order, then the trustee shall file and serve a reply, if any, no later than March 4, 2025. The evidentiary record will close after March 4, 2025; or

(C) File a Modified Plan. If the debtor(s) wish to resolve the Chapter 13 trustee's objection by filing a modified plan, then the debtor(s) shall: (1) file and serve a modified Chapter 13 plan; and (2) file and serve a motion to confirm the modified plan.

IT IS FURTHER ORDERED that if the parties resolve the trustee's objection, and there are no additional objections to confirmation pending, then the debtor(s) may submit an order confirming the plan which has been signed by the Chapter 13 trustee. The trustee's signature on the order confirming plan represents to the court that no further objections to confirmation of the proposed plan are pending.

25. [24-25260](#)-A-13 **IN RE: MARK NULL**
[KSH-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY ALLY BANK
12-26-2024 [\[13\]](#)

TIMOTHY WALSH/ATTY. FOR DBT.
KRISTIN SCHULER-HINTZ/ATTY. FOR MV.

Final Ruling

Objection: Creditor's Objection to Confirmation of Plan

Notice: LBR 3015-1(c)(4), 9014-1(f)(2); no written opposition required

Disposition: Continued to March 25, 2025, at 9:00 a.m.

Order: Civil minute order

Creditor, Ally Bank, objects to confirmation of the debtor(s) plan.

Chapter 13 plan confirmation is governed by 11 U.S.C. §§ 1322, 1325 and by Federal Rule of Bankruptcy Procedure 2002(b) and Local Bankruptcy Rule 3015-1. The debtor has the burden of proving that the plan complies with all statutory requirements of confirmation. *In re Andrews*, 49 F.3d 1404, 1407-08 (9th Cir. 1995); *In re Barnes*, 32 F.3d 405, 407-08 (9th Cir. 1994).

The court will continue the hearing on this objection to allow the parties to augment the evidentiary record.

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

IT IS ORDERED that the hearing on this objection will be continued to March 25, 2025, at 9:00 a.m. The court may rule in this matter without further hearing.

IT IS FURTHER ORDERED that no later than February 18, 2025, the debtor(s) shall do one of the following:

(A) File a Statement of No Opposition. If the debtor(s) agree that the creditor's objection is well taken, the debtor(s) shall concede the merits and file a statement of non-opposition to the objection. L.R. 230(c) ("A responding party who has no opposition to the granting of the motion shall serve and file a statement to that effect..."); LBR 1001-1(c)-(d) (omitting the applicability of L.R. 230 unless the court orders otherwise);

(B) Respond in Writing to the Objection. If the debtor(s) disagrees with the creditor's objection, the debtor(s) shall file and serve a written response to the objection; the response shall specifically address each issue raised in the creditor's objection to confirmation, state whether the issue is disputed or undisputed, and include admissible evidence in support of the debtor's position. If the debtor(s) file a response under paragraph 3(B) of this order,

then the creditor shall file and serve a reply, if any, no later than March 4, 2025. The evidentiary record will close after March 4, 2025; or

(C) File a Modified Plan. If the debtor(s) wish to resolve the creditor's objection by filing a modified plan, then the debtor(s) shall: (1) file and serve a modified Chapter 13 plan; and (2) file and serve a motion to confirm the modified plan.

IT IS FURTHER ORDERED that any stipulation between the parties resolving this matter must be approved and signed by the Chapter 13 trustee prior to filing with the court. The trustee's signature on the stipulation warrants that the terms of the proposed stipulation do not impact the plan's compliance with 11 U.S.C. § 1325(a).

26. [24-25266](#)-A-13 **IN RE: SCOTT WENDORF AND SUZANNE TOLMICH**
WENDORF
[TBG-2](#)

MOTION TO CONFIRM PLAN
12-17-2024 [\[23\]](#)

STEPHAN BROWN/ATTY. FOR DBT.
RESPONSIVE PLEADING

Final Ruling

Motion: Confirm Chapter 13 Plan

Notice: LBR 3015-1(d)(1), 9014-1(f)(1); written opposition filed by the trustee

Disposition: Denied

Order: Civil minute order

The motion requests confirmation of the Chapter 13 plan in this case. See 11 U.S.C. §§ 1322, 1323, 1325; Fed. R. Bankr. P. 2002(b); LBR 3015-1(d)(1)-(2). The Chapter 13 trustee opposes the motion, objecting to confirmation. The motion has also been opposed by creditor, Foothill Village Oaks, Inc.

CONFIRMATION

Chapter 13 plan confirmation is governed by 11 U.S.C. §§ 1322, 1325 and by Federal Rule of Bankruptcy Procedure 2002(b) and Local Bankruptcy Rule 3015-1. The debtor has the burden of proving that the plan complies with all statutory requirements of confirmation. *In re Andrews*, 49 F.3d 1404, 1407-08 (9th Cir. 1995); *In re Barnes*, 32 F.3d 405, 407-08 (9th Cir. 1994).

Failure to File Tax Returns

Together 11 U.S.C. §§ 1308 and 1325(a)(9) prohibit confirmation of a chapter 13 plan if the debtor has not filed all tax returns due during the 4-year period prior to the filing of the petition.

The court may not confirm a plan unless "the debtor has filed all applicable Federal, State, and local tax returns as required by section 1308." 11 U.S.C. § 1325(a)(9).

(a) Not later than the day before the date on which the meeting of the creditors is first scheduled to be held under section 341(a), if the debtor was required to file a tax return under applicable nonbankruptcy law, the debtor shall file with appropriate tax authorities all tax returns for all taxable periods ending during the 4-year period ending on the date of the filing of the petition.

11 U.S.C. § 1308(a).

The trustee contends, and the debtors acknowledge, that tax returns for the 2022 and 2023 tax years have yet to be completed and filed. Accordingly, the plan may not be confirmed as this contravenes the provisions of 11 U.S.C. §§ 1325(a)(9) and 1308.

The court will deny the motion. The debtors have failed to prove a prima facie case for plan confirmation. The tax returns were not filed and should have been filed when the debtors filed this motion to confirm, and not in response to the trustee and creditors' oppositions. The debtors' motion states:

The Chapter 13 Plan complies with all applicable provisions of the Bankruptcy Code, and is proposed in good faith based on a full disclosure of Debtor's assets and liabilities.

Motion, 1:26-27, ECF No. 23.

This allegation is incorrect, as the debtors have admitted in their declaration that the tax returns have not been filed. Declaration, 2:1-2, ECF No. 53.

As the failure to file tax returns is dispositive the court need not address the remaining issues raised in the trustee's or creditor's opposition.

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

The debtor's motion to confirm a chapter 13 plan has been presented to the court. Having considered the motion together with papers filed in support and opposition to it, and having heard the arguments of counsel, if any, and good cause appearing, presented at the hearing,

IT IS ORDERED that the motion is denied. The court denies confirmation of the chapter 13 plan.

27. [24-24467](#)-A-13 **IN RE: STEPHEN SHAIDELL**
[DPC-1](#)

CONTINUED OBJECTION TO CONFIRMATION OF PLAN BY DAVID P.
CUSICK
11-19-2024 [\[17\]](#)

PATRICIA WILSON/ATTY. FOR DBT.

Tentative Ruling

Objection: Trustee's Objection to Confirmation of Plan

Notice: Continued from December 17, 2024

Disposition: Sustained and confirmation denied

Order: Civil minute order

Attorney Patricia Wilson is ordered to appear in this matter at 9:00 a.m. on February 4, 2025, in Department A. The appearance may be made by telephone or Zoom.

The hearing on the Chapter 13 trustee's objection to confirmation was continued from December 17, 2024, to allow the debtor to: (1) file a statement of non-opposition; (2) file opposition to the objection; or (3) file an amended Chapter 13 Plan.

DEBTOR FAILED TO RESPOND AS ORDERED

Failure of counsel or of a party to comply with these Rules, with the Federal Rules of Civil Procedure or the Federal Rules of Bankruptcy Procedure, or with any order of the Court may be grounds for imposition of any and all sanctions authorized by statute or rule or within the inherent power of the Court, including, without limitation, dismissal of any action, entry of default, finding of contempt, imposition of monetary sanctions or attorneys' fees and costs, and other lesser sanctions.

LBR 1001-1(g).

On December 19, 2024, the court ordered:

The court shall issue a civil minute order that conforms substantially to the following form:

IT IS ORDERED that the hearing on this objection will be continued to February 4, 2025, at 9:00 a.m. The court may rule in this matter without further hearing.

IT IS FURTHER ORDERED that no later than January 7, 2025, the debtor(s) shall do one of the following:

(A) File a Statement of No Opposition. If the debtor(s) agree that the Chapter 13 trustee's objection is well taken, the debtor(s) shall concede the merits and file a statement of non-opposition to the objection. L.R. 230(c) ("A responding party who has no opposition to the granting of the motion shall serve and file a statement to that effect..."); LBR 1001-1(c)-(d) (omitting the applicability of L.R. 230 unless the court orders otherwise);

(B) Respond in Writing to the Objection. If the debtor(s) disagree with the trustee's objection, the debtor(s) shall file and serve a written response to the objection; the response shall specifically address each issue raised in the trustee's objection to confirmation, state whether the issue is disputed or undisputed, and include admissible evidence in support of the debtor's position. If the debtor(s) file a response under paragraph 3(B) of this order, then the trustee shall file and serve a reply, if any, no later than January 21, 2025. The evidentiary record will close after January 25, 2025; or

(C) File a Modified Plan. If the debtor(s) wish to resolve the Chapter 13 trustee's objection by filing a modified plan, then the debtor(s) shall: (1) file and serve a modified Chapter 13 plan; and (2) file and serve a motion to confirm the modified plan.

. . .

Order, ECF No. 33, (emphasis added).

The debtors failed to file: (1) any opposition to the trustee's objection; (2) an amended plan; or (3) a statement indicating that they do not intend to oppose the trustee's objection. The failure to comply with the court's order further delays hearing on the trustee's objection, and has caused additional, unnecessary work for the court.

The court's ruling required the debtor to file a pleading in this matter by January 7, 2025. The debtor has failed to file any document which would apprise the court of her position regarding the trustee's objection to confirmation.

Counsel for the debtor shall be prepared to address this issue at the hearing on this matter, and to inform the court whether the debtor concedes the objection.

CONFIRMATION

Chapter 13 plan confirmation is governed by 11 U.S.C. §§ 1322, 1325 and by Federal Rule of Bankruptcy Procedure 2002(b) and Local

Bankruptcy Rule 3015-1. The debtor has the burden of proving that the plan complies with all statutory requirements of confirmation. *In re Andrews*, 49 F.3d 1404, 1407-08 (9th Cir. 1995); *In re Barnes*, 32 F.3d 405, 407-08 (9th Cir. 1994).

PLAN FEASIBILITY

The proposed plan must be feasible. 11 U.S.C. § 1325(a)(6). Feasibility is a "factual determination" as to the plan's "reasonable likelihood of success." *First Nat'l Bank of Boston v. Fantasia (In re Fantasia)*, 211 B.R. 420, 423 (B.A.P. 1st Cir. 1997). The bankruptcy court needs to "be satisfied that the debtor has the present as well as the future financial capacity to comply with the terms of the plan." *Id.* As one court summarized feasibility, "Thus, a plan is not feasible and is not confirmable if a debtor's income will not support the plan's proposed payments. *In re Barnes*, 275 B.R. 889, 894 (Bankr. E.D. Cal.2002) ("[T]he debtors showed no disposable income with which to fund a plan.... [T]he debtors have been unable to actually pay the amount projected ... to the trustee."); *In re Bernardes*, 267 B.R. 690, 695 (Bankr. D.N.J. 2001) ("While the feasibility requirement is not rigorous ... the plan proponent must, at minimum, demonstrate that the Debtor's income exceeds expenses by an amount sufficient to make the payments proposed by the plan."); *In re Wilkinson*, 99 B.R. 366, 369 (Bankr. N.D. Ohio 1989) ("[D]ebtors will not be able to comply with the plan and make all payments thereunder."). *In re Buccolo*, 397 B.R. 527, 530 (Bankr. D.N.J. 2008), *aff'd*, 2009 WL 2132435 (D.N.J. July 13, 2009).

Chapter 13 trustee's original objection to the confirmation of plan stated that the debtor failed to appear at the meetings of creditors and that the debtor's identification was unable to be verified. Trustee's Objection to Confirmation, 2:8-12, ECF No. 17. Since a Trustee Report was filed on December 5, 2024, the court assumes that these objections have since been resolved.

Plan Fails to Provide Date for Sale of Assets

The Chapter 13 Plan provides for payment of priority creditors and certain secured creditors upon the completion of refinancing of debt secured by the debtor's business. The trustee objects because a date for the completion of the refinance has not been specified in the plan in the Non Standard Provisions affixed at the end of the plan. As such the trustee contends that the lack of specificity prevents the trustee from properly analyzing the feasibility of the plan. The court agrees. Without a specific date the court cannot determine when creditors will be paid. The court finds that the plan is not feasible under 11 U.S.C. § 1325(a)(6).

Plan is Unclear regarding Classification of Secured Debt

The trustee contends that the classification of secured claimant Jordan E. Must in Class 1 is improper. Given that the plan provides no ongoing payment to the Class 1 creditor, and only an arrearage payment, it appears that the claim should likely be classified in Class 2 of the plan. As the debtor has failed to file opposition,

as ordered, the court cannot determine the appropriate classification of the claim. Accordingly, the debtor has failed to sustain his burden of proving the feasibility of the plan.

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

The chapter 13 trustee's objection to confirmation has been presented to the court. Having considered the objection, oppositions, responses, and replies, if any, and having heard oral argument presented at the hearing,

IT IS ORDERED that the objection is sustained. The court denies confirmation of the chapter 13 plan.

28. [24-24467](#)-A-13 **IN RE: STEPHEN SHAIDELL**
[RDW-1](#)

CONTINUED OBJECTION TO CONFIRMATION OF PLAN BY JUSTIN ALDI
11-21-2024 [\[21\]](#)

PATRICIA WILSON/ATTY. FOR DBT.
JOSHUA SCHEER/ATTY. FOR MV.

Tentative Ruling

Objection: Creditor Justin Aldi's Objection to Confirmation of Plan

Notice: Continued from December 17, 2024

Disposition: Sustained and confirmation denied

Order: Civil minute order

Attorney Patricia Wilson is ordered to appear in this matter at 9:00 a.m. on February 4, 2025, in Department A. The appearance may be made by telephone or Zoom.

The hearing on the creditor's objection to confirmation was continued from December 17, 2024, to allow the debtor to: (1) file a statement of non-opposition; (2) file opposition to the objection; or (3) file an amended Chapter 13 Plan.

DEBTOR FAILED TO RESPOND AS ORDERED

Failure of counsel or of a party to comply with these Rules, with the Federal Rules of Civil Procedure or the Federal Rules of Bankruptcy Procedure, or with any order of the Court may be grounds for imposition of any and all sanctions authorized by statute or rule or

within the inherent power of the Court, including, without limitation, dismissal of any action, entry of default, finding of contempt, imposition of monetary sanctions or attorneys' fees and costs, and other lesser sanctions.

LBR 1001-1(g).

IT IS ORDERED that the hearing on this objection will be continued to February 4, 2025, at 9:00 a.m. The court may rule in this matter without further hearing.

IT IS FURTHER ORDERED that no later than January 7, 2025, the debtor(s) shall do one of the following:

(A) File a Statement of No Opposition. If the debtor(s) agree that the creditor's objection is well taken, the debtor(s) shall concede the merits and file a statement of non-opposition to the objection. L.R. 230(c) ("A responding party who has no opposition to the granting of the motion shall serve and file a statement to that effect..."); LBR 1001-1(c)-(d) (omitting the applicability of L.R. 230 unless the court orders otherwise);

(B) Respond in Writing to the Objection. If the debtor(s) disagrees with the creditor's objection, the debtor(s) shall file and serve a written response to the objection; the response shall specifically address each issue raised in the creditor's objection to confirmation, state whether the issue is disputed or undisputed, and include admissible evidence in support of the debtor's position. If the debtor(s) file a response under paragraph 3(B) of this order, then the creditor shall file and serve a reply, if any, no later than January 21, 2025. The evidentiary record will close after January 21, 2025; or

(C) File a Modified Plan. If the debtor(s) wish to resolve the creditor's objection by filing a modified plan, then the debtor(s) shall: (1) file and serve a modified Chapter 13 plan; and (2) file and serve a motion to confirm the modified plan.

...

Order, ECF No. 33, (emphasis added).

The debtors failed to file: (1) any opposition to the trustee's objection; (2) an amended plan; or (3) a statement indicating that they do not intend to oppose the trustee's objection. The failure to comply with the court's order further delays hearing on the trustee's objection, and has caused additional, unnecessary work for the court.

The court's ruling required the debtor to file a pleading in this matter by January 7, 2025. The debtor has failed to file any document which would apprise the court of his position regarding the trustee's objection to confirmation.

Counsel for the debtor shall be prepared to address this issue at the hearing on this matter, and to inform the court whether the debtor concedes the objection.

CONFIRMATION

Chapter 13 plan confirmation is governed by 11 U.S.C. §§ 1322, 1325 and by Federal Rule of Bankruptcy Procedure 2002(b) and Local Bankruptcy Rule 3015-1. The debtor has the burden of proving that the plan complies with all statutory requirements of confirmation. *In re Andrews*, 49 F.3d 1404, 1407-08 (9th Cir. 1995); *In re Barnes*, 32 F.3d 405, 407-08 (9th Cir. 1994).

PLAN FEASIBILITY

The proposed plan must be feasible. 11 U.S.C. § 1325(a)(6). Feasibility is a "factual determination" as to the plan's "reasonable likelihood of success." *First Nat'l Bank of Boston v. Fantasia (In re Fantasia)*, 211 B.R. 420, 423 (B.A.P. 1st Cir. 1997). The bankruptcy court needs to "be satisfied that the debtor has the present as well as the future financial capacity to comply with the terms of the plan." *Id.* As one court summarized feasibility, "Thus, a plan is not feasible and is not confirmable if a debtor's income will not support the plan's proposed payments. *In re Barnes*, 275 B.R. 889, 894 (Bankr. E.D. Cal.2002) ("[T]he debtors showed no disposable income with which to fund a plan.... [T]he debtors have been unable to actually pay the amount projected ... to the trustee."); *In re Bernardes*, 267 B.R. 690, 695 (Bankr. D.N.J. 2001) ("While the feasibility requirement is not rigorous ... the plan proponent must, at minimum, demonstrate that the Debtor's income exceeds expenses by an amount sufficient to make the payments proposed by the plan."); *In re Wilkinson*, 99 B.R. 366, 369 (Bankr. N.D. Ohio 1989) ("[D]ebtors will not be able to comply with the plan and make all payments thereunder."). *In re Buccolo*, 397 B.R. 527, 530 (Bankr. D.N.J. 2008), *aff'd*, 2009 WL 2132435 (D.N.J. July 13, 2009).

The creditor, JUSTIN ALDI, TRUSTEE OF THE MACKILLIE INC 401K ROTH, AS TO AN UNDIVIDED 55,000/110,000 INTEREST; JORDAN MUST, TRUSTEE OF THE AFI SERVICES INC 401k PSP, AS TO AN UNDIVIDED 55,000/110,000 INTEREST, objects to confirmation contending the plan is not feasible. The court has already sustained the Chapter 13 trustee's objection to the confirmation because the plan is not feasible, including the provisions as applicable to this objecting creditor. The court restates its ruling on the trustee's objection and denies confirmation of the plan. Accordingly, the court need not address the remaining issues raised in the creditor's objection.

Plan Fails to Provide Date for Sale of Assets

The Chapter 13 Plan provides for payment of priority creditors and certain secured creditors upon the completion of refinancing of debt secured by the debtor's business. The trustee objects because a date for the completion of the refinance has not been specified in the plan in the Non-Standard Provisions affixed at the end of the plan. As such the trustee contends that the lack of specificity prevents the trustee from properly analyzing the feasibility of the plan. The court agrees. Without a specific date the court cannot determine when creditors will be paid. The court finds that the plan is not feasible under 11 U.S.C. § 1325(a)(6).

Plan is Unclear regarding Classification of Secured Debt

The trustee contends that the classification of secured claimant Jordan E. Must in Class 1 is improper. Given that the plan provides no ongoing payment to the Class 1 creditor, and only an arrearage payment, it appears that the claim should likely be classified in Class 2 of the plan. As the debtor has failed to file opposition, as ordered, the court cannot determine the appropriate classification of the claim. Accordingly, the debtor has failed to sustain his burden of proving the feasibility of the plan.

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

The creditor's objection to confirmation has been presented to the court. Having considered the objection, oppositions, responses, and replies, if any, and having heard oral argument presented at the hearing,

IT IS ORDERED that the objection is sustained. The court denies confirmation of the chapter 13 plan.

29. [24-25471](#)-A-13 **IN RE: WENDY ROBINSON**
[DPC-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY DAVID P. CUSICK
1-15-2025 [\[20\]](#)

PETER MACALUSO/ATTY. FOR DBT.

Final Ruling

Objection: Trustee's Objection to Confirmation of Plan

Notice: LBR 3015-1(c)(4), 9014-1(f)(2); no written opposition required

Disposition: Continued to March 25, 2025, at 9:00 a.m.

Order: Civil minute order

The Chapter 13 trustee objects to confirmation of the debtor(s) plan.

Chapter 13 plan confirmation is governed by 11 U.S.C. §§ 1322, 1325 and by Federal Rule of Bankruptcy Procedure 2002(b) and Local Bankruptcy Rule 3015-1. The debtor has the burden of proving that the plan complies with all statutory requirements of confirmation. *In re Andrews*, 49 F.3d 1404, 1407-08 (9th Cir. 1995); *In re Barnes*, 32 F.3d 405, 407-08 (9th Cir. 1994).

The court will continue the hearing on this objection to allow the parties to augment the evidentiary record.

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

IT IS ORDERED that the hearing on this objection will be continued to March 25, 2025, at 9:00 a.m. The court may rule in this matter without further hearing.

IT IS FURTHER ORDERED that no later than February 18, 2025, the debtor(s) shall do one of the following:

(A) File a Statement of No Opposition. If the debtor(s) agree that the Chapter 13 trustee's objection is well taken, the debtor(s) shall concede the merits and file a statement of non-opposition to the objection. L.R. 230(c) ("A responding party who has no opposition to the granting of the motion shall serve and file a statement to that effect..."); LBR 1001-1(c)-(d) (omitting the applicability of L.R. 230 unless the court orders otherwise);

(B) Respond in Writing to the Objection. If the debtor(s) disagree with the trustee's objection, the debtor(s) shall file and serve a written response to the objection; the response shall specifically address each issue raised in the trustee's objection to confirmation, state whether the issue is disputed or undisputed, and

include admissible evidence in support of the debtor's position. If the debtor(s) file a response under paragraph 3(B) of this order, then the trustee shall file and serve a reply, if any, no later than March 4, 2025. The evidentiary record will close after March 4, 2025; or

(C) File a Modified Plan. If the debtor(s) wish to resolve the Chapter 13 trustee's objection by filing a modified plan, then the debtor(s) shall: (1) file and serve a modified Chapter 13 plan; and (2) file and serve a motion to confirm the modified plan.

IT IS FURTHER ORDERED that if the parties resolve the trustee's objection, and there are no additional objections to confirmation pending, then the debtor(s) may submit an order confirming the plan which has been signed by the Chapter 13 trustee. The trustee's signature on the order confirming plan represents to the court that no further objections to confirmation of the proposed plan are pending.

30. [23-23672](#)-A-13 **IN RE: NAWAL BSHARAH**
[CEP-4](#)

MOTION FOR COMPENSATION FOR CLAY E. PRESLEY, DEBTORS
ATTORNEY(S)
12-31-2024 [[128](#)]

CLAY PRESLEY/ATTY. FOR DBT.
DEBTOR DISMISSED: 07/03/24
RESPONSIVE PLEADING

Final Ruling

Motion: Motion for Compensation

Notice: LBR 9014-1(f)(1); written opposition required

Disposition: Denied without prejudice

Order: Civil minute order

Clay E. Presley seeks an order approving compensation and reimbursement of expenses. For the following reasons the motion will be denied without prejudice.

SERVICE AND NOTICE

As of November 1, 2022, the court adopted Local Bankruptcy Rules 2002-3, 9036-1 and 7005-1 (requiring attorneys and trustees to use a standardized Certificate of Service, EDC 7-005).

The form certificate of service is intended to allow parties to memorialize service efficiently and accurately, and to aid the court in ensuring sufficient service is achieved in each proceeding.

Matrix

Where the Clerk's Matrix of Creditors is attached to the Certificate of Service form, *such list shall be downloaded not more than 7 days prior to the date of serving the pleadings and other documents and shall reflect the date of downloading.* The serving party may download that matrix either in "pdf label format" or in "raw data format." Where the matrix attached is in "raw data format," signature on the Certificate of Service is the signor's representation that no changes, e.g., additions, deletions, modifications, of the data have been made except: (1) formatting of existing data; or (2) removing creditors from that list by the method described in paragraph (c) of this rule.

LBR 7005-1(d) (emphasis added).

In this case the matrix attached to the certificate of service is dated October 28, 2024. See Certificate of Service, ECF No. 131. Service of the motion occurred on December 29, 2024. *Id.* The matrix is dated more than 7 days prior to the date of service of the motion and therefore does not comply with LBR 7005-1. The court will deny the motion without prejudice.

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

Clay E. Presley's motion for compensation has been presented to the court. Given the procedural deficiencies discussed by the court in its ruling,

IT IS ORDERED that the motion is denied without prejudice.

31. [23-23778](#)-A-13 **IN RE: SYBILLE WASSNER**
[TAA-4](#)

MOTION TO CONFIRM PLAN
12-11-2024 [[100](#)]

KEVIN TANG/ATTY. FOR DBT.
RESPONSIVE PLEADING

Final Ruling

Motion: Confirm Chapter 13 Plan

Notice: LBR 3015-1(d)(1), 9014-1(f)(1); written opposition filed by the trustee

Disposition: Denied

Order: Civil minute order

The motion requests confirmation of the Chapter 13 plan in this case. See 11 U.S.C. §§ 1322, 1323, 1325; Fed. R. Bankr. P. 2002(b); LBR 3015-1(d)(1)-(2). The Chapter 13 trustee opposes the motion, objecting to confirmation.

CONFIRMATION

Chapter 13 plan confirmation is governed by 11 U.S.C. §§ 1322, 1325 and by Federal Rule of Bankruptcy Procedure 2002(b) and Local Bankruptcy Rule 3015-1. The debtor has the burden of proving that the plan complies with all statutory requirements of confirmation. *In re Andrews*, 49 F.3d 1404, 1407-08 (9th Cir. 1995); *In re Barnes*, 32 F.3d 405, 407-08 (9th Cir. 1994).

Plan is Not Properly Identified in the Motion

The debtor seeks confirmation of a plan as follows:

Debtor, moves this Court for an Order Confirming
Debtor's Amended Plan, which was filed on or about
June 26, 2024.

Motion, 1:17-19, ECF No. 100.

The court has reviewed the docket and finds that no plan was filed on June 26, 2024. A plan was filed on June 7, 2024. Two subsequent plans were filed on October 22, 2024, and December 11, 2024.

The court is unable to determine which plan the debtor seeks to confirm. The certificate of service does not identify the plan served by date the plan was filed. Certificate of Service, Item 4, ECF No. 107.

Accordingly, the court will deny the motion. The court will order the debtor to file a further modified plan and motion to confirm the plan. The motion, and certificate of service should correctly identify the plan which the debtor intends to

confirm by the date the plan is filed, and which is served with the motion. LBR 3015-1(d)(1).

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

The debtor's motion to confirm a chapter 13 plan has been presented to the court. Having considered the motion together with papers filed in support and opposition to it, and having heard the arguments of counsel, if any, and good cause appearing, presented at the hearing,

IT IS ORDERED that the motion is denied. The court denies confirmation of the chapter 13 plan.

IT IS FURTHER ORDERED that the debtor shall file a further modified plan and motion to confirm the plan. The motion and certificate of service shall correctly identify the plan by the date the plan was filed.

32. [24-22678](#)-A-13 **IN RE: ALAN/MEGAN KENNEDY**
[DPC-2](#)

MOTION TO DISMISS CASE AND/OR MOTION TO CONVERT CASE FROM
CHAPTER 13 TO CHAPTER 7
12-27-2024 [\[43\]](#)

ERIC SCHWAB/ATTY. FOR DBT.
RESPONSIVE PLEADING

Final Ruling

Motion: Dismiss Case

Notice: LBR 9014-1(f)(1); written opposition filed by debtors

Disposition: Continued to March 25, 2025, at 9:00 a.m.

Order: Civil minute order

Opposition Due: January 21, 2025

Opposition Filed: January 21, 2025- timely

Motion to Modify Plan Filed: January 21, 2025- timely

The chapter 13 trustee moves to dismiss or convert this case, asserting that cause exists under § 1307(c)(1).

A modified plan has been timely filed and set for hearing in this case. The scheduled hearing on the modification is March 25, 2025, at 9:00 a.m. The court will continue the hearing on this motion to dismiss to coincide with the hearing on the plan modification. If the modification is disapproved, and the motion to dismiss has not

been withdrawn or otherwise resolved, the court may dismiss the case at the continued hearing.

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

IT IS ORDERED that the chapter 13 trustee's motion to dismiss is continued to March 25, 2025, at 9:00 a.m.

IT IS FURTHER ORDERED that if the trustee elects to oppose the debtor's motion to modify, then not later than 14 days prior to the continued hearing date the trustee shall file a status report updating this motion to dismiss. The status report shall provide a concise list explaining the remaining issues in the motion to dismiss and indicate the amount of any plan delinquency. The status report shall be succinct and shall not consist of a cut and paste of the opposition filed by the trustee in response to a motion to amend or modify the debtor's plan.

33. [24-24186](#)-A-13 **IN RE: ROSE LIZOLA**
[GC-1](#)

MOTION TO AMEND
1-9-2025 [[43](#)]

JULIUS CHERRY/ATTY. FOR DBT.
RESPONSIVE PLEADING

No Ruling

34. [24-24591](#)-A-13 **IN RE: NICHOLAS/LINDSAY DEROSA**
[DPC-1](#)

CONTINUED OBJECTION TO CONFIRMATION OF PLAN BY DAVID P.
CUSICK
11-26-2024 [[14](#)]

MATTHEW DECAMINADA/ATTY. FOR DBT.

Final Ruling

Matter: Objection to Confirmation of Chapter 13 Plan
Notice: LBR 3015-1(c)(4); no written opposition required
Disposition: Overruled as moot
Order: Civil minute order

Chapter 13 debtors may modify the plan before confirmation. 11 U.S.C. § 1323(a). If the debtor files a modification of the plan under § 1323, the modified plan becomes the plan. 11 U.S.C. § 1323(b). Filing a modified plan renders moot any objection to confirmation of the prior plan. The debtor has filed a modified plan after this objection to confirmation was filed. The objection will be overruled as moot.

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

IT IS ORDERED that the objection to confirmation is overruled as moot.

35. [24-24495](#)-A-13 **IN RE: VIVIAN TOLIVER**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES
1-10-2025 [[43](#)]

Final Ruling

As the installment fees have been paid in full, the order to show cause is discharged. The case will remain pending.

36. [24-24495](#)-A-13 **IN RE: VIVIAN TOLIVER**
[PR-3](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
1-16-2025 [\[45\]](#)

PATRICK RIAZI/ATTY. FOR MV.
VALINOR HOLDINGS, LLC VS.
TRUSTEE NON-OPPOSITION

Tentative Ruling

Motion: Stay Relief

Notice: LBR 9014-1(f)(2); no written opposition required

Disposition: Granted

Order: Civil minute order

Subject: 708 Los Lunas Way, Sacramento, California

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

Valinor Holdings, LLC, seeks an order for relief from the automatic stay of 11 U.S.C. § 362(a).

FACTS

Movant owns the property where Debtor resides. It acquired the property from the debtor via a Trustee's Deed of Sale on July 25, 2024, which was later recorded on August 26, 2024. See Exhibit A, ECF No. 49.

On August 27, 2024, Movant served a "Notice to Quit Premises" (Foreclosure) on the Debtor and all other occupants. See Exhibit B, ECF No. 49. The Notice directed the debtor to vacate the premises within 3 days.

Debtor continues to occupy the property. On September 4, 2024, Movant filed an Unlawful Detainer proceeding in Sacramento County Superior Court, case number 24UD001984, and trial was scheduled for October 21, 2024. See Exhibit C, ECF No. 49.

DEBTOR OPPOSITION

Debtor disputes the validity of the sale under state law. See Opposition, ECF No. 54.

Rule 7001

An adversary proceeding is governed by the rules of this Part VII. The following are adversary proceedings:

- (1) a proceeding to recover money or property, other than a proceeding to compel the debtor to deliver property to the trustee, or a proceeding under § 554(b) or § 725 of the Code, Rule 2017, or Rule 6002;
- (2) a proceeding to determine the validity, priority, or extent of a lien or other interest in property, but not a proceeding under Rule 3012 or Rule 4003(d);

Fed. R. Bankr. P. 7001(1)(2).

Rule 7001 requires the debtor to file an adversary proceeding in order to determine the validity of the foreclosure. An adversary proceeding has not been filed.

STAY RELIEF

Section 362(d)(1) authorizes stay relief for cause shown. Cause includes the debtor's pre-petition loss of real property by way of foreclosure. In this case, the debtor's interest in the property was extinguished prior to the petition date by a foreclosure sale. The motion will be granted. The movant may take such actions as are authorized by applicable non-bankruptcy law, including prosecution of an unlawful detainer action (except for monetary damages) to obtain possession of the subject property. The motion will be granted, and the 14-day stay of Federal Rule of Bankruptcy Procedure 4001(a)(3) will be waived. No other relief will be awarded.

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

Valinor Holdings LLC's motion for relief from the automatic stay has been presented to the court. Having entered the default of respondent for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the motion,

IT IS ORDERED that the motion is granted. The automatic stay is vacated with respect to the property described in the motion, commonly known as 708 Los Lunas Way, Sacramento, California, as to all parties in interest. The 14-day stay of the order under Federal Rule of Bankruptcy Procedure 4001(a)(3) is waived. Any party with standing may take such actions as are authorized by applicable non-bankruptcy law, including prosecution of an unlawful detainer action (except for monetary damages) to obtain possession of the subject property.

37. [24-23799](#)-A-13 **IN RE: RYAN DEVRIEND**
[MRL-2](#)

CONTINUED MOTION TO SELL
11-21-2024 [\[31\]](#)

MIKALAH LIVIAKIS/ATTY. FOR DBT.

Final Ruling

This case was dismissed on January 24, 2025. Accordingly, the motion will be removed from the calendar. No appearances are required.

38. [24-24399](#)-A-13 **IN RE: JESSICA SANCHEZ**
[DPC-1](#)

CONTINUED OBJECTION TO CONFIRMATION OF PLAN BY DAVID P.
CUSICK
11-20-2024 [\[13\]](#)

KRISTY HERNANDEZ/ATTY. FOR DBT.

Final Ruling

Matter: Objection to Confirmation of Chapter 13 Plan
Notice: LBR 3015-1(c)(4); no written opposition required
Disposition: Overruled as moot
Order: Civil minute order

Chapter 13 debtors may modify the plan before confirmation. 11 U.S.C. § 1323(a). If the debtor files a modification of the plan under § 1323, the modified plan becomes the plan. 11 U.S.C. § 1323(b). Filing a modified plan renders moot any objection to confirmation of the prior plan. The debtor has filed a modified plan after this objection to confirmation was filed. The objection will be overruled as moot.

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

IT IS ORDERED that the objection to confirmation is overruled as moot.

39. [24-25500](#)-A-13 **IN RE: CAROL MCEACHERN**
[DPC-1](#)

MOTION TO RECONSIDER
1-16-2025 [\[17\]](#)

Tentative Ruling

Attorney Neil Enmark is ordered to appear at the hearing on February 4, 2025, at 9:00 a.m. The appearance may be made in person, via Zoom or CourtCall.

40. [24-22275](#)-A-13 **IN RE: AARON LAURANT**
[MC-1](#)

MOTION TO VALUE COLLATERAL OF GREAT AMERICAN FINANCE
HOLDINGS, LLC.
1-21-2025 [\[42\]](#)

MUOI CHEA/ATTY. FOR DBT.

Tentative Ruling

Motion: Value Collateral [Personal Property; Non-vehicular]

Notice: LBR 9014-1(f)(2); no written opposition required

Disposition: Granted

Order: Prepared by the moving party consistent with this ruling's instructions

Subject: King-sized mattress, headboard, footboard, couch, loveseat, corner chaise

Value: \$2,000

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). The default of the respondent is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

The debtor seeks an order valuing personal property under 11 U.S.C. § 506(a).

VALUATION OF COLLATERAL

Chapter 13 debtors may value collateral by noticed motion. Fed. R. Bankr. P. 3012. Section 506(a) of the Bankruptcy Code provides, "An allowed claim of a creditor secured by a lien on property in which the estate has an interest . . . is a secured claim to the extent of the value of such creditor's interest in the estate's interest in such property" and is unsecured as to the remainder. 11 U.S.C. § 506(a). For personal property, value is defined as "replacement value" on the date of the petition. *Id.* § 506(a)(2). For "property acquired for personal, family, or household purposes, replacement value shall mean the price a retail merchant would charge for property of that kind considering the age and condition of the

property at the time value is determined.” *Id.* The costs of sale or marketing may not be deducted. *Id.*

The right to value non-vehicular, personal property collateral in which the creditor has a purchase money security interest is limited to such collateral securing a debt that was incurred more than one year before the date of the petition. 11 U.S.C. §1325(a) (hanging paragraph).

In this case, the debtor seeks to value collateral consisting of personal property described as King sized mattress, headboard, footboard, couch, loveseat, corner chaise. The debt secured by such property was not incurred within the 1-year period preceding the date of the petition. The court values the collateral at \$2,000.

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

The debtor’s motion to value non-vehicular, personal property collateral has been presented to the court. Having entered the default of respondent for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the motion,

IT IS ORDERED that the motion is granted. The personal property collateral described as a King-sized mattress, headboard, footboard, couch, loveseat, corner chaise has a value of \$2,000. No senior liens on the collateral have been identified. The respondent has a secured claim in the amount of \$2,000 equal to the value of the collateral that is unencumbered by senior liens. The respondent has a general unsecured claim for the balance of the claim.

41. [24-25771](#)-A-13 **IN RE: WILLIAM/FRANCES MEROSHNEKOFF**
[FF-10](#)

MOTION TO RECONSIDER O.S.T.
1-24-2025 [\[65\]](#)

GARY FRALEY/ATTY. FOR DBT.

No Ruling

42. [25-20140](#)-A-13 **IN RE: KAREN JOHNSON**
[DEF-1](#)

MOTION TO EXTEND AUTOMATIC STAY O.S.T.
1-24-2025 [\[15\]](#)

DAVID FOYIL/ATTY. FOR DBT.

Tentative Ruling

Motion: Extend the Automatic Stay

Notice: LBR 9014-1(f)(2); no written opposition required

Disposition: Denied

Order: Civil minute order

Prior Petition: *In re Karen D. Johnson*, Case No. 23-22825, E.D. Cal. Bankr., (2023), filed August 20, 2023; dismissed December 19, 2024

Prior Plan Confirmed: January 19, 2024

The debtor seeks an order for extension of the automatic stay under 11 U.S.C. § 362(c)(3).

JUDICIAL NOTICE

The court takes judicial notice of the voluntary petition, schedules, and statements filed in this case, as well as judicial notice of their contents. Fed. R. Evid. 201. The contents of the schedules and statements are non-hearsay admissions of the debtors to the extent they are offered against the debtors in this matter. Fed. R. Evid. 801(d)(2)(A), (D).

The court also takes judicial notice of the petition, schedules, statements, plan and claims filed in her previous Chapter 13 bankruptcy, *In re Karen Johnson*, Case No. 23-22825, E.D. Cal. Bankr. (2023).

STAY EXTENSION

Upon request of a party in interest, the court may extend the automatic stay where the debtor has had one previous bankruptcy case that was pending within the 1-year period prior to the filing of the current bankruptcy case but was dismissed. See 11 U.S.C. § 362(c)(3)(B). The motion and notice of hearing must be filed before the expiration of the 30-day period following the date of the petition. The hearing on such motion must also be completed before the expiration of this period. 11 U.S.C. § 362(c)(3)(B). The court must find that the filing of the later case - not the previous case - is in good faith as to the creditors to be stayed. *Id.*

Plan Presumptively Not Filed in Good Faith

This statute further provides that "a case is presumptively filed not in good faith (but such presumption may be rebutted by clear and convincing evidence to the contrary)" in cases in which "a previous case under any of chapters 7, 11, and 13 in which the individual was a debtor was dismissed within such 1-year period, after the debtor

failed to - [(i)] file or amend the petition or other documents as required by this title or the court without substantial excuse . . . ; [(ii)] provide adequate protection as ordered by the court; or [(iii)] perform the terms of a plan confirmed by the court." *Id.* § 362(c) (3) (C) (i) (II) .

Additionally, "a case is presumptively filed not in good faith (but such presumption may be rebutted by clear and convincing evidence to the contrary)" in cases in which "there has not been a substantial change in the financial or personal affairs of the debtor since the dismissal of the next most previous case under chapter 7, 11 or 13 or any other reason to conclude that the later case will be concluded - [(i)] if a case under chapter 7, with a discharge; or [(ii)] if a case under chapter 11 or 13, with a confirmed plan that will be fully performed." *Id.* § 362(c) (3) (C) (i) (III) .

The debtor contends that her prior attorney is to blame for the dismissal of the previous case as follows:

My prior bankruptcy case was dismissed because my plan payments became delinquent. Unfortunately, I did not receive adequate guidance or support from my previous attorney, Peter G. Macaluso, which contributed to the challenges I faced. My previous attorney failed to provide me with clear instructions on how to address my delinquent payments or modify my plan. Despite my efforts to communicate with him, his unprofessional and disrespectful behavior made it impossible for me to work with him effectively. During my case, I received documents and correspondence from the trustee that I did not fully understand. I relied on my attorney for clarification and assistance, but he failed to provide the necessary guidance.

Declaration of Karen Johnson, 1:28, 2:1-8, ECF No. 17.

ANALYSIS

Debtor filed the instant petition on January 14, 2025. See Voluntary Petition, ECF No. 1. The prior petition was filed on August 20, 2024, and was dismissed on December 19, 2024, because payments were delinquent under the confirmed Chapter 13 plan. Order, ECF No. 96.

The court is aware that the debtor's relationship with her previous attorney was strained. The attorney filed a motion to withdraw as the debtor's counsel, which the court denied.

Chapter 13 Plan - Case No. 23-22825

The debtor's confirmed plan in the previous case provided for secured creditor Joseph Bambino, Trustee of the Bambino Family Trust, serviced by Superior Loan Servicing, in Class 2. Chapter 13 Plan, § 3.02, ECF No. 13. The claim filed by the creditor shows that the loan has fully matured and a balance of \$262,426.49 was due at the time the petition was filed. Claim No. 3. The plan also provided for a lump sum payment in month 13 of the plan.

Chapter 13 Plan - Instant Case

The proposed plan in the instant case provides for the claim of the Bambino Family Trust in Class 1 of the plan, and also calls for a refinance of the loan in month 13 of the plan. Chapter 13 Plan, § 7.02, ECF No. 21.

Because the loan owed to Bambino Family Trust has matured, the entire sum is due. Accordingly, this claim should be in Class 2 of the instant plan and not in Class 1. Because the claim is misclassified if fails to provide interest as required by *Till v. SCS Credit Corp.*, 541 U.S. 465 (2004). The added interest further illustrates the plans lack of feasibility.

The debtor has offered no explanation regarding her inability to refinance the loan in the prior case, nor has she indicated how she intends to qualify for a refinance of the loan in this case within the next 13 months. The debtor has stated she is looking for employment but provides no details regarding the type of employment sought, her efforts to obtain employment, or the amount of money she anticipates earning on a monthly basis. Moreover, the debtor has failed to explain the reasons for the delinquency under the plan in the previous case.

Schedules I and J in the instant case show that the debtor has altered her expenses from those in the prior case. Specifically, the debtor has reduced her expense for food and household supplies to \$200.00 per month. Schedule J, ECF No. 22. In her previous case, dismissed only 5 weeks ago the debtor's food and household supplies expense was \$625.00. The court finds that \$200 per month is a meager and unrealistic amount for this expense for 13 months. Accordingly, it does not appear that the plan in the instant case is feasible.

The debtor has offered insufficient evidence that the current case was filed in good faith as to the creditors to be stayed. See 11 U.S.C. § 362(c)(3)(B). A presumption, moreover, that the current case was not filed in good faith arises. Insufficient evidence has been offered to rebut this presumption. The supporting declaration does not point to any substantial change in the personal and financial affairs of the debtors since the dismissal of their previous case. The facts as presented by the debtor do not constitute a substantial change in personal or financial affairs. The motion will be denied.

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

The debtor's motion to extend the automatic stay has been presented to the court. Having considered the motion together with papers filed in support and opposition, and having heard the arguments of counsel, if any,

IT IS ORDERED that the motion is denied.